

**In the Matter of an Interest
Arbitration**

between

**City of Wenatchee
(Police Department)
Employer**

and

**Wenatchee Police Guild
Union**

Arbitrator's Award
PERC No. 16277-I-02-379



BEFORE:

Jean A. Savage, Arbitrator

APPEARANCES:

For the Employer:
Bruce L. Schroeder
Summit Law Group PLLC

For the Union:
James M. Cline
Cline & Associates

ARBITRATION PANEL:

Robert Smet, Guild President
Appointed by the Guild

Tom Robbins, Chief of Police
Appointed by the City

PLACE OF HEARING:

Wenatchee, WA

DATE OF HEARING:

September 17, 18 and 19, 2002

POST HEARING BRIEFS:

October 30, 2002

ARBITRATION
PANEL MEETING:

December 16, 17, and 19, 2002

DATE OF AWARD:

January 6, 2003

SUMMARY OF AWARD

On-Call Premium for Drug Task Force Sergeant Article 5.8

The arbitrator awards that Article 5.8 shall remain unchanged in the 2001-2003 collective bargaining agreement.

Bereavement Leave

Article 7.3(d)(4)

The arbitrator awards that Article 7.8, as follows, be added to the collective bargaining agreement:

Article 7.8. Bereavement. Effective January 1, 2003, employees shall be entitled to paid bereavement leave for up to five days in each instance of the death of an immediate family member as defined in Section 7.3(d)(4).

Cost of Corrective Lenses

Article 9.8

The arbitrator awards that Article 9.8 be amended to state:

The City agrees to provide a maximum of Three Hundred Dollars (\$300) every two (2) years toward corrective lenses for LEOFF II officers and/or legal dependents of all employees.

Duration of Agreement

Article 12.1

The arbitrator awards that the contract shall read:

This agreement shall be effective January 1, 2001, through December 31, 2003.

Wages

Article 12.5

The arbitrator awards the following wage increases:

2001	2002	2003
4.7%	3.3%	2.5%

Shift Differential

Article 13.1

The arbitrator awards that Article 13 be modified to read:

Uniform Personnel assigned to work rotating or straight night shifts shall receive a monthly premium of Forty Dollars (\$40.00).

Respectfully submitted,

Jean Savage, Arbitrator

Date

TABLE OF CONTENTS:

I.	Introuction:.....	1
II.	Statutory Criteria:.....	2
III.	Background Information:.....	3
IV.	Selection of Comparables:	4
	A. Background Information	4
	B. The Parties' Positions.....	5
	C. Analysis and Conclusions	7
V.	Article 5.8 – On-Call Premium for Drug Task Force Sergeant	10
VI.	Article 7.3(d)(4) – Sick Leave (Bereavement Leave).....	12
VII.	Article 9.8 – Cost of Corrective Lenses.....	14
VIII.	Article 12.1 – Duration of Agreement	16
IX.	Article 12.4 – Wages.....	17
	A. Background Information.....	17
	B. The City's Position.....	18
	C. The Guild's Position.....	21
	D. Analysis.....	23
	E. Conclusion	34
X.	Article 13 – Shift Differential	35

City of Wenatchee
(Employer)

Interest Arbitration
Date of Award: January 6, 2003

and

Wenatchee Police Guild
(Union)

ANALYSIS AND AWARD

I. Introduction:

This dispute, between the City of Wenatchee (the City) and the Wenatchee Police Guild (the Guild) concerns certain terms of a labor agreement between the two parties with an effective date of January 1, 2001. In this matter, Mr. Bruce L. Schroeder of the Summit Law Group represents the City and Mr. James M. Cline of Cline and Associates represents the Guild.

The most recent collective bargaining agreement ran from January 1, 2000, through December 31, 2000. The parties negotiated for almost two years and reached an impasse in their negotiations on fourteen issues. Pursuant to RCW 41.56.450, the Public Employment Relations Commission (PERC) certified those issues for interest arbitration on March 14, 2002. The parties resolved seven of these issues before the hearing, agreed to continue negotiating on one issue, and submitted six issues to this arbitrator for resolution. The parties initially chose not to select individual arbitrators as provided in WAC 391-55-205.

The arbitrator held a hearing on these issues in Wenatchee's City Hall on September 18, 19, and 20, 2001. The hearing proceeded in an orderly manner. Both parties were afforded a full opportunity to present evidence, examine and cross-examine witnesses, and argue in support of their contentions. The advocates fully and fairly represented their respective parties. All witnesses testified under oath as administered by the arbitrator. The parties agreed to use the City's audio taping system to make an official record of the hearing. The City furnished copies of the tapes to the Guild and the arbitrator. On the last day of the hearing the system did not record, so the record does not include tapes for that day.

The parties elected to file briefs and agreed that they would postmark their briefs by October 30, 2001. The parties' timely filed their briefs by electronic mail on and later by regular mail. The parties chose not to file reply briefs. The arbitrator officially closed the hearing on receipt of the briefs. The parties and the arbitrator agreed that the arbitrator would postmark her award by December 6, 2002.

However, on October 28, 2002, the Guild filed an unfair labor practice with PERC involving two issues in this interest arbitration. According to PERC's letter, the allegations concern:

Employer interference with employee rights in violation of RCW 41.576.140(1) and refusal to bargain in violation of RCW 41.56.140(4), by breach of its good faith bargaining obligations in escalating its bargaining demands concerning duration of the collective bargaining agreement, and by its refusal to provide relevant collective bargaining information requested by the union concerning a recruitment problem facing the employer.

PERC Case No. 16840-U-02-4396.¹ According to PERC's letter, the employer took "the position in its letter that 'with this matter [the union's complaint] pending, it is impossible for the interest arbitrator to enter an award. WAC 391-55-265.'" Subsequently, the parties assured the arbitrator that they wished her to continue work on an award.

The arbitrator asked the parties to name members to an interest arbitration panel to meet with her to resolve the dispute. The parties named Mr. Robert Smet, Guild President, and Police Chief Tom Robbins as panel members. The arbitration panel met on December 16, 17, and 19, 2002, in Wenatchee. The panel fully discussed all issues and the City and Guild members clarified some matters for the neutral arbitrator. During the panel meeting, the parties attempted to reach agreement and they continued these efforts until December 30, 2002. At that time, the City and Guild members deferred to the neutral arbitrator for a final decision on all issues and asked the arbitrator to issue her award.

II. Statutory Criteria:

In RCW 41.56.465, the Washington Legislature specified that interest arbitrators must apply the following criteria when determining the terms of a new collective bargaining agreement:

(1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

- (a) The constitutional and statutory authority of the employer;²
- (b) Stipulations of the parties;
- (c)(i) For employees listed in RCW 41.56.030(7)(a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;³

¹ To the arbitrator's knowledge, this charge remains unresolved.

² The parties did not raise any issues concerning this factor.

³ RCW 41.56.030(7) provides "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and ..."

- (d) The average consumer prices for goods and services, commonly known as the cost of living;
- (e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and
- (f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

In resolving the issues in this dispute, whether or not fully articulated herein, the arbitrator has been mindful of these criteria and has considered all of the evidence and arguments presented by the parties relative to these criteria. The arbitrator also recognizes that interest arbitration generally is regarded as an extension of the collective bargaining process. Consequently, “a principled approach consistent with the legislative intent rejects extreme posturing by either party.” (Guild’s Brief at 1.) Rather, the arbitrator should endeavor to approximate the result that reasonable parties themselves would likely have reached in good faith negotiations. Arbitrator Carlton Snow described an arbitrator’s task as:

In interest arbitration, it is the task of an arbitrator to render an award that applies statutory criteria. If the process is to work correctly, it should not produce a result that is substantially different from what would have been obtained had the parties resolved the dispute at the bargaining table. Interest arbitration is an extension of the bargaining process, and it is not a forum in which a party should expect to obtain a novel result.⁴

III. Background Information:

The City of Wenatchee is in Chelan County in central Washington. Wenatchee is the population and trade center for North Central Washington. The City itself has a population of 28,270 and shares a retail area with East Wenatchee. Agriculture is the largest and most influential sector of the economy. Apples are the primary source of agricultural revenue and other important fruit crops include cherries, pears, and peaches. Although the primary force in the Chelan-Douglas County economy is agriculture, health care is currently the largest sector of employment. (Guild Exh. No. 11.) Tourism is also a main source of revenue. Wenatchee is close to recreational areas and has an active downtown association. A convention center is located in the downtown area.

⁴ International Association of Firefighters, Local 1758 and City of Ellensburg, Washington at 6 (Snow, 1992).

The Wenatchee Police Department consists of 37 bargaining unit members, including six sergeants, four corporals and 27 police officers. A chief and two captains supervise the department. The patrol division captain oversees the patrol shifts and the investigations unit while the headquarters division captain oversees the Neighborhood Resource Team, the Columbia River Drug Task Force, records/dispatch, and parking.

Bargaining for the current collective bargaining agreement began in June 2000. A mediator from PERC met with the parties and recommended that issues be submitted to interest arbitration under RCW 41.56.450. PERC certified fourteen issues on March 8, 2002. The parties continued to bargain and reduced the number of outstanding issues to six. The issues before this arbitrator on September 18, 2002 were:

On-Call Premium for Drug Task Force Sergeant	Article 5.8
Bereavement Leave	Article 7.3(d)(4)
Cost of Corrective Lenses	Article 9.8
Duration of Agreement	Article 12.1
Wages	Article 12.5
Shift Differential	Article 13.1

The arbitrator's approach in writing this Decision and Award will be to begin with an analysis and decision concerning comparable jurisdictions because they will be necessary in deciding the six issues. After stating each issue and the parties' positions, the arbitrator will give her analysis and conclusions. On each issue, this arbitrator reviewed and evaluated the pertinent evidence and argument submitted by the parties. The record in this matter however is voluminous, so it would be impractical for the arbitrator to discuss each item of evidence individually.

IV. Selection of Comparables:

A. Background Information:

The Washington statute requires that an interest arbitrator use as a standard or guideline a "comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;" RCW 41.56.465(1)(c)(i) (emphasis added). This statutory section requires that an arbitrator determine an appropriate list of comparable jurisdictions. Arbitrator Carlton Snow noted that the purpose of such a list is "... to provide a rational standard and not to create a method for splitting the difference in interest arbitration. Parties do not seek the weighted average of an arbitrator's notion of equity but, rather a principled basis for resolving their impasse."⁵

⁵ International Association of Firefighters, Local 2053 and City of Moses Lake, PERC. No. 8471-1-90-00195 at 6 (1991) (Snow, Arb.) (IAFF, Local 2053 and Moses Lake).

The parties agreed to the following eleven comparable cities within Washington State:

Aberdeen	Moses Lake
Anacortes	Mount Vernon
Bremerton	Pasco
Lacey	Port Angeles
Longview	Walla Walla
Marysville	

(Guild's Brief at 14 and City's Brief at 6.)

In addition, the Guild proposes a variance range of minus 50% and plus 100%. Using this range, the Guild would add:

Richland	Monroe
Kennewick	Pullayup

The factors, which the parties agree on are: population and assessed valuation. The City would add combined property and sales tax, unemployment rate, and median income. The Guild would add:

Assessed valuation per capita	Number of officers
Retail sales	Part I crimes
Retail sales per capita	Crimes per officer
Retail trade	Number of officers per 1000 population
Retail trade per capita	

B. The Parties' Positions:

1. The Guild's Position:

The Guild asserts that "[j]urisdictions are identified as 'comparable' not because they 'seem' comparable but because statistical studies confirm certain demographic factors which are known to be predictive of wages and which are shared in common." (Guild's Brief at 6.) The Guild points out that the Guild and the City concur that population and assessed valuation are important factors. In addition, the Guild urges the arbitrator to consider other factors "which are predictive of wages should be used in selecting comparables because such factors reflect market forces." (*Id.*) The Guild points to population, assessed valuation, retail sales, and retail trade, among others and would add such secondary factors as the number of crimes and officers.

The Guild also claims that the variance range the Guild chose is better than the range used by the City because it achieves balance. In support, the Guild cites Arbitrator Wilkinson:

In my view, the screen utilized is the one needed to produce an adequate number of (usually in-state or local labor market) comparators. The objective, in addition to a sufficient number, is balance. One does not “fine tune” the screen for the sole purpose of adding or omitting a desirable or undesirable (in terms of pay) jurisdiction. In questionable cases, one should initially err on the side of inclusion. The final list should be balanced in terms of population, wealth, degree of rural isolation and the like. The best argument for using the Association-preferred approach (-50% to +100%) for the population screen is that in almost all cases, there are fewer larger jurisdictions from which to choose than there are smaller. Therefore, this approach is necessary to obtain a population balance. On the other hand, the debate is academic when the balance can be obtained without that approach.⁶

The Guild asserts that plus or minus 50% results in an “asymmetrical bias toward the selection of smaller jurisdictions.” (Guild’s Brief at 13.) Applying that variance range, the Guild asserts that with any city as the focal point, going up or down 50% will result in a list composed of a greater number of smaller jurisdictions than larger ones. Using a range of minus 50% and plus 100%, the Guild argues, will produce a symmetrical list.

The Guild also asserts that the reasons the City offers for objecting to the Guild’s four additional cities are insufficiently compelling to justify their rejection. The Guild asserts that Monroe is small in size and tax base. The Guild notes that although the City rejects Monroe because of its proximity to Seattle, Monroe is actually on the far outskirts of the Seattle area. The Guild argues that the City’s rejection of Monroe is likely because police officer wages average \$4571, higher than Wenatchee’s 2000 wage of \$4073 per month. The Guild argues that it has not over-represented the Seattle metropolitan area and has not proposed any cities from King County and only one from Pierce and two from Snohomish counties. Puyallup, the Guild admits, is not a perfect match on its eleven factors, but the Guild asserts that the City’s comparables were also not perfect. The Guild argues that Puyallup could substitute for Auburn, which was on the City’s list at one point and on the list used by Arbitrator Axon in the firefighters’ interest arbitration earlier in 2002.

In summary, the Guild states that “One significant reason arbitrators try to derive a comparable list for which the target jurisdiction appears close to the *average on demographic variables* is that the stated goal of most arbitrators is to *compare wages and benefits to the average wages and benefits of the comparables.*” (Guild’s Brief at 18.) (italics in original) If the arbitrator rejects Kennewick, Puyallup and Richland, Wenatchee is “significantly above average” considering assessed valuation and retail sales. (*Id.* at 17.) Using this logic, the Guild argues, would mean that the pay of police officers should be in a similar position among the comparables.

⁶ The City of Pasco and Pasco Police Officer’s Association at 15-16 (1994) (Wilkinson, Arb.) (Pasco and PO Assn).

2. The City's Position:

The City argues that its methodology, using a variance range of plus or minus 50% of Wenatchee's number for that factor, achieves a list of similarly sized employers that is consistent with statutory requirements. In the City's view, the Guild's list includes "a disproportionate number of significantly larger, wealthier, metropolitan cities." (City's Brief at 5.)

The City also notes that arbitrators generally are wary of methodologies that cannot be explained or easily understood. The City asserts that the Guild's "symmetry" argument is a "smoke screen." (City's Brief at 7.) Looking at the Guild's additions to the list, the City argues that "[t]here can be no ultimate symmetry between the lists of comparables for cities of such dissimilar size." (*Id.*) As the City understands the Guild's argument "to include Kennewick as a comparable would require a population band at least double that of Wenatchee. If in turn Kennewick is fashioning its own comparable list, it would go down 50% of its population to reach Wenatchee." (*Id.*) The City asserts that using the Guild's variance range for Kennewick would produce a list that would include a number of cities not on Wenatchee's list because they exceed 100% of Wenatchee's population. Further, cities on Wenatchee's list, with a population of less than half of Wenatchee's size, would not be on Kennewick's list.

The City argues against the Guild's variance range because it favors much larger jurisdictions and generally richer and higher paying ones. Kennewick, Richland, and Puyallup, the City argues, skew the comparables' list toward larger cities and cities in metropolitan areas. The City points out that Kennewick is part of the Tri-Cities area with a population of 131,600 and has 77 officers to Wenatchee's 39. Further, Kennewick's assessed valuation is 79% greater than Wenatchee's, its combined sales and property tax is 73% greater than Wenatchee's and its retail sales are 90% greater than Wenatchee's. The City notes that Arbitrator Abernathy rejected the 100% variance at the upper limit because it produced a list which "overstates the influence of larger jurisdictions." (City's Brief at 27 citing International Association of Fire Fighters, Local 2444 and City of Camas, Washington at 17 (1996) (Abernathy, Arbr.). Richland is also in the Tri-Cities area, the City notes, and its assessed valuation is 70% greater than Wenatchee's. Puyallup has an assessed valuation that is 76% above Wenatchee's, retail sales which are 133% of Wenatchee's, and retail trade that is 201% greater.

The City also argues that adding Monroe and Puyallup to the comparables displays a bias toward cities in the Puget Sound area. As bedroom communities to Seattle, these cities are influenced by higher wages in that urban area. The City notes that it did not propose to use only cities west of the Cascades. There are, in fact, three Puget Sound area cities on its list of comparables—Marysville, Bremerton, and Lacey.

C. Analysis and Conclusions:

Initially, the arbitrator notes that the parties did not direct the arbitrator to any history regarding comparables used in their prior negotiations. They agree that the

arbitrator should not look to the firefighters' interest arbitration for comparables. In the Wenatchee firefighters' arbitration, Arbitrator Axon used the cities listed in the collective bargaining agreement based on the parties' stipulation.⁷

In this dispute, the parties argued that at various points in their negotiations, the other party changed its position on which cities are appropriate as comparables. The arbitrator considered these arguments, but has not given them any weight. It is obvious that negotiators will change positions many times and for many reasons during negotiations.

There is no requirement in the Washington statute to use a particular number of comparables or a particular variance range. Arbitrators must determine an appropriate list according to the circumstances of the case before them. Regarding numbers, Arbitrator Wilkinson has stated that she prefers at least five and that other arbitrators have reached decisions with four to six comparables.⁸ Arbitrator Axon found that nine was a "meaningful" number to resolve the parties' wage dispute.⁹ Clearly, eleven comparable jurisdictions are an adequate number of comparables.

Regarding variance ranges, a review of interest arbitration decisions reveals that arbitrators use a variety of such ranges. Arbitrator Krebs used a variance range of plus or minus 30%.¹⁰ Arbitrators have also used the approach that the Guild urged, a variance of minus 50% and plus 100%. However, Arbitrator Gaunt stated that this range was the "outermost limits of what could reasonably be construed as similar size."¹¹ Arbitral authority suggests that arbitrators use such a variance range primarily to produce a sufficient number of comparables. Arbitrator Wilkinson has noted that the debate over a range is academic when the balance can be obtained without that approach.¹² The cases submitted by the parties and other interest arbitration decisions reveal that the most widely used range is plus or minus 50% of the target jurisdiction. See, for example, King County Fire District 44 and International Association of Fire Fighters, Local 3816, PERC No. 115764-I-01-360 (2002) (Wilkinson, Arb.). See also Aitchison, W., Interest Arbitration at 66 (2nd ed. 2000), Labor Relations Information System.

In this dispute, the arbitrator sees no reason to apply a range other than the plus or minus 50% variance range. Eleven is a sufficient number of comparable jurisdictions. Moreover, the Washington statute in RCW 41.56.465(1)(b) specifically provides that an interest arbitrator must apply the parties' stipulations. Although the parties did not enter a formal stipulation, they clearly stated their agreement on eleven jurisdictions. (City's Brief at 6 and Guild's Brief at 14.) As Arbitrator Levak noted, "because the statute

⁷ The International Association of Firefighters, Local 453 and City of Wenatchee, Washington, PERC 16058-I-01-374 (2002) (Axon, Arb.) (Wenatchee and Firefighters, Local 453).

⁸ City of Port Angeles and Teamsters Local 589, AAA No. 75 300 00215 98 at 11 (1999) (Wilkinson, Arb.) (citations omitted) (Port Angeles and IBT Local 589).

⁹ Aberdeen Police Association and City of Aberdeen, PERC No. 14678-199-322 at 40 (2000) (Axon, Arb.).

¹⁰ City of Kennewick and International Association of Firefighters, Local 1296, AAA 75 300 00225 96 at 14 (1997) (Krebs, Arb.) (Kennewick and IAFF, Local 1296).

¹¹ City of Bellevue and Bellevue Firefighters Local 1604, IAFF, AFL-CIO, CLC (1988) (Gaunt, Arb.).

¹² Pasco and PO Assn. at 15-16.

requires an interest arbitrator to honor the stipulations of the parties, an arbitration should properly accept, without reservation, jointly agreed upon definitions, principles and comparators submitted by both sides.”¹³ In other circumstances, such as an insufficient number of agreed jurisdictions or comparables that did not meet statutory requirements, this arbitrator might choose a different variance range. Such an action is not necessary here because the parties agree upon eleven comparables. Further, they agree that population and assessed valuation should be among the factors considered.¹⁴

Adding the four jurisdictions the Guild proposes--Kennewick, Richland, Puyallup, and Monroe--would not result in a more balanced list of comparables with regard to the most important factors, population, assessed valuation, and geographic proximity. Regarding population, there are five cities among the eleven with populations greater than Wenatchee and six with smaller populations. If Richland and Kennewick were included, their populations of 40,150 and 56,280 respectively, are obviously substantially above Wenatchee’s population of 28,270 and they would be at the top of the list. (Guild Exh. No. 23.) Casting additional doubt as to their use as comparables, the arbitrator notes that, as two of the Tri-Cities, they are part of a large metropolitan area with a population of 131,600. In assessed valuation, another factor on which the parties agree, Wenatchee is a little farther from the middle with seven jurisdictions lower and only four higher. However, the gap between Longview with an assessed valuation of \$1,767,000 and Richland, which is next at \$2,228,000, is substantial.

In this case, the Guild’s additional comparables serve little purpose other than to justify a higher wage increase, an approach noted by interest arbitrators. In this regard, it is useful to remember that the purpose of seeking comparable jurisdictions is “to establish a test of fairness for proposals parties seek to place in a collective bargaining agreement. The objective is not to produce a ‘result oriented’ list of comparable cities.”¹⁵ Further, these cities hardly serve to justify a higher wage increase because with the Guild’s four additional comparables, the position of Wenatchee police officers’ changes only slightly. Using the eleven comparables, the Guild found that Wenatchee police officers’ pay at the 5-year level is 91.18% of the average wages of \$4467 of the comparables. (Guild Exh. No. 62.) With the four additional comparables proposed by the Guild, the Guild concludes that the average is \$4480 and the percentage figure falls to 90.92%.¹⁶ (Guild Exh. No. 66.) Finally, although the parties appear to agree not to restrict comparables geographically with their inclusion of cities in the Puget Sound area, adding additional such cities serves no purpose.

In summary, the arbitrator finds it appropriate to use the eleven comparables the parties agreed upon in making comparisons in this dispute. Those jurisdictions are:

¹³ City of Walla Walla, Washington and Walla Walla Police Guild, PERC No. 6213-I-86-139 at 22 (1986) (Levak, Arb.).

¹⁴ Arbitral authority holds that these two factors and geographic proximity are critical. See, for example, Port Angeles and IBT Local 589 at 10.

¹⁵ IAFF, Local 2053 and Moses Lake at 6.

¹⁶ The arbitrator notes that the Guild is using Wenatchee wages in 2000 whereas, except for Kennewick, the wages of the comparables are for 2002.

Aberdeen
Anacortes
Bremerton
Lacey
Longview
Marysville

Moses Lake
Mount Vernon
Pasco
Port Angeles
Walla Walla

V. Article 5.8 - On-Call Premium for Drug Task Force Sergeant

A. Proposal:

Guild Proposal:

Officers assigned to on-call detective duties, including narcotics investigations, for more than two (2) consecutive months shall receive five (5) hours of overtime pay per month in addition to her/her [sic] overtime hours worked each month.

City Proposal:

The City does not seek a change in Article 5.8. That article states:

Officers assigned to on-call detective duties for more than two (2) consecutive months shall received [sic] five (5) hours of overtime pay per month in addition to his/her overtime hours worked each month.

B. The Parties' Positions:

1. The City:

The City asserts that detectives are required to be on-call approximately one week per month on a rotating basis. On-call status means that a detective may not drink alcohol, must be fit for duty and must be ready to report within 30 to 45 minutes at any hour. In consideration for on-call duty, detectives receive five (5) hours of overtime pay per month above any actual overtime worked. One detective sergeant, is assigned to work on the Drug Task Force (DTF), a local partnership composed of Wenatchee, East Wenatchee, Douglas County, and Chelan County.¹⁷ Wenatchee is the lead agency and as such staffs the DTF supervisor position. The City asserts that the DTF supervisor is not required to serve on-call.

According to the City, if DTF issues come up during non-business hours, on-duty officers handle the situation. The DTF supervisor is not restricted in any personal activities, required to stay in contact with the department, or required to remain within a

¹⁷ At the time of the hearing, Wenatchee had no investigative officer assigned to the DTF. The panel members informed the neutral arbitrator that this position would not be filled in future due to lack of funding.

certain distance of the department. If the DTF supervisor is called, he/she is not required to return the call or to respond to a request to work. If the DTF supervisor goes out to work, the City pays for any additional hours worked. The City also asserts that its DTF partners do not require or pay for their representatives to perform on-call duty. Further, of the other 18 regional task forces in the state, the City states that only three paid on-call pay to the sergeant in the lead agency. (City Exh. No. 1.4.) Finally, the City warns that “[s]hould the Guild be awarded a decision on this matter, there may be an administrative implication that could add costs to other agency partners.” (City Exh. No. 1.)

2. The Guild:

The Guild explains that originally narcotics investigators were part of the detective unit and received the on-call premium. When the work was transferred to the DTF, the premium “was inexplicably taken away.” (Guild’s Brief at 40.) The Guild tried to negotiate a solution for 12 years, but did not succeed. According to the Guild, on-call pay is “an ad hoc justification to give the detectives some detective pay.” (*Id.*) Also, the Guild argues that the DTF sergeant, like a detective sergeant with the City, “has to carry a pager and be generally available to respond appropriately whenever possible.” (*Id.* at 41.) The Guild also argues that the majority of departments who pay an investigator or detective premium extend this benefit to those assigned to narcotics investigations.¹⁸

B. Analysis and Conclusion:

The issue of on-call pay is a question of the duties performed by the DTF supervisor rather than the practices of comparable jurisdictions. As to duties, the evidence is that the DTF supervisor does not rotate on-call as do the Wenatchee detectives. Thus, after his daily shift, the DTF supervisor is not required to remain in contact with the DTF, stay fit for duty after his shift, or respond to calls—all obligations that an on-call detective must meet. For work outside regular hours, the DTF supervisor must put in for overtime or compensatory time off. Nevertheless, despite the fact that the DTF supervisor may be called out to work, he/she is not required to be on-call. In other words, the on-call duty is not part of a DTF agent’s responsibility.

There is, however, clearly an expectation that the DTF supervisor will respond to after hours calls. Captain Murray testified that some work could be delayed until the day shift, but the evidence indicated that delay is not always feasible. Detective Sergeant Manke testified that when there was an explosion in methamphetamine laboratories, he got calls almost every night of the week and testified that “a response was required.” (Testimony of Detective Sergeant Manke.) Such calls are an interruption of personal time and are likely to come after work hours. Captain Murray’s testimony also supports the expectation of a response to off duty calls. The captain testified that if the DTF sergeant failed to respond to after hours calls, he would have no way to discipline that person

¹⁸ The Guild cited to Guild Exh. No. 199, however that exhibit was not in the materials given to the arbitrator. Further, according to the Guild’s representative, Guild Exh. No. 198, was to be submitted with the Guild’s brief. However, the arbitrator did not receive that exhibit.

because there is no formal requirement to be on-call. However, he said that he “possibly” would consider a reassignment. (Testimony of Captain Murray.)

The Guild suggests that the arbitrator may remedy this situation by changing contract language. However, the arbitrator believes that such a change would involve changing the duties of the DTF detective sergeant. Even if the neutral arbitrator has authority to make such a change under the certification, the record does not provide sufficient information to do so. Further, consideration must be given to the effect of such a change on the other DTF agencies. In these circumstances, the arbitrator believes that the parties should negotiate on-call compensation for the DTF detective sergeant in future negotiations and make the necessary changes in duties if they so choose.

D. Award:

The arbitrator awards that Article 5.8 shall remain unchanged in the 2001-2003 collective bargaining agreement.

VI. Article 7.3(d)(4) - Sick Leave (Bereavement Leave):

A. Proposals:

Guild Proposal:

7.8. Bereavement. Employees shall be entitled to paid bereavement leave for up to five days in each instance of the death of an immediate family member as defined in Section 7.3(d)(4).

City Proposal:

The City seeks continuation of the current practice of allowing use of sick leave in bereavement cases.

B. The Parties' Positions:

1. The City:

The City explains that “[u]nder the current plan police officers receive up to five days bereavement leave for deaths in the immediate family that will be deducted from the employee’s sick leave bank. The existing plan also provides an opportunity for the Chief to grant additional amounts of sick leave for bereavement.” (City’s Brief at 49.) Other City employees have the same bereavement leave plan as the police officers. The City argues that the Guild’s proposal would put the officers at odds with the treatment of other City employees and that there is no reason to treat police officers differently. In addition, separate leave policies are difficult for the City to administer.

In support of its argument, the City states that the collective bargaining now provides generous sick leave provisions and notes that there is no accrual limit on sick leave. The City asserts that allowing employees to draw from sick leave for bereavement “does not improperly impinge on their sick leave balances.” (*Id.*)

2. The Guild:

The Guild argues that 13 of its comparators specifically designated leave for bereavement purposes. According to the Guild, “[m]ost employers have seen fit to provide some measure of support to these employees by allowing them off work without docking their back pay.” (Guild’s Brief at 41.) The Guild also argues that the City’s reliance on internal consistency is misplaced. The statute, the Guild asserts, is clear that an arbitrator should assess benefits in relation to comparable employers not to other city employees. Further, the Guild states that the fact that the Police Chief has discretion to extend leave if necessary is immaterial to its proposal.

C. Analysis and Conclusion:

The Washington statute requires that interest arbitrators compare the wages, hours, and conditions of employment of personnel with those of like personnel of like employers. Consistent with that requirement, a review of the eleven comparables shows that eight have paid bereavement leave in addition to sick leave. Some jurisdictions have less than five days, some allow additional time if an employee is handling affairs for the deceased, and some permit using sick leave for additional bereavement time. In Walla Walla, employees may use 80 hours of personal leave. (Guild Exh. No. 201.) These differences among jurisdictions regarding the number of bereavement days and the circumstances in which they may be used, make comparisons difficult. Nevertheless, it is apparent that specifically designated bereavement leave is the norm.

The arbitrator has fully considered the City’s arguments. First, the City argues vigorously that it is difficult administratively and possibly unfair to have different benefits in various departments. Although the arbitrator has considered this argument and appreciates the added administrative complication of having different benefits among the City’s employees, the statute’s focus on comparability is more compelling. The City also argues that there may be reasons and history why other jurisdictions have a different system for bereavement leave. The arbitrator does not doubt the truth in this argument, but it is equally applicable to every article at issue in this dispute and is not a persuasive argument for retaining the current contract provision. Finally, the City argues that the police officers accumulate sick leave without restriction. The arbitrator notes that this sick leave bank constitutes a form of disability insurance because the Guild’s present benefit system does not provide full disability insurance. Using sick leave for bereavement purposes reduces this bank. See Article 14.1.3.

Considering the statutory requirement for comparability and the need for officers to use their sick leave for disability purposes, the arbitrator concludes that having specifically designated bereavement leave is more appropriate than the current system.

Consequently, she awards the Guild's proposal with the proviso that it is effective January 1, 2003, to avoid the retroactive administration of this provision.

D. Award:

The arbitrator awards that Article 7.8, as follows, be added to the collective bargaining agreement:

Article 7.8. Bereavement. Effective January 1, 2003, employees shall be entitled to paid bereavement leave for up to five days in each instance of the death of an immediate family member as defined in Section 7.3(d)(4).

VII. Article 9.8 - Cost of Corrective Lenses:

A. Proposals:

Guild Proposal:

The City agrees to provide Three Hundred Fifty Dollars (\$350.00) every two (2) years toward corrective lenses for LEOFFII officers and all legal dependents of all employees (receipts required).

City Proposal:

The City agrees to provide a maximum of Three Hundred Dollars (\$300) every two (2) years toward corrective lenses for LEOFF II officers and/or legal dependents of all employees.

B. The Parties' Positions:

1. The City:

The City seeks only to clarify this benefit by adding the words "a maximum" and omitting the words "Receipts required." The City argues that the words "a maximum" are necessary to clarify that the \$300 limit is for an entire family. The City objects to the Guild's proposal to add \$50 to this benefit. The City points out that the corrective lenses benefit is in addition to eye exams that the City pays for separately. The City asserts that the Guild provided no testimony to establish that the current benefit level, established in 1997, is insufficient.

In addition, the City argues that the Guild's proposal would put the Guild's members "at odds with other City employees who are currently at the \$300 reimbursement level." (City's Brief at 20.) According to the City, having some employees at one level of benefits and other employees at a different level would cause administrative problems for the Third Party Administrator (TPA) that handles the medical, dental, and vision plans. (City Exh. No. 6.1.)

2. The Guild:

According to the Guild, the average vision benefit provided by the comparable jurisdictions is \$176/per year and the Guild's proposal would be \$175/per year. The Guild also argues that this benefit has not been increased for a few years. The Guild asserts that internal equity is not material and that among City employees, the Guild got this benefit first.

C. Analysis and Conclusion:

According to data provided by the Guild, nine of the eleven comparables offer a vision benefit. However, only one city, Pasco, allocates an amount for corrective lenses. The City of Pasco pays \$200 annually for an examination, corrective lenses, and frames. The other eight cities offer vision care as part of medical care. For example, under Aberdeen the benefit is described as "City shall pay 80% of Vision Service Plan." (Guild Exh. No. 200.) Using this data, the amounts that the medical plans in the comparables allocate for corrective lenses are unclear. Contrary to the Guild's assertion, there is insufficient evidence to determine that Wenatchee lags behind the comparables.

There is likewise no evidence on which to base an increase in this benefit. The Guild did not offer any evidence to support its demand other than the information that the benefit had not improved in several years. Inasmuch as the City pays 100% for a medical, dental, and vision plan for officers and pays 90% of dependent coverage at a time when medical coverage is becoming increasingly expensive for employees, this argument is simply inadequate. Moreover, the Guild did not offer any evidence that the existing corrective lenses benefit caused a hardship for any officer or was insufficient.

In contrast, the City argued that the word "maximum" would clarify that the corrective lenses benefit is a maximum of \$300 for the entire family. In support, the City states, without contradiction by the Guild, that instances occurred in which the plan administrator applied the \$300 limit to multiple family members instead of requiring that it be shared among them. The City's argument that the language needs clarification is persuasive and the arbitrator awards the modifications proposed by the City.

D. Award:

The arbitrator awards that Article 9.8 be amended to state:

The City agrees to provide a maximum of Three Hundred Dollars (\$300) every two (2) years toward corrective lenses for LEOFF II officers and/or legal dependents of all employees.

VIII. Article 12.1 - Duration of Agreement:

A. Proposals:

Guild Proposal:

The Guild proposes a two (2) year agreement for the period from January 1, 2001, through December 31, 2002.

City Proposal:

The City proposes a three (3) year agreement running from January 1, 2001, through December 31, 2003.

B. Positions of the Parties:

1. The City's Position:

The City argues that a three-year agreement is consistent with most of the contracts in the comparable jurisdictions and in line with other City bargaining units. Particularly, the City notes that the International Association of Fire Fighters agreement expires at the end of 2003 and adds “[i]t is critical that the two jurisdictions with access to interest arbitration have their contracts on the same cycle.” (City’s Brief at 22.) Further, the City argues that the commitment of time and resources required for negotiations are good reasons for longer agreements. In this case, the City points out that a two-year agreement would mean that the contract would expire immediately.

The City also argues that the parties never reached an agreement reached on this issue. During negotiations, the City argues, the parties explored a range of options. In June of 2000, when bargaining began, a two-year agreement would have permitted a break in negotiations. As bargaining continued into 2002, that benefit disappeared. At the end of 2002, the City’s representative, Annette Sandberg, approached the Guild’s representative in an attempt to resolve the contract before her departure for a new job. Part of the package she offered was a two-year agreement. The City asserts that the Guild’s representative did not respond timely and that even after certification a couple of months later, the Guild did not argue there was any agreement on duration. Finally, the City argues that at the arbitration hearing, the Guild’s representative admitted “that there had been no communicated agreement on the duration.” (Id. at 23.)

2. The Guild's Position:

The Guild argues that the City offered a two-year collective bargaining agreement and the Guild accepted, but the City later changed its position. The Guild asserts that the City initially proposed a two-year agreement and continued that proposal into 2002 as the parties prepared lists of issues for certification. According to the Guild, the dispute was between one year and two years rather than two or three years. In support, the Guild

offers a contract proposal dated January 18, 2002, which shows that the parties sought to certify duration for arbitration and that the Guild proposed one year. (Guild Exh. No. 203.)

C. Analysis and Conclusion:

Initially, the arbitrator notes that the parties agreed at the hearing that the arbitrator has jurisdiction to decide the duration of the collective bargaining agreement despite the existence of a good faith bargaining issue. The arbitrator, however, will not address directly the parties' arguments about their negotiations. The question of the agreement's duration is on PERC's list of certified issues for interest arbitration and, therefore, it is appropriately resolved in this decision and award. (City Exh. A.4.) Furthermore, as noted below, the parties agree that this interest arbitration award may issue without regard to the pending unfair labor practice.

Turning to the question of duration, the arbitrator believes that a three-year contract term is in the best interests of both parties. If the arbitrator were to award only a two-year agreement, the agreement would expire immediately. Put differently, the time when the parties would have bargained for 2003 has passed. In fact, even a three-year collective bargaining agreement only allows the parties a few months respite before negotiations must begin for 2004. Arbitrator Beck addressed a similar issue and found, "[a] two year term, on the other hand, would place the parties immediately back in negotiations. Such a state of affairs would not promote collective bargaining as an effective means of resolving disputes, as is contemplated by the statute."¹⁹

As additional support, the arbitrator notes that there are eight jurisdictions among the comparables with three-year agreements. (City Exh. No. 9.2.) Thus, a three-year agreement is not unusual. Only three jurisdictions, however, have resolved wage issues for the year 2003, which is the third year of this agreement.

D. Award:

The arbitrator awards that the contract shall read:

This agreement shall be effective January 1, 2001, through December 31, 2003.

IX. Article 12.4 - Wages

A. Proposals:

The Guild proposes that:

The City shall pay to the officers in the bargaining unit those rates that are set forth on Appendix "A", attached hereto. Wages shall be adjusted above the 2000 rates

¹⁹ City of Richland and Office and Professional Employees International Union Local No. 11, Law and Justice Division, AFL-CIO, PERC No. 6318-I-86-145 (Beck, 1987).

across the board five percent (5%) January 1, 2001 and an additional five percent (5%) January 1, 2002.

The City proposes the following cost of living adjustments for all bargaining unit members:

1-1-01 - 3%
1-1-02 - 2.5%
1-1-03 - 2.0%

B. The City's Position:

The City argues that its proposed increases are fair in relationship to its comparables. In examining the comparables, the City argues that a police officer with five years of service with an AA degree is an appropriate "model." The City also focuses on net hourly compensation as the most appropriate measure. The City calculates the annual scheduled hours subtracting the vacation and holiday leave hours that a five-year officer would receive in the comparable jurisdictions. The City argues that the arbitrator should add longevity, educational incentives, and deferred compensation to the base wages. According to the City, it is not appropriate to include premiums for specialty assignments and proficiency payments because not all officers get them. The City asserts that the Guild includes some premiums and ignores others. For example, the City points out that the bulk of the Guild's bargaining unit get the \$30 per month shift differential, but the Guild does not include it.

Next, the City argues that comparable cities in the Puget Sound area have a disproportionate impact on the average and the arbitrator should down-weight their impact. In support, the City cites to Arbitrator Wilkinson's decision in Pasco, where she found that half-weighting Kennewick was appropriate "because it has over twice the population as Pasco."²⁰ Based on its wage analysis, the City asserts that its wage proposal is "within eleven cents of the average of all comparables without any adjustments for the disproportionate impact of the central Puget Sound." (City's Brief at 28.) Without the three central Puget Sound jurisdictions, the City finds that Wenatchee is 2.2% ahead of the comparables. Further, the City argues that adding the \$30/month shift differential would put Wenatchee ahead of all the comparables. The City also notes that its 2002 wage proposal places Wenatchee police officers ahead of the median. In addition, comparisons at other levels of police officer service show that the City's proposals are fair. For 2003, the City notes that less than half of the comparables had a wage settlement as of the hearing.

The City also argues that any wage increase should be evaluated in light of significant increases in medical costs. The City notes that it pays 100% of the cost of health insurance for police officers and 90% for their dependents. Health insurance costs increased by 8% increase in 2002, and the City projects a 20% increase in 2003. (Testimony of Finance Director Calhoun.) Without these health insurance increases, the

²⁰ Pasco and PO Assn. at 18.

City's proposals will cost \$375,082 over three years. The City is concerned about a potential increase in its contribution for LEOFF pensions with the passage of Initiative 790.²¹ According to the City, the State Actuary estimated that the passage of this measure would increase the employer contribution rate from 2.64% to 14.47% on July 1, 2003.

The City also notes that inflation as measured by the CPI is extremely low with no anticipated significant increase in sight. In August of 2002, for example, the CPI-W for Seattle-Tacoma-Bremerton was only 1.8% and the CPI-U was 1.9%. The City asserts that its proposals for each year exceed the inflation measurements. Finally, the City argues that its police officers have historically fared well in relation to the cost of living.

The City also asserts that its wage proposals are fair when compared to other City employees. From 1993 through 2001, police officers received 28.6% in wage increases compared to 25.8% for non-represented employees and 24.5% for employees represented by AFSCME. In 2001, management, non-represented employees, and AFSCME-represented employees received 2.66%. In 2002, the City froze salaries of management and non-represented employees. The City rejects the Guild's argument that the firefighters' increases should be a "baseline." In awarding wages to the firefighters, the City asserts that Arbitrator Axon considered his award of a reduction from four to three platoons and his decision not to award a requested buyout for the resulting loss of promotional opportunities. The City also quotes Arbitrator Axon's statement that he was "essentially awarding cost-of-living increases over the duration of this 3-year contract." (City's Brief at 36.)

The City also argues that Chelan County's income base is in agriculture and income levels in the local labor market are significantly less than income levels in other parts of Washington. The City points out that income in Chelan County is 46.5% less than in King County. Household median income is \$37,316 in Chelan County as compared to King County at \$53,157 and \$53,060 in Snohomish. Further, Wenatchee is tenth among Washington cities with the biggest income disparity. (City Exh. No. 10.7.10.)

The City argues that the arbitrator should consider that the cost of living in Wenatchee is significantly less than in the other comparable jurisdictions. For example, the City notes that the median price for a house in Chelan and Douglas counties is \$134,900 as compared to \$282,500 in King County. Apartment rentals, the City argues are also significantly less in Wenatchee. According to the Mayor, average housing prices are \$154,000 to \$159,000 in the area and houses priced at \$500,000 remain on the market for some time. The City also argues that Wenatchee police officers make significantly more than officers of adjoining police departments do. In addition, the City argues that its proposed increase for 2002, 2.5%, is consistent with increases of other public employers in the Wenatchee area whose increases averaged 2.66%. (City Exh. 10.7.2.)

²¹ Initiative 790 passed in the November 5, 2002 election and takes effect on July 1, 2003. See www.wa.gov and City Exh. No. 10.6.7.

The City argues that its wage proposal for 2003 should be “more heavily influenced by the realities of the economy than on any analysis based on comparables.” (City’s Brief at 31.) In this regard, the City notes the high unemployment rate in Washington and the prediction that the recession will last for two to three years. (City Exh. No. 10.7.10.) The City also calls the arbitrator’s attention to the 8.7% unemployment rate in Chelan County. Locally, the City is suffering from the closure of the Alcoa facility and the downturn in business that has severely affected Pacific Aerospace and Electronics, a technology company.

Finally, the City argues that its fiscal resources do not support the Guild’s demand and should temper any wage adjustment. According to the City, it faces “an uncertain financial future.” (City’s Brief at 42.) The City points to the decline in growth of sales tax revenues in the past few years. Although the City recognizes that 2002 sales tax revenues are up 3% from 2% in 2000 and 2001, the City argues that the increase will be non-recurring. Some of the increase is due to construction at Valley North Mall. In addition, the move of the Town Toyota dealership out of the City negatively affected sales tax revenues. City witnesses expressed uncertainty over whether retail sales in the renovated Valley North Center will replace those lost revenues. (Testimony of Finance Director Calhoun and Mayor Johnson and City Exh. No. 10.6.4.)

Further, the City asserts that it is very uncertain whether or when Alcoa will reopen and that Pacific Aerospace and Electronics has suffered significant losses in value. (City Exh. No. 10.7.10.) Particularly, the City argues that property tax limits resulting from Initiative 747 should influence any wage increases. According to the City’s Finance Director, the state monies to compensate the cities for lost revenue has ended and the full negative effect of this measure will take effect over ten years. The City also points out that although annexations were discussed, only one is going forward and it is not large.

The City asserts that it has spent money to improve the City’s infrastructure to attract visitors and business in order to generate higher sales taxes. According to the City’s witnesses, the City has not spent large sums of money from the general fund. The City spent about \$100,000 to \$130,000 from the general fund to build a bridge connecting the City’s retail area to the riverfront park. In addition, the City believes it must improve the ice arena to maintain competitiveness for tournaments. To fund this improvement, the City changed the life expectancy of police cars from three to four years and put money from the equipment reserve into the general fund. The City also hopes to build a water slide, but the Mayor testified that the City would seek grant money instead of using money from the general fund. The City has provided a minor amount of money for improvements to the convention center and will sell bonds for other improvements. In addition, the City is seeking to purchase St. Joseph’s for a community center and has committed \$2,500 for an option to buy. All additional funds for that project, according to the Mayor, will be either from insurance monies or from grants.

Finally, the City disputes the Guild’s assertion that it has been unable to attract a sufficient number of qualified candidates. The City asserts that the City’s police

department has not had substantial turnover. According to the City's records, eight officers have left in the past 10 years. According to City witnesses, no officer left because of the pay in Wenatchee. Some officers, in fact, went to neighboring jurisdictions where the pay is less. The City asserts that with a recruiting effort, required for accreditation, it has been able to hire good candidates.

C. The Guild's Position:

The Guild asserts that wage comparisons should be made using a methodology that allows for a fair "apples-to-apples" comparison. The Guild also argues that the arbitrator should make a base wage analysis rather than use the City's modified "net wage" analysis. According to the Guild, most arbitrators examine the top step wages from each of the comparables without comparing additional premiums and adding all forms of compensation to the base wage. The Guild recognizes that the net hourly computation method is common in firefighter interest arbitrations. However, the Guild asserts that it is "unaware of police awards which have adopted the net hourly wage analysis suggested by the City." (Guild's Brief at 21.)

The Guild argues against including deferred compensation in the wage calculations on the basis that it is a benefit. One reason, the Guild notes, is that it is difficult to compare accurately the cost or value of benefits. If deferred compensation is included, the Guild asserts that the arbitrator should also include proficiency pays that are available in the comparables. The Guild states that "[w]age comparisons which take into consideration all the various points in a pay plan for which an employee is eligible will provide a truer reading of the competitiveness of a pay plan." (*Id.* at 19.)

The Guild asserts that a significant wage gap exists. The Guild argues that even using the City's data; the police officers are over 8.2% behind for a two-year period, 2001 and 2002. Further, the Guild states that the City's wage proposals for 2001 and 2002 would leave them behind. Using the Guild's additions to the list of comparables shows that the officers are 9.2% behind without factoring in that the Kennewick wage is from their expired contract. (Guild Exh. No. 66.) The Guild claims that settlements among its comparables average as follows: 2001 at 4.34%, 2002 at 3.66%, and 2003, to date, at 3.3%. (Guild Exh. No. 79.)

Regarding cost of living issues, the Guild argues that the CPI should be given some weight. Where the index is rising slowly, the Guild asserts that it should get less weight. Further, where there is a wage gap, the Guild argues that arbitrators give the CPI factor "significantly less weight." (Guild's Brief at 26.) The Guild also asserts that in the present labor market where there is a shortage of qualified applicants, settlement trends eclipse the CPI factor. Currently, other settlements do not indicate any type of substantial wage restraint or uniform settlement pattern, according to the Guild.

The Guild notes that the parties agreed previously to use the Seattle CPI-U. Using that index, the following figures apply: 2000 = 4%, 2001 = 3.6%, and 2002 = 1.8%. (*Id.*) The dispute, according to the Guild is whether the parties have established a pattern of

applying 100% or 85% of the CPI. The Guild argues that the City insisted on 85% of the CPI in 1999 when the parties were ready to sign the contract. The Guild asserted that it accepted the City's position that it should be 85% only to get pay for officers and conclude the agreement. The Guild also asserts that the August 2002 CPI figure of 1.8%, which would apply for 2003, is abnormally low particularly as compared to the 2003 settlement rate of 3.3% among the comparables.

The Guild also argues that the City's anecdotal evidence regarding regional differences in the cost of living and wages are inconclusive at best. Specifically, the Guild rejects the City's attempt to show that median income and wages are lower in Wenatchee using Chelan County data. The Guild also rejects the City's attempts to show that housing and apartment costs are lower in Wenatchee.

Turning to other considerations, the Guild asserts that the arbitrator should give internal wage comparisons little or no weight. Even where an employer is under severe fiscal stress, internal settlements are not controlling, according to the Guild. In this case, the Guild argues that there is no inability to pay. Moreover, the statute is clear that an arbitrator is to compare employers, not internal settlements.

Particularly, the Guild argues that an award for police officers should not be constrained by the interest arbitration award to firefighters. The Guild points out that the firefighters asked only for 100% of the cost of living index because their pay rates were already above average. Further, the Guild asserts that firefighter raises in recent years exceeded those of police officers, the firefighters have low turnover, and they do not have retention and recruitment problems. With promotional opportunities, specialty positions, and overtime opportunities, the Guild asserts that the City pays firefighters well above police officers, nearly 6% higher. (Guild Exh. No. 115.) The Guild claims that analysts who have studied the question of firefighter and police parity recommend against attempts to achieve such parity.

Economic trends, the Guild argues, are a secondary factor that arbitrators consider. Granting that the national and Washington state economies are "soft," the Guild argues that the Wenatchee downturn is not near the magnitude of the state as a whole. (Guild Exh. Nos. 134–138, and 180.) The City, according to the Guild, enjoys a diverse economy in which employment in health care has eclipsed the numbers in agricultural, and the infrastructure is strong and growing. The Guild notes that the City has utility rates among the lowest in nation, assessed valuation has doubled in the past ten years, the downtown is prosperous, housing is strong, and building permits are on the rise. (Guild Exh. No. 183.) The Guild asserts that "whatever softening has occurred in the local economy is nothing more than the backwash from the state and national downturn." (Guild's Brief at 33.)

According to the Guild, a city's fiscal condition is a factor that arbitrators say is a relevant and even important factor and that the most weight is given when a jurisdiction's fiscal condition is either very good or very poor. As the Guild describes it, "[h]ere, the conditions are fairly described as middling." (*Id.*) The Guild goes on to argue, "As to the

question of whether the glass is half empty or half full the City seems to take a studied approach in seeing it as half empty.” (*Id.* at 34.) Finally, the Guild asserts that Arbitrator Axon apparently did not seriously consider the City’s fiscal arguments in the firefighter arbitration. The Guild states that it expects the City to be fiscally cautious. However, the Guild adds that when the City “is finding the resources to spend money on giant slides and ice rinks, it is time for it to consider its responsibilities to properly fund its police department.” (*Id.*)

The Guild disputes the City’s cost estimates for Initiative 790. The Guild’s witness on the effect of the initiative was Barbara Chadwick, campaign manager for the initiative. According to Ms. Chadwick, the initiative creates a governance board for fire fighters’ and police pensions to give them a voice in matters concerning their pensions. Ms. Chadwick testified a new board would be able to propose changes in the contribution rates of cities, but the legislature or the governor could veto those changes. According to Ms. Chadwick, it is unlikely that a reconstituted board would increase pension rates to the maximum because firefighters and police must contribute 50% of the rate. (City Exh. No. 10.6.7, p. 5.)

The Guild also argues that officer workload in addition to recruitment and retention problems support its wage demands. First, the Guild claims that among its comparables, the number of officers is below average while the number of Part I, more labor intensive, crimes is high. (Guild Exh. Nos. 30 and 31.) The Guild also asserts that the number of officers on a per capita basis is below average. (Guild Exh. No. 33.)

The Guild argues vigorously that recruitment and retention problems are a matter of concern. Arbitrators consider very high and very low turnover, according to the Guild. Although the City refused to furnish complete data, the Guild asserts that the City is hiring from the bottom of candidate lists. Further, the Guild asserts that the City is having no success getting laterals who require significantly less training dollars than new recruits do. While the Guild admits that many factors are at work, the Guild argues that pay is “significant.” (Guild’s Brief at 29.) Testimony shows that the number of applicants has “fallen dramatically.” (*Id.* at 30.) The City recognized the problem, according to the Guild, by the City’s assignment of a sergeant to undertake aggressive recruitment. According to the Guild, the stakes are too high and the responsibilities are too grave to accept “a watered down” applicant pool. (*Id.*) Finally, the Guild argues that the arbitrator may consider morale of employees and the interest of the public in reaching a decision.

D. Analysis:

1. Basis for Salary Comparisons:

The Washington Statute requires that interest arbitrators look at wages, hours, and conditions of employment. (RCW 41.56.465(1)(c)(i)). Based on this direction, an arbitrator must look at more than the base wages comparables pay. Arbitrator Krebs noted that “in establishing wage comparability between differing jurisdictions, it is most appropriate to look at the entire compensation situation. It is unrealistic to look at wages

in isolation, since wages are only one aspect of compensation.”²² Arbitrator Wilkinson described the problem for an arbitrator as “determining 1) what variables most appropriately apply to the bargaining unit as a whole and 2) how to make wage premium and benefit comparisons among comparable bargaining units. As to the latter, wage premium and benefit packages have numerous variations, making comparison difficult.”²³ These differences create dilemmas that arbitrators resolve, but without consistent methodologies.

In comparing wages, the first consideration is which wage level to use as a benchmark. The Guild refers to the “top step” as the one traditionally used by arbitrators. (Guild’s Brief at 20.) In Wenatchee, the top step is a Police Officer, First Class, a level an officer reaches after two and a half years. (City Exh. No. A.3, section 12.5.) The base salary at that level is \$4033 per month. The parties chose to compare the salary of a police officer at the top step with five years of service. At five years, an officer receives a longevity increase of 1% or \$40 per month at the year 2000 level. (Guild Exh. Nos. 80 – 84 and City Exh. No. 10.3.1, Updated.) Longevity pay is, therefore, a factor that the parties decided to include for comparison purposes.

The Wenatchee department requires that a candidate have an Associate of Arts (AA) degree as a qualification for hire at the entry level and does not offer an educational incentive. (City Exh. No. A.9.) In contrast, seven of the comparables offer such incentives. That is, if an entry-level officer has an AA degree, he/she will receive additional payments for that degree. For example, an officer in Port Angeles receives an additional 3% of base pay, or \$121, for an Associate’s degree. (Guild Exh. No. 47.) This incentive brought the Port Angeles officer’s monthly base wage, including a longevity incentive, to \$4213 in 2001. Inasmuch as education is a requirement for Wenatchee officers, the arbitrator finds that it is appropriate to include the comparators’ educational incentives in making comparisons.

Therefore, the Wenatchee benchmark for comparison purposes is the salary of an officer with an AA degree and 5 years of service (5/AA). In 2000, an officer at that level received \$4073 in wages. There are 37 officers in the department and 27, including six sergeants and four corporals, are at or above the 5/AA level. The parties negotiated for across the board increases.

A second consideration is whether to include other wage-related payments and benefits for comparison purposes. The City would include deferred compensation, offered by Wenatchee and three comparables. The Guild opposes including deferred compensation in making comparisons unless proficiency pays are also included.

For several reasons, the arbitrator has decided not to include deferred compensation or any “proficiency pays” in comparing jurisdictions. First, these additions to wages require that employees take specific actions to participate. A police officer must

²² Snohomish County and Public, Professional & Office-Clerical Employees and Drivers, Local Union No. 763, PERC No. 6360-I-86-146 at 12 (Krebs, 1987).

²³ Pasco and PO Assn. at 22.

choose to participate in a deferred compensation plan. If he/she does, the City withholds 2% from wages and provides matching funds. The officer has the benefit of a type of savings plan for retirement and the employer's assistance in funding the plan. Although the deferred compensation plan has a wage component because the officer will get the income at some point, it also may be a benefit for employees. The City pays \$83 per month for each enrolled officer at the 5/AA level. (City Exh. No. 10.3.1, Updated.) The record does not disclose how many officers take advantage of this benefit. In contrast, every officer earns longevity pay simply by staying on the job.

Second, the Guild presented data showing that deferred compensation and proficiency premiums, if they were included, would "essentially neutralize" each other in this dispute. (Guild's Brief at 25 and Guild Exh. No. 76.) In addition, the arbitrator recognizes that the data to compare incentive pays and proficiency pays is difficult to determine and these payments are not readily comparable. Third, neither party attempted to include the monthly shift differential in their comparisons. The City notes that most officers receive the differential, but the City does not include it in its comparisons. (City Exh. No. 10.3.1, Updated.) The parties' willingness to exclude this wage-related payment for comparison purposes shows their acceptance of comparisons that exclude some wage-related payments.

Finally, and most significantly, including the deferred compensation benefit and ignoring health insurance, as well as other benefits, makes little sense. Generally, it is the compensation package that is important to employees. That is, employees are concerned not only with wages, but with benefits, principally health care insurance. Health insurance is not a benefit that results in a payment to an employee. However, it is such a significant cost item for the City, about \$972,000 in 2002, and so critically important to most employees that many wage benefits pale in comparison. Id. The parties did not include health insurance or other benefits in their comparisons, and they did not attempt to provide information from the comparable jurisdictions to permit the arbitrator to make comparisons. In these circumstances, the arbitrator finds that the better course of action is to consider base monthly wages and add only longevity and educational incentives.

A third consideration is whether to compare monthly or hourly wages. Again, the arbitrator notes that the statute speaks of "wages, hours, and conditions of employment." Obviously, wages alone do not provide a complete picture for comparison. Arbitrators differ on the appropriate approach although the issue is more critical in comparisons of firefighters' wages because their hours differ dramatically among jurisdictions. Here, the City advocates excluding holiday and annual leave hours to arrive at a net hourly wage while the Guild advocates comparing monthly wages.

Among the comparables, the average hours worked after subtracting vacation and holiday time is 1883. The range of hours worked is spread from a low of 1864 to 1912 hours per year. Police officers in Wenatchee work 1872 hours, eleven hours less than the average. (City Exh. No. 10.3.1, Updated.) Where, as here, the hours worked are close to the average of the comparables, the arbitrator sees little benefit in using a net hourly wage for comparison purposes and will make comparisons using monthly wage rates. Further,

police officers have various types of leave that may take them away from the workplace, including leaves for illness, military service, and jury duty. It quickly is apparent that the number of hours an employee works in a given year is a matter of individual circumstances. Consequently, a precise comparison of hours worked is impossible.

2. Wage Comparison:

Initially, the arbitrator rejects the City’s assertion that the Puget Sound cities among the comparables should be down-weighted. There are three such cities, according to the City—Bremerton, Marysville, and Lacey. The City agreed to have them on a list that includes nine other cities, so it is unlikely that these two cities will have a disproportionate impact. Avoiding such disproportionate weight is one reason for having a large number of comparables. Further, the City must have known the proximity of these cities to the Seattle urban area as well as the wage structure in those jurisdictions when it agreed to the list.

The following tables show the base wages plus longevity and educational pay for the comparables in 2001, 2002, and 2003:

Table for Contract Year 2001:

	2001 base monthly wage	Longevity Pay (1)	Educational Incentive (2)	Base wages + (1), (2)
Aberdeen	4187	0	0	4187
Anacortes	4189	0	0	4189
Bremerton	4521	57	0	4578
Lacey	4411	0	66	4477
Longview	4585	0	0	4585
Marysville	4305	43	256	4604
Moses Lake	3788	0	76	3864
Mt. Vernon	4277	0	60	4337
Pasco	4128	0	121	4249
Port Angeles	4012	80	121	4213
Walla Walla	3916	35	117	4068
Average				4305
Wenatchee	4033*	40	0	4073

*Year 2000 base wage for Police Officer, First Class.

Table for Contract Year 2002:

City	Base Wage 2002	Longevity Pay (1)	Educational Incentive (2)	Base wages + (1), (2)
Aberdeen	4354	0	0	4354
Anacortes	4358	0	0	4358
Bremerton	4680	59	0	4739
Lacey	4565	0	68	4633
Longview	4709	0	0	4709
Marysville	4434	44	266	4744
Moses Lake	3921	0	78	3999
Mt. Vernon	4448	0	62	4510
Pasco	4253	0	129	4382
Port Angeles	4138	83	121	4342
Walla Walla	4012	35	120	4167
Average				4449

Table for Contract Year 2003:

City	Base Wages In 2002	Percentage Increase In 2003	Base Wages In 2003	Longevity	Educational Incentive	2003
Aberdeen	4354	4%	4528	0	0	4529
Anacortes	4358	3.25%	4500	0	0	4500
Bremerton	4680	NS				
Lacey	4565	2.5%	4793	0	68	4861
Longview	4709	NS				
Marysville	4434	NS				
Moses Lake	3921	NS				
Mt. Vernon	4448	NS				
Pasco	4253	NS				
Port Angeles	4138	2%	4221	84	121	4426
Walla Walla	4012	NS				
Average		3%				4579

NS = No settlement

Before determining appropriate wage increases it is necessary to apply the other considerations in the interest arbitration statute.

3. Cost of Living Issues:

One of the statutory considerations in interest arbitration is “[t]he average consumer prices for goods and services, commonly known as the cost of living.” RCW 41.56.465(1)(d). Arbitrator Wilkinson noted in Pasco, that “[t]here are three aspects to cost of living: 1) whether the increase in wages over time have kept pace with (or outpaced) changes in the cost of living; 2) how the cost of living in the subject jurisdiction compares to its comparators; and 3) the appropriate measure of cost of living for computing any cost of living increases.”²⁴ Neither party addressed the first aspect and the arbitrator will not discuss it here.

Turning first to the appropriate measure, the parties assert that they agree on the appropriate measure of cost of living, but it is unclear which measure they have chosen. In their last agreement, the parties used 85% of the “Seattle-Tacoma-Bremerton All Urban Consumer CPI index” for a wage adjustment with an additional 2% mid-year increase. (City Exh. No. A.3.) The Guild appears to advocate continuing to use that measure. (Guild’s Brief at 27.) However, in the prior agreement they used 100% of the Seattle CPI-W with minimum and maximum figures. Guild Exh. No. 206. The City offers data from the Seattle Urban Wage and Clerical Worker Index, CPI-W as the “agreed to CPI.” (City Exh. No. 10.4.7.) Regardless of the measure used, the data differs very little in recent years:

<u>Seattle CPI-W</u>	<u>Seattle-Tacoma-Bremerton CPI-U</u>
August (% increase over the prior year)	
2000 3.9%	4.0%
2001 3.5%	3.6%
2002 1.8%	1.9%

Source: Municipal Research & Services Center of Washington, www.msrg.org.

The parties disagree about whether a wage increase tied to a CPI measure should be 85% of the increase in the CPI. The parties used the 85% figure in the last contract. However, the Guild claims that the City imposed that limit after negotiations closed and at a time when the Guild was anxious to implement the contract. The City treats the 85% figure as a benchmark.

The arbitrator finds it inappropriate to continue the 85% benchmark figure in considering CPI figures against wage increases because the origins of the 85% figure are unclear. Sandra Smeller, Director of Human Resources, recalled that the City’s fiscal department suggested it. Terry Pippin, who was the Guild’s representative at the time, testified that he saw the 85% figure for the first time when he met with Ms. Smeller to sign the agreement. Officer Pippin wanted to get the agreement implemented and decided to sign. From this testimony, it appears that the 85% figure was not a negotiated addition to the contract. While some of the comparables use a percentage of the Seattle-Tacoma-

²⁴ Pasco and PO Assn. at 24.

Bremerton CPI indexes, the arbitrator finds that this option is one the parties should negotiate. Consequently, to the extent that the CPI is applicable in this dispute, the arbitrator finds it inappropriate to continue that reduction in the CPI in the 2001-2003 collective bargaining agreement.

Without using 85% of the CPI measures, the City's wage offers for 2001, 3%, and 2002, 2.5%, are not as high as the CPI measures and the Guild's demands are higher. In 2003, the City is offering a 2% wage increase, slightly higher than the rate of inflation as measured by either index. If the CPI were down weighted, the City's proposal for 2001 is close to the CPI, but for 2002, it is one-half a percentage point less.

The parties vigorously dispute whether the cost of living in Wenatchee is less than it is in the comparable jurisdictions. The thrust of the City's argument is that it is less costly to live in the Wenatchee Valley than in the western Washington jurisdictions. The City primarily cites to housing and apartment rental costs in Chelan and Douglas Counties. The chart below shows that Chelan and Douglas Counties are about in the middle of the comparators' housing prices, six jurisdictions are lower and five are higher. Although there is less data for the cost of apartment rentals, Chelan/Douglas counties are under the average but not significantly.

City	County	Median Home Prices (1)	Average Apartment Rental(2)
Aberdeen	Grays Harbor	85,100	No data
Moses Lake	Grant	93,000	303
Longview	Cowlitz	105,000	447
Walla Walla	Walla Walla	125,900	No data
Port Angeles	Clallam	132,000	No data
Pasco	Benton/Franklin	134,200	493
Wenatchee	Chelan/Douglas	134,900	452
Lacey	Thurston	150,000	536
Bremerton	Kitsap	162,900	576
Mt. Vernon	Skagit	171,000	557
Anacortes	Skagit	171,000	557
Marysville	Snohomish	218,000	678
Average			518

- 1 Source: City Exh. No. 10.4.5 at 2. Washington Center for Real Estate Research/Washington State University, Median Price in second quarter 2002, in dollars.
- 2 Source: City Exh. No. 10.4.6, at 5, Apartment Summary Statistics, March 2002, one-bedroom/one bath units, cost per month in dollars.

Generally, the cost of living in rural Washington, such as the area in which Wenatchee is located, is thought to be lower than in a Washington urban area. That assumption is open to question. The Washington State Employment Security Department's study stated "Inflation as measured by the Consumer Price Index was a relative non-factor in explaining the widening disparity [between rural and urban Washington]. This suggests that statements about the significantly lower cost of living in rural Washington may be overstated. Housing is less expensive, but less extensive and efficient distribution systems for other goods and services offset that advantage." (City Exh. No. B.5 at 10.) The comparables include jurisdictions throughout the state, including jurisdictions in rural areas. The arbitrator concludes that the City has not established that the cost of living in Wenatchee is less than the cost of living among the comparables to such an extent that cost of living figures should be down weighted.

4. Other considerations:

The statute requires that interest arbitrators consider "[s]uch other factors, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment." RCW 41.56.465(1)(f). In this case, factors that the arbitrator will consider are internal parity, the economy in general in Chelan and Douglas Counties and the State of Washington, sources of revenue in Wenatchee, the City's expenditures, and the recruitment and retention of police officers.

Turning first to internal parity, arbitrators generally examine the increases of other employee groups. The theory is that it is understandable that employers desire consistency while unions want to gain increases at least as good as other employee unions have achieved. Arbitrator Krebs has stated that "[a]t the bargaining table, the settlements reached by the Employer with other unions are likely to be brought up by one side or the other. Thus, it is a factor which should be considered by the Arbitrator."²⁵

As to wage settlements in Wenatchee, the parties differ as to whether the police officers have kept pace with other City employees, particularly firefighters. The firefighters' interest arbitration yielded the following settlement figures: 2001 - 3.1%, 2002 - 3.1%, and 2003 - 3%. Although the firefighters got the increases they proposed, to some extent Arbitrator Axon apparently awarded their proposals because he decided not to grant the firefighters' request for a buyout of lost promotional opportunities.²⁶ In these circumstances, a historical comparison is more useful. The arbitrator has examined the data submitted and prepared the following chart:

²⁵ Kennewick and IAFF Local 1296 at 26.

²⁶ Wenatchee and Firefighters, Local 453 at 33.

	Police	Fire	Mgt/Non- rep	AFSCME
1993	2.30%	6.39%	3.00%	3.00%
1994	2.50%	*	2.59%	2.59%
1995	2.60%	5.50%	3.25%	2.25%
1996	2.70%	4.05%	3.40%	3.40%
1997	3.30%	3.60%	3.40%	2.88%
1998	3.70%	**	2.50%	2.50%
1999	2.50%	3.00%	2.5% Directors/ Mgrs 1.5%	2.50%
2000	3.40%	3.00%	2.50%	2.57%
Totals	23.00%	25.54%	23.14% Directors/ Mgrs 22.14%	21.69%
Average	2.88%	3.19%	2.89% Directors/ Mgrs 2.77%	2.71%

* Received inflated increase in 1993 in error, thus did not receive increase in 1994.
 ** Negotiated medical enhancement in lieu of increase.

Sources: City Exh. No. 10.5.1, Guild Exh. No. 109.

Looking at the years from 1993 through 2000, it is evident that the police officers and the firefighters have not received the same percentage increases. The most striking example is 1993 when the firefighters received a 6.39% increase. However, the evidence does not show what circumstances led to that increase. Similarly, in 1998, the firefighters received a medical enhancement in lieu of an increase. The record does not disclose whether the police officers already had that enhancement. What is clear from this chart is that the police officers have not kept pace with the firefighters from 1993 to 2000.

It is also useful to review how other groups of City employees have fared, particularly the represented employees. In 2001, the AFSCME bargaining unit got a 2.66% increase as did non-represented employees and management. In 2002, the City cut seven positions and laid off some employees. The City also froze wage increases for those groups at the 2001 level. (City Exh. No. 10.6.8 and Testimony of Finance Director Calhoun.)

Turning to general economic considerations, it is well known that the national economy and that of Washington State is in a downturn. Washington gained the dubious distinction of having the highest unemployment of any state in the Union in 2002. According to the record, the economy in Chelan and Douglas Counties in mid-2002

mirrors that in the nation and the state as a whole—some indications of improvement, but no definite trends. For example, retail sales were ahead of expectations through June of 2002 by 3%, but there is no way to predict if those levels will continue. (Testimony of Finance Director Calhoun.)

The economy in Chelan and Douglas counties is based on agriculture although there are some signs of change. The medical care field now has the largest number of employees in Chelan County as opposed to agriculture. The closure of an Alcoa smelter dealt a blow to the city and there is no indication that the plant might reopen. Similarly, PAE, a technology company, has suffered a severe drop in business and again there is no sign of a reversal in fortunes. In both cases, the City suffered a loss in revenues. (Testimony of Mayor Johnson.)

As to fiscal resources, both parties emphasized the importance of retail sales taxes to the City. In this regard, the loss of a Toyota auto dealership was another blow to the City. To what extent an improved Valley North Mall can replace these losses is uncertain at the present time although there are a few new businesses operating and some of the locations have been leased to new tenants. Other new retail sites are in East Wenatchee, another jurisdiction. The City views a continued vibrant downtown business district, which includes a convention center, and other recreational amenities as critical to maintenance of sales tax revenues. For this reason, as well as other considerations, the City spent money toward improvements in the convention center, the ice arena, a bridge from the retail area to the riverfront, and purchase of St. Joseph's property for a community center. In the arbitrator's opinion, none of these expenditures was substantial. The Guild argued that the City's choices should not be for an improved ice arena and a water slide over a well-paid police force. To some extent, this dispute leads to a "chicken and egg" argument—to pay officers the City needs to remain attractive to promote growth in retail sales that provide such revenues.

The City also relies on property tax revenues. In that area, another negative force is the property tax levy lid imposed on Washington cities by Initiative 747 (I747). That cap means that the City can increase taxes only 1% without putting an increase to a vote. I747 has already resulted in losses to the City and those losses will increase over the next ten years. (Testimony of Finance Director Calhoun and City Exh. No. 10.6.6.) The City currently is not relying on annexations to help its revenue picture. The largest potential annexation was not a possibility that the City was pursuing at the time of the hearing.

In addition to increases in base wages, the City is also anticipating increases in health insurance, already a substantial cost item. Such health insurance increases may be as much as 20% next year. (Testimony of Finance Director Calhoun.) Guild President Smet admitted that double-digit increases in health insurance costs are not uncommon.²⁷ (Testimony of President Smet.) Presently, full family coverage for medical, dental, and vision care is \$811.80 per month and an employee pays \$43.15. Thus, the health insurance benefit, as presently constituted, is a very important one for employees. In the

²⁷ President Smet is on the East Wenatchee City Council, involved with the Housing Authority, and very active in the community.

firefighters' arbitration, Arbitrator Axon noted the significance of health care costs.²⁸ Frequently, employers seek to increase the amounts that employees contribute to health insurance premiums, but the City has not suggested this action. The City also emphasizes that the shift differential, which goes directly into officers' income, is also significant. The arbitrator notes the possibility of increases in the retirement system because Initiative 790 passed and that measure adds another element of uncertainty. Considering the requirement that employees contribute 50% of the cost, the arbitrator concludes that it is unlikely that pension rates will increase greatly.

The City's ability to recruit police officers was a hotly contested issue between the parties. The parties agree that turnover is low. The City notes that there is a "mixed bag" of reasons that officers leave. (City's Brief at 16.) There is no evidence that any officer left because of wages. Nevertheless, the Guild is concerned about the small number of qualified candidates and asserts that wages are an important factor. The parties agree that the City has been able to fill all vacancies to date with well-qualified applicants. However, the Guild argues that the number of applicants is such that the City has an inadequate pool of candidates to draw from while the City denies that there is a problem.

Concerning recruitment, the Guild claimed at the hearing that the City had not furnished all of the information that the Guild requested about the issue. Apparently, the City did not supply certain civil service records that would have shown the size of the original applicant pool. (Guild's Brief at 30.) Before the hearing, the Guild sued the City under the Public Disclosure Act, RCW 41.17.250. Although the City apparently agreed to produce the requested information, complete information was not available to the arbitrator. The suit remains unresolved.²⁹

In arbitration, an arbitrator may give such weight as is appropriate to a party's failure to provide requested information. Elkouri & Elkouri, How Arbitration Works 427-29 (Marlin M. Volz & Edward P. Goggin 5th ed. 1997). In this case, the requested data appears to be relevant. The City's representative stated at the hearing that the City would produce any missing information, but to the arbitrator's knowledge, the City provided no additional materials. Curiously, the City did not call Sergeant Kruse, who is in charge of police recruitment for the City, but the Guild did. Given his testimony and supporting documentation, it is unclear what additional material would add. (Guild Exh. No. 87.)

Reviewing the available information, the arbitrator finds that a critical recruiting problem does not appear to exist presently, but the City appears close to such a problem. In 2001, the City sent 121 applications to prospective candidates for police officer. (Guild Exh. No. 87.) Twenty-one candidates appeared for the examination and ten passed. In

²⁸ Wenatchee and Firefighters, Local 453 at 28.

²⁹ As noted in Section I of this decision, the Guild filed an unfair labor practice with PERC on October 28, 2002, alleging that the City refused "to provide relevant collective bargaining information requested by the union concerning a recruitment problem facing the employer." This dispute, PERC Case No. 16840-U-02-4396, was unresolved at the time this award issued.

2002, sixteen candidates took the examination and ten passed. Despite vigorous recruiting efforts, the number of qualified candidates remains small. Candidates who pass the examination must still undergo background checks. In 2000, the City hired three new officers and in 2001, two officers were hired.

These results followed an aggressive recruiting plan in effect since 1999 when six applicants took the examination and only one candidate was on the hiring list. Sergeant Kruse proposed and developed a recruiting plan that includes fliers, college visits, and advertising on the web. Despite these efforts, the number of applicants did not markedly increase. Sergeant Kruse attributes the low number of applicants partly to pay and/or opportunities in the department; however, he noted many other reasons for a lower level of interest in addition to pay. The job requires an AA degree and is increasingly more challenging and complex. Officers face greater legal liability, danger in the job, a greater diversity in the population, and language challenges. In the arbitrator's opinion, these factors are another reason for being attentive to pay to attract highly qualified candidates.

Pay is likely a factor in the City's ability to attract lateral hires. Such hires do not attend the training academy, which saves the City \$20,000 to \$25,000. Also, they are on the job much sooner after hire than trainees. The City has apparently not been able to hire lateral candidates.

The arbitrator finds it likely that pay is a significant factor in the City's ability to attract candidates. Considering that an applicant who is successful on the examination also has to pass a background check, there is a need to have more than a minimal number of applicants. Even with few vacancies, a short list could result in an insufficient number of qualified candidates. Further, if there are unexpected resignations and/or injuries on the police force, the number of qualified candidates might be inadequate to fill vacancies. Simply conducting another examination will not necessarily solve that problem. Most importantly, the City and the Guild place a high priority on maintaining the quality of candidates.

E. Conclusion:

Considering Wenatchee's position in relation to the comparables and the other considerations discussed above, the arbitrator finds that the following wage increases are appropriate:

Wages:

2001	2002	2003
4.7%	3.3%	2.5%

In determining these percentages, the arbitrator has factored in the dollar amount of the increase in the shift differential awarded in this decision, \$40 per month. As previously noted, 31 of 37 officers get this differential. Further, the arbitrator understands that shift

work is to some extent an integral part of a police officer's job. Therefore, any additional payment for that aspect of the work can be considered as part of a police officer's wages. These increases will bring the Guild to the average wages of the comparables for 2001 and 2002.

Wage increases for 2003 are not as susceptible to comparisons. As the table for 2003 shows, only four of the comparators reported settlements. The average percentage increase of those settlements is 3%. Further, Arbitrator Axon awarded the firefighters "a flat 3% increase for 2003 rather than linking the increase to the CPI."³⁰ Three percent, however, exceeds the increases in the cost of living indexes that the parties have used. Both the CPI-W and the CPI-U were at less than 2% for August 2002. A 2.5% increase puts the Wenatchee officers at almost the average of the four reporting comparables if the shift differential were included. Given the fiscal uncertainties in 2003, the arbitrator finds that this amount is a reasonable award.

In awarding these wage increases, the arbitrator considered the generally poor economic climate in the state. She also concluded that the City's financial resources are limited due to the impact of tax initiatives, particularly Initiative 747, and the uncertainty of sales tax revenues. Further, the arbitrator notes that in 2002, the City laid off some employees and restricted raises. In 2003, the City will incur substantial cost increases to fund health insurance. In addition, the City offers the police officers a deferred compensation plan. The City's financial resources, however, must be balanced with the need for wage levels that enable Wenatchee to remain attractive to police officer candidates. Although the benefit package, and particularly health insurance, is important, competitive wages remain a fundamental concern to applicants and current officers.

X. Article 13 - Shift Differential

A. Proposals:

Guild Proposal:

Uniform Personnel assigned to work rotating or straight night shifts shall receive a monthly premium equal to one percent (1%) of base wage.

City Proposal:

This is a Guild issue. The City seeks continuation of the current practice of paying \$30 per month to personnel working rotating shifts or straight night shifts.

B. The Parties' Positions:

1. The City's Position:

³⁰ Firefighters, Local 453 and Wenatchee at 33.

The City argues that it is ahead of comparables in paying any form of shift differential. The term "shift differential" is a misnomer, according to the City, because 84% of the department, 31 members of the Patrol division and Neighborhood Resource Team, receive the differential. According to the City, only three of 11 comparables have any differential and those cities pay an additional flat amount per hour worked.

The City points out that making the differential a percentage of the base wage has the effect of tying the two together. The City argues that this tie will exacerbate the expense of base wage adjustments because the differential will automatically increase with base wage adjustments. Based on the wages of a fifth year officer at the expiration of the current contract in December 2000, \$4038 per month, the differential would increase to \$40 per month. (City's Brief at 48.) The City figures its cost at \$11,160 annually. (City Exh. No. 10.6.9, at 2.)

2. The Guild:

The Guild argues that inflation has eroded this benefit. The Guild asserts that it proposed to change the amount of the shift differential to 1% when 1% equaled \$30. Effectively, the Guild argues, this benefit changes every year to a lesser amount. In addition, the Guild asserts that arbitrators generally prefer to tie benefits into a percentage rather than a flat dollar amount "to avoid the perpetual bargaining over the benefit which has occurred here." (Guild's Brief at 43.) The Guild also argues that the comparables who offer this benefit do so at a much higher level.

C. Analysis and Conclusion:

The analysis of this benefit starts with an examination of its purpose. Although neither party discussed the purpose of the differential, it is well known that differentials are meant to compensate employees for working shifts other than days. It is recognized generally that rotating and night shifts are burdensome because on swing and night shifts employees are working when many people, particularly their family members, are not. Swing shift, for example, interferes with family activities, such as children's after school activities and with the dinner hour. Night shift means not being available for normal day time activities. Further, shift changes interrupt sleeping patterns and for some people changes in sleeping time are difficult.

The current shift differential erodes yearly in monetary value. Consequently, its benefit to the City as a means to compensate police officers for the burden of working these shifts is also eroding. It is true that only three of the 11 comparables have a shift differential benefit. However, the question here is not whether there will be a shift differential. The parties have made that decision. Rather, the issue is what amount the shift differential should be.

A precise comparison of the monetary value of Wenatchee's benefit to the hourly benefit in the three comparables, Anacortes, Mount Vernon, and Walla Walla, is impossible because shift rotations may differ. However, if one assumes that in a given

year a hypothetical officer in each jurisdiction would work four months each on days, swing, and graveyard, a comparison can be made.

Jurisdiction	Swing Shift		Graveyard		Annual Compensation
Wenatchee	-	-	-	-	\$360/year
Anacortes	.60/hr	\$415	.75/hr	\$519	\$934/year
Mount Vernon	.40/hr	\$277	.55/hr	\$381	\$658/year
Walla Walla	.25/hr	\$173	.50/hr	\$346	\$519/year

Source: Collective Bargaining Contracts, Guild Exh. Nos. 39, 46, and 51.

Based on this comparison, the arbitrator finds raising the amount paid for a shift differential is warranted. Even if there are variations in the shift operations affecting pay among these jurisdictions that are unaccounted for, this chart shows that the Wenatchee shift differential compares unfavorably in total value to the other jurisdictions. A raise in the shift differential will insure that the differential remains competitive with jurisdictions paying a premium.

This comparison suggests that an alternative is to convert to an additional amount per hour when an officer works another shift. Neither party explored that possibility at the hearing or in its briefs, and therefore the arbitrator does not have sufficient information to consider that option. Further, the arbitrator is mindful that the interest arbitration process is designed to be an extension of the bargaining process. In this instance, the parties apparently did not consider additional payments per hour worked.

Another option is to adopt the Guild's proposal. Pegging the differential to a percentage of wages would stop the erosion of this benefit. Also, a percentage increase is consistent with the detective premium. The parties' agreement pegs the detective premium to an amount that rises with wages. The detectives receive five hours of overtime pay per month for on-call rotation. As wages rise, so does the detectives' pay. Consequently, this type of increase would be consistent with the parties' prior agreements on premiums. Further, resolution of this issue would eliminate conflict over it in future to the benefit of both parties. It would also preserve a system that is simple to administer.

The arbitrator believes that it is not appropriate for her to make this change. As the City argued, a change to a percentage increase would affect the City's wage costs in future. In the arbitrator's opinion, such a change should remain subject to the give and take of bargaining. In bargaining, the parties may weigh other proposals against the Guild's proposed change to a percentage figure and determine whether and when a change is warranted.

Given the issue as presented, the arbitrator believes that she must decide the issue on the basis the parties currently use—a fixed dollar amount added to base wages. Recognizing the City's financial resources, as discussed fully above, the arbitrator, therefore, will raise the amount of the shift differential to \$40 per month, which is approximately 1% of base wages in the year 2000.

D. Award:

The arbitrator awards that Article 13 be modified to read:

Uniform Personnel assigned to work rotating or straight night shifts shall receive a monthly premium of Forty Dollars (\$40.00).

It is so ordered and awarded.

Jean Savage, Arbitrator

Date