City of Seattle
And
Seattle Police Management Association
Interest Arbitration
Arbitrator: Gary L. Axon
Date Issued: 12/31/1993

Arbitrator: **Axon; Gary L.**
Case #: **10376-I-93-00222**
Employer: **City of Seattle**
Union: **Seattle Police Management Association**
Date Issued: **12/31/1993**

IN THE MATTER OF	)	
	)	**PERC CASE NO.**
INTEREST ARBITRATION	)	
	)	**10376-1-93-00222**
BETWEEN	)	
	)	**INTEREST**
SEATTLE POLICE MANAGEMENT ASSOCIATION,	)	
	)	**OPINION AND AWARD**
Union,	)	**1992-1994 AGREEMENT**
	)	
and	)	
	)	
CITY OF SEATTLE, WASHINGTON,	)	
	)	
City.	)	

HEARING SITE: **Washington Athletic Club**
Seattle, Washington

HEARING DATES: **July 26, 27, 28, 29, 30**
August 3, 4, 9, 1993

POST-HEARING BRIEFS DUE: **Postmarked October 5, 1993**

RECORD CLOSED ON RECEIPT OF BRIEFS: **October 8, 1993**

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I. INTRODUCTION

This case is an interest arbitration conducted pursuant to RCW 41.56.450. The parties to this dispute are the City of

Seattle, Washington ("City" or "Seattle") and the Seattle Police Management Association ("Union" or "SPMA") The City and the Union are parties to a Collective Bargaining Agreement that expired on August 31, 1992. The parties commenced bargaining in the spring of 1992 for a new labor Agreement. The Collective Bargaining Agreement covers approximately 62 employees holding the ranks of lieutenant, captain and major in the Seattle Police Department. The members of this bargaining unit are generally long-term employees of the City who hold supervisory Positions in the Police Department.

The City of Seattle had a population of approximately 522,000 in 1992. The Seattle Police Department is divided into four main precincts for the purposes of delivering police services. The North Precinct extends north from Lake Union covering some 32 square miles with a population of approximately 222,000. The West Precinct includes the downtown business core and some community living areas, with 11.5 square miles and 63,000 residents. The East Precinct covers from I-5 to Lake Washington, with 8.5 square miles and a population of 80,000. The South Precinct covers some 31 square miles of the south end of the City with a population of about 152,000.

A precinct is commanded by a patrol captain and supervised by a lieutenant on each of three 8 hour daily watches. Up to 180 police officers are assigned to a single precinct, with a lieutenant typically commanding 50 or more personnel at one time.

Administratively the Police Department is divided into four bureaus, each commanded by an assistant chief, who is assisted by a major. Another major commands all of the patrol captains. In addition, a major also commands the street functions which include traffic, K-9, swat teams and the Harbor Patrol Unit. Within each bureau the major manages certain areas of responsibility and oversees captains and lieutenants. Some of the majors are assigned to manage specific police functions such as vice, narcotics and the follow-up investigation of crimes.

The first Collective Bargaining Agreement between the parties was effective September 1, 1978. In 1983 the parties went to interest arbitration before a panel chaired by arbitrator Michael H. Beck. The parties again resorted to interest arbitration in 1984 before a panel chaired by arbitrator Allen R. Krebs. Once again the parties went to interest arbitration in 1987 before a panel chaired by arbitrator Carlton Snow, to resolve the terms of agreement which took effect on September 1, 1986. Concurrently with the proceeding before arbitrator Snow, the City also resorted to interest arbitration with the International Association of Firefighters Locals 27 and 2893 representing bargaining units within the Seattle Fire Department.

In 1989 the City and its two firefighter units submitted to interest arbitration its contract dispute for resolution before a panel chaired by arbitrator Phillip Kienast. Following the 1989 award by Kienast, the City sued to set the award aside. The parties resolved the litigation with a new Agreement. The City and the firefighter unions were thereafter able to negotiate successor contracts expiring on August 31, 1994, without resort to arbitration.

The parties to this arbitration made extensive reference to the decisions issued by the other arbitrators in the earlier awards. Each side found support for its respective positions from the prior interest arbitration awards. The previous interest arbitration awards were specifically cited by the parties with respect to how the other arbitrators dealt with the issue of the City's attempt to introduce evidence concerning relative differences in the cost of living among the various comparator jurisdictions. Each of the other arbitrators was required to address a private study the City had commissioned from the Runzheimer Company on the issue of relative differences in the cost of living among the seven West Coast jurisdictions the parties had used for purposes of comparison.

In anticipation that the City would seek to introduce the work of the Runzheimer Company on the alleged relative differences in the cost of living among the seven West Coast jurisdictions, the Union filed a motion to exclude evidence concerning relative differences in the cost of living. The motion was filed prior to the commencement of the arbitration hearing. The City filed a reply asking the Arbitrator to deny the Union's motion to exclude evidence. At the beginning of the arbitration hearing, the Union announced that it would not seek a ruling from the Arbitrator on its motion to exclude evidence prior to the taking of testimony on the merits of this case. The Union stated that it would pursue its motion in the post-hearing brief, and asked the Arbitrator to reject the use of any evidence concerning relative differences in the cost of living in coming to an Award in this case. The Arbitrator will deal with this issue in the section entitled Procedural Rulings.

Concurrently with the filing of the motion to exclude evidence, there were a number of unfair labor practices filed with the PERC relating to issues placed before this Arbitrator. In a memorandum dated July 23, 1993, Marvin L. Schurke issued a preliminary decision which pulled several of the subjects the parties had submitted to interest arbitration. Based on Schurke's decision, the Arbitrator took no evidence or argument on the issues that had been removed from interest arbitration by Mr. Schurke.

The hearing in this case took eight days for the parties

to present their evidence and testimony. The majority of the hearing time was consumed on the issues surrounding the statutory factor of comparability. The hearing was recorded by a court reporter and a transcript consisting of approximately 1,267 pages was made available to the parties and the Arbitrator for the purpose of preparing the post-hearing briefs and the Award. Testimony of the witnesses was taken under oath. At the hearing the parties were given the full opportunity to present written evidence, oral testimony and argument. Each side called expert witnesses to testify in support of their respective positions. The expert witnesses were knowledgeable and qualified in their respective fields. The parties offered into evidence substantial written documentation to sustain their arguments on the issues submitted to interest arbitration.

The Arbitrator continued to receive evidence from the parties after the last day of hearing. The post-hearing submissions were offered by mutual agreement in order to complete the record, and to make the arbitration record as current as possible. Counsel for the parties submitted comprehensive and lengthy post-hearing briefs to assist the Arbitrator in corning to a decision in this case. Both sides also offered numerous interest arbitration awards issued by other arbitrators in the state of Washington to bolster their respective arguments. The parties entered into a stipulation that this case would be heard and decided without the use of partisan arbitrators specified in RCW 41.56.450.

The approach of this Arbitrator in writing the Award will be to summarize the major and most persuasive evidence and argument presented by the parties. After introduction of the issue and position of the parties, I then will state the principle findings and rational which caused the Arbitrator to make the Award on the issues in dispute.

This Arbitrator carefully reviewed and evaluated all of the evidence and argument submitted pursuant to the criteria established by RCW 41.56.460. Since the record in this case is so comprehensive it would be impractical for the Arbitrator in this discussion and Award to restate and refer to each and every piece of evidence and argument presented. However, when formulating this Award the Arbitrator did give careful consideration to all of the evidence and argument contained in the record of this case. Because of the size and complexity of the record, the parties agreed that the Arbitrator would be excused from the 30-day time limit prescribed by RCW 41.56.450 for the issuance of his Award.

In a letter received on November 1, 1993, from counsel for the Union, the Arbitrator was advised the City and the Union had settled issues raised by the City's proposals to define "shift

extension" as two hours preceding or one hour following the normal shift, and for a work schedule reopener. As such, there was no need for the Arbitrator to address these issues in the opinion and Award. The parties also made the Arbitrator aware of the continuing litigation of the unfair labor practices- during the course of the Arbitrator's preparation of the Award.

During the long bargaining history the parties have developed a list of agreed upon comparators for the purpose of determining wages and working conditions for the members of this bargaining unit. The agreed upon list of comparators consists of seven West Coast cities. The comparators are referred to by the parties as the West Coast 7 ("WC 7"). The seven jurisdictions are as follows:

Sacramento
Long Beach
San Diego
San Francisco
San Jose
Oakland
Portland

The wages and working conditions of command officers employed in the WC 7 served as the primary point of reference for the evidence presented by the parties in this case.

This arbitration arises under the Public Employees Collective Bargaining Act ("the Act"). The Act enumerates several statutory factors to be considered by the Arbitrator. The statutory guidelines to be considered by an interest arbitrator may be summarized as follows:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) (i) For employees listed in RCW 41.56.030(7)(a) and 41.56.495, 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:

*** * ***

(d) The average consumer prices for goods and

services, commonly known as the cost of living;

(e) Changes in any of the foregoing of circumstances during the pendency of the proceeding;

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment.

II. PROCEDURAL RULING ON UNION'S MOTION TO EXCLUDE EVIDENCE

The Union's motion to exclude evidence made prior to the commencement of the arbitration hearing, and continued during the course of the arbitration hearing is best summarized in the introduction to the Union's motion as follows:

> **This motion is based on: (1) 1993 amendments to the statutory standards by which Interest Arbitration Panels must make their determinations, which demonstrate the intent of the legislature that such evidence not be considered in proceedings such as these; (2) the dubious value of analyses concerning relative cost of living and the refusal by most arbitrators to consider them in their determinations; (3) the high cost and unfairly disparate burdens that litigation of such analyses imposes on litigants of unequal economic resources; and (4) the City's unlawful refusal to provide the Association with information needed to prepare for a hearing on such issues.**

The City filed a responsive pleading to the Union's motion to exclude evidence asserting Washington law supports the City's position that such evidence should be considered by the Arbitrator. According to the City, the Union was attempting to use a "variety of novel but misguided and misplaced arguments" to have the Arbitrator ignore the fact that it costs more to live in California than in Seattle. In addition, different interest arbitrators who have resolved disputes between this bargaining unit, and the City, and others with whom the City has contracts, have uniformly allowed evidence concerning relative differences in

the cost of living. The City submits the Arbitrator should allow the evidence, and then make a decision as to what weight should be given to the evidence concerning relative cost of living among the WC 7.

Regarding the Union's argument that the Arbitrator should not consider the evidence because of the City's unlawful refusal to provide the Union with information needed to prepare for the hearing, the City reasons this claim is the subject of an unfair labor practice which is properly resolved by the Washington Public Employment Relations Commission ("PERC"). City of Bellevue v. International Association of Firefighters Local 1604, 119 Wn. 2d 373 (1992). The Union did in fact file multiple unfair labor practices against the City prior to this proceeding. Executive Director Schurke rejected all of these unfair labor practices by ruling that as long as each side has provided the other with a list of comparables, the other side can do its own research and make its own interpretation of the information it gathered. Since the PERC, through Executive Director Schurke, has made a determination in this case that the City does not have to produce the information sought by the Union, it is now up to the Arbitrator to determine whether the evidence is relevant pursuant to RCW 41.56.450.

The Arbitrator holds that the Union's motion to exclude evidence is not well founded and should be rejected. RCW 41.56.450 states in relevant part as follows:

> **. . . The rules of evidence prevailing in judicial proceedings may be considered, but are not binding in any oral testimony or documentary evidence or other data deemed relevant by the chairman of the arbitration panel may be received in evidence. . .**

This Arbitrator concurs with arbitrator Snow's decision in 1988 where he held that evidence concerning relative differences in the cost of living is relevant to the determination of wages under the statute. City of Seattle, (Snow, 1988).

The Union through its motion to exclude has asked the Arbitrator to exclude all evidence related to relative cost of living differentials as a matter of law. By ruling that the Union's motion to exclude should be denied, the Arbitrator is not suggesting the City's evidence concerning relative cost of living is credible and should control the outcome of this case. The task of the interest Arbitrator in this process is to determine the ultimate weight that should be given to the evidence offered on relative cost of living. The question of how much weight should be given to the purported differences in cost of living among the WC

7 will be discussed later in the wage issue.

Moreover, the Arbitrator finds that Union's arguments that the evidence should be rejected because the City has unlawfully refused to provide the Union with the information needed to prepare for such a hearing is unpersuasive. The Arbitrator concurs with the City that the determination of whether or not the City has committed an unfair labor practice is properly one for the PERC. Therefore, I am unwilling to deny the City the opportunity to present its evidence related to the relative differences in the cost of living.

In sum, the Union's motion to exclude evidence concerning relative differences in the cost of living is denied. The Arbitrator will examine the evidence and determine its relevance, and weight to be accorded in the discussion on the wage issue.

III. POSITION OF THE UNION

A. Background

The Union opened its argument with a review of the evolution and compensation history of Seattle Police Management. In 1980 the lieutenants base pay was 9.5% above the average of the WC 7. Arbitrator Beck's award in 1983 Positioned the members of this unit 5.6% above the average for the WC 7. Under the Krebs' award in 1984 the monthly base salary was 3.5% above the WC 7 and within 0.4% of the average effective September 1985. Arbitrator Snow's award set the base salary effective September 1, 1986, for a lieutenant at $3,828 per month, or 1.39% below average for the WC

7. The judicial appeal of the 1989 award by arbitrator Kienast resulted in a settlement which placed the Seattle fire lieutenants' base monthly salary 7.61% below average for the WC 7 as of August 31, 1992. In the view of the Union, the total hourly compensation for lieutenants had fallen so low that increases in total compensation ranging between 12.9% and 20.3% are required to bring Seattle lieutenants total compensation up to the average of the WC

7.

The history of the arbitration awards reveals that arbitrators Krebs, Beck and Kienast refused to accept the City's position that relative differences in the cost of living should be utilized for perpetuating compensation for Seattle public safety personnel below the average of the WC 7. Arbitrator Snow was the only person who gave any weight to the City's evidence regarding relative cost of living.

Turning to the legislative purpose and intent of the statutory scheme for resolving contract impasses between public employers and unions representing uniform law enforcement and firefighter personnel, the Union asserts that an award must promote dedicated and continuous service of uniform personnel. In addition, the award must serve as an effective alternative to the strike as a means of settling labor disputes. RCW 41.56.430. The Union reasons morale suffers when compensation is disparately low or hours disparately long. Adoption of the Union's proposals would promote higher morale and dedication to service, and mitigate against the ills that the legislature sought to cure by the passage of the impasse resolution legislation.

The statute also directs the arbitration panel to take into consideration additional standards or guidelines when establishing the wages and working conditions for employees subject to the impasse procedure. No issues have been raised in this proceeding concerning the constitutional or statutory authority of the City. Further, the City has conceded it has the ability to pay all amounts proposed by the Union. The only stipulation of relevance is the parties' agreement that the WC 7 are the proper group of comparable employers for consideration under Subsection C of the Act.

It is the Union's position that a comparison of wages, hours and working conditions of the employees represented by SPMA with those of employees of similar rank in the WC 7 serves as the basis to establish appropriate compensation levels.

Regarding the factor of the average consumer prices for goods and services, the Union asserts it provides no basis for comparing relative levels of compensation. The Consumer Price Index ("CPI") is not intended to be used to make relative cost of living comparisons among the WC 7. The cost of living data best serves as a measure of changes in purchasing power during the term of the Collective Bargaining Agreement by which wages can be adjusted. Thus, the Arbitrator should use actual compensation data from the comparable cities--to the extent it is available--to judge whether members of this unit need to "catch up" to relative parity with the other jurisdictions.

Turning to the "other factors" criteria of the Act, the Union submits these additional factors imply a legislative mandate to the Arbitrator that it reverse the erosion of compensation suffered by members of the SPMA bargaining unit since 1979. The statutory mandate for the Arbitrator requires that total compensation for members of this bargaining unit be restored at least to the average of the WC 7.

The Union next argues that the award in this case should provide guidelines that will assist the parties to reach negotiated

settlements in the future. From the Union's point of view, the award should instruct the parties clearly on their statutory obligations, and articulate fair and consistent standards for making economic comparisons. This Arbitrator should join with the other arbitrators who have rejected the City's attempt to unfairly adjust total compensation for the WC 7 based on the Runzheimer living cost figures. The Arbitrator should clearly and authoritatively reject the City's attempt to distort economic comparisons through these inappropriate measures.

The goal of SPMA in this round of bargaining is to restore parity of compensation between Seattle police managers and their WC 7 counterparts. Absent a compelling demonstration of changed circumstances justifying a departure from previous settlement patterns, the award of this Arbitrator should take Seattle's compensation for SPMA members to the average of the WC 7.

The Union claims the City's regressive bargaining posture demonstrates the need for "firm guidance" from the Arbitrator to assist the parties in reaching future settlements. The four-month wage freeze proposed by the City to be followed by a 2.8% raise in salary is contrary to the historical settlement patterns reached between these parties.

B. SPMA Proposals

The Union proposed a three-year term contract commencing September 1, 1992. The Union proposed a wage schedule effective September 1, 1992, through August 31, 1993, as follows:

APPENDIX A - SALARIES

A.1 The classifications and corresponding rates of pay covered by this Agreement are as follows. Said rates of pay are effective September 1, 1992, through August 31, 1993.

	First Step	Top Step
Police Lieutenant	$6165	$6433
Police Captain	$7102	$7398
Police Communications Director	$7102	$7398
Police Major	$8168	$3508

A.2 Effective September 1, 1993, the base wage rates enumerated in Section A.1 shall be increased by an amount that will cause the total compensation to be not less than the average of the seven West Coast cities used as comparison cities (Long Beach, CA; Oakland, CA; Portland, OR; Sacramento, CA; San Diego, CA; San

Francisco, CA; and San Jose, CA.)

A.3 Effective September 1, 1994, the base wage rates established in Section A.1 shall be increased by an amount that will cause the total compensation to be not less than the average of the seven West Coast cities used as comparison cities (Long Beach, CA; Oakland, CA; Portland, OR; Sacramento, CA; San Diego, CA; San Francisco, CA; and San Jose, CA.)

A.4 The total compensation calculation will include all compensation including wages, employer's pension fund payment, premiums for longevity, education, and certification, holiday pay, vacation pay and medical and dental insurance. Calculations of total compensation will be based on the top step Lieutenant with twenty years of service and holding the maximum level of all educational and certification requirements.

A.5 There shall be two wage steps in each rank or position. The first step shall begin on the date of promotion to that rank or position and the top step will begin six months after the date of promotion to that rank or position. The first step will have a basic rate of pay that is 96% of the top step for each rank or position.

A.6 The differential between the top step of each rank shall be 15%. The Director of Communications shall be paid at and receive all of the benefits and premiums of the Rank of Police Captain.

A.7 A longevity premium shall be paid and shall be based on the top step of each rank, position or classification and shall be added to the salaries during the life of the Agreement in accordance with the following schedule.

Longevity	**Percentage**
Completion of ten (10) years of service	**4%**
Completion of fifteen (15) years of service	**6%**
Completion of twenty (20) years of service	**8%**
Completion of twenty-five (25) years of service	**10%**

Jt. 4(a) Appendix A.

Regarding medical insurance plans contained in Article 8, the Union would continue current medical benefits with the City

paying full cost for LEOFF II employees and for dependents for both LEOFF I and LEOFF II employees, and continue the current cost sharing formula for Group Health and pacific Medical. Jt. Ex. 4(a).

The Union next proposed to modify Article 3 to afford overtime pay for captains and majors for time worked in excess of 40 hours per week at the rate of time and one-half. The Union would also reduce to one-half hour the period beyond work in an 8 hour day for which employees accrue overtime.

Turning to the City proposals, the Union asks the Arbitrator to reject the proposals to modify Article 3, Employment Practices; Article 5, Holidays; Article 8, Medical Coverage; Article 10, Sick Leave; and Article 19, Duration.

The Union asserts that depending on how the medical costs are evaluated it is demonstrated that increases between 13.7% and 20.3% in salary and longevity are required effective September 1, 1992, to restore total compensation to the average of the WC 7. Depending on the amount the Arbitrator might award on longevity, lesser increases in base salary would be required. For the second and third years of the three-year contract, the Union has proposed a formula that would be sufficient to maintain a 20-year Seattle lieutenant with total compensation equal to the average 6f the WC 7. The Union submits adoption of these proposals will enable the bargaining unit to catch up and keep up with their counterparts in the WC 7.

Historically the parties have used compensation for a lieutenant with 20 years of longevity as the benchmark for making comparisons and determining differentials between the ranks. In the current round of bargaining the City now asserts that 23 years of service should represent the benchmark. The Arbitrator should reject the City's attempt to vary the benchmark position in order to make its offer more acceptable. Variation in the standard 20-year benchmark will only invite constant relitigation of the benchmark in future bargaining.

The Union notes that if the award were to be based on base salary alone, an increase of at least 7.1% as of September 1, 1992, and 11.1% as of September 1, 1993, would be required in base salary to restore a 20-year lieutenant to the WC 7 average. However, it is the position of the Union that the wage award should be based on total compensation paid to members of this bargaining unit. The evidence offered by the Union demonstrates that when total compensation is calculated for hours worked, the disparities as of September 1, 1992, rise to 16.7% from the average of the WC 7. These disparities increase when the comparisons are made as of September 1, 1993, the first anniversary of the new contract. The Union calculates that based on its total compensation analysis an

increase on the base salary of 19.5% is necessary to equal the average of the WC 7.

Moreover, SPMA has proposed to increase longevity at 20 years of service from 4% to 8%. If the Arbitrator grants this proposal, then the additional increase on base salary of 15.5% will bring Seattle up to the average of the WC 7.

C. Cost of Living

The Union claims the cost of living factor is a secondary guideline for interest arbitration panels to utilize in making economic adjustments. Cost of living is best used as a means to make mid-term economic adjustments. The initial term on the contract should be resolved by the comparison of wages, hours and conditions of employment between Seattle and the WC 7. Once the wages are established for the first year, the CPI should be employed for mid-term adjustments that ensure buying power will not be eroded during later years of the contract term.

SPMA has proposed that for 1993 and 1994 the base rate should be adjusted so the total compensation is not less than the average for the WC 7. If the Arbitrator grants the Union's proposal for a first year increase sufficient to "catch up" with the WC 7, then the CPI should be employed for the second and third years of the contract.

The Arbitrator should reject the City's use of a formula based on 90% of the CPI with the floor of 2% on a cap of 7% for future increases. Fractional costs of living adjustments do not preserve purchasing power when the employer seeks to shift future medical premium increases to the employees. The parties most recent voluntary settlements required the use of 100% of the CPI-W. The City's contracts with the Seattle Police Officers' Guild and the firefighter unions use a full cost of living formula.

D. Cost of Living Is Not an Appropriate Factor in Comparative Economic Analysis

The Union contends the Arbitrator should reject the City's use of intercity living cost comparisons in order to discount the compensation paid to similar personnel of the WC 7 based on allegedly lower prevailing wages and cost of living in Seattle. The arbitration Act does not contemplate the use of intercity cost of living comparisons. This Arbitrator should follow the previous decisions of arbitrators Beck, Kienast and Krebs in rejecting the use of intercity cost of living comparisons for determining the appropriate wage level of SPMA members.

Even if the Arbitrator does consider such comparisons,

they warrant no reduction in Seattle wages relative to the WC 7 based on alleged differences in prevailing wages or living costs. Evidence presented by the Union at the hearing demonstrated that Seattle area wages are at least as high as the WC 7 area wages. Federal Wage System surveys of private sector blue collar wages published by the Department of Defense, Area Wage Surveys and the Occupational Compensation Survey published by the Bureau of Labor Statistics demonstrate that Seattle wages are higher than the average of the WC 7.

The Union concludes that interest arbitration is guided by RCW 41.56.460(c). Pursuant to statute an arbitrator may not properly impose relatively lower economic status on Seattle public safety personnel within their community than their WC 7 counterparts enjoy within their respective communities. Under such circumstances the Arbitrator should disregard the City's relative cost of living analysis as unsuitable for consideration in an arbitration proceeding as a matter of policy and legislative intent. The Arbitrator should also disregard such cost of living evidence because the City has not cooperated to permit SPMA reasonable opportunity to test the evidentiary soundness of the City's living cost studies.

The Union next argues that the City's intercity cost of living evidence is unreliable. The privately commissioned report by the Runzheimer Company purported to quantify alleged differences in wages and living costs in the WC 7 by which it reduced the WC 7 compensation for purposes of comparison with Seattle. Additional studies published by ACCRA, AIRINC, Coldwell Banker, and others were offered to enhance the credibility of the Runzheimer conclusions through a parade of data, all concededly flawed. The Union argues there were at least a dozen errors inherent in the City's approach that make reliance on the Runzheimer living cost report inappropriate. The arguments of the Union are summarized as follows:

1. Direct evidence of indicator occupations is readily available and supported by unbiased government surveys to measure wages across cities. The ability to determine prevailing wage rates across areas can be done far more easily, economically and reliably than one can measure the cost of living by private studies or other means.

2. Proper inter-area cost of living studies are enormously costly and complex. The BLS

abandoned its inter-area cost of living studies in 1981. Private studies like Runzheimer fail to account for other factors which can affect the wage levels in different jurisdictions. Hence, studies like Runzheimer are inherently unreliable and should not be credited in this proceeding.

3. Runzheimer's results concerning housing prices are inherently flawed because they vary greatly from actual home purchase values reported by the City for its police managers than those used in the Runzheimer study.

4. The Runzheimer study is structurally flawed because in relies unduly on rigid home purchase specifications.

5. The Runzheimer Report is flawed because it fails to differentiate between the consumption and investment components of home ownership. A purchase of a house cannot be viewed as both investment and savings.

6. The City and Runzheimer have manipulated the contents of Runzheimer's report so as to preclude SPMA from evaluating the data to support the conclusions regarding the housing element of the cost of living study.

7. Runzheimer's methodology for selecting representative home purchase transactions must be deemed flawed because Runzheimer will not disclose the criteria for making its selections.

8. Runzheimer has hidden its methodology to the point that SPMA was not even permitted to know the standard error of any of the data samples used in the study.

9. The Runzheimer Report is structurally flawed because it assumes that all police managers in Seattle and the WC 7 will drive the same automobiles the same distance each year.

10. The Runzheimer methodology ignores the fact that workers may benefit from state and local governmental services financed by taxes.

11. The Runzheimer study reaches conclusions that are contrary to those reached by BLS experts who have no stake in the outcome of this proceeding. For example, Runzheimer argues that food cost at home is lower in Seattle than all of the WC 7 cities. The BLS experts conclude just the opposite, namely that food at home costs more in Seattle.

12. Runzheimer's market basket of goods and services is insufficient to provide accurate data when compared to the BLS market basket of goods and services for calculating the CPI.

In sum, the Union concludes Runzheimer evidence is seriously flawed and should not be used as a basis to reduce compensation for Seattle police managers.

Lastly, the City's other intercity cost of living evidence is likewise unreliable for the same or similar reasons stated for rejecting the Runzheimer study. The other evidence offered by the City to support its arguments regarding intercity cost of living has been judged to be of "dubious value" and should be disregarded by this Arbitrator in his determinations in the instant case. Even arbitrator Snow who allowed consideration of the Runzheimer Report indicated that he used it only as a source of guidance, and not as a precise measure of cost of living differences between Seattle and the WC 7.

E. Other Normal and Traditional Factors

The City has historically placed a high value on the experience of Seattle police managers. The early agreements established Seattle police managers' base salary 9% above the WC 7 in 1980. The compensation and working conditions established during these times should not be altered absent a persuasive demonstration of circumstances warranting a reduction in the relative wage position of this group of employees.

The testimony offered by police managers demonstrated that workload increased tremendously over recent years as the result of the greater demand for police services. Further, the range and scope of management duties performed and the activities

undertaken to stop crime and to assist citizens through the community policing program has driven the workload of the members of this bargaining unit to its highest levels. Testimony offered by members of this bargaining unit at the hearing revealed an organized and dedicated group of management employees seeking to provide the highest level of police services for the citizens of Seattle.

F. Ability to Pay and Spending Priorities

It is the position of the Union the City has established adequate reserves to pay SPMA's proposal, and the electorate strongly supports expenditure of public funds for public safety. According to the Union, the City's doomsday forecast is predictable but unfounded in view of the evidence that demonstrates the City is in good financial health. The City does not dispute its ability to pay wages in accordance with the proposal. Therefore, the Arbitrator must assume the City is in a position to restore relative compensation levels to the average of the WC 7 as proposed by SPMA.

The Union next argues that Seattle police managers total compensation has declined in relation to their counterparts in other areas of City employment. There has been a serious erosion of parity to comparable fire department personnel, the mayor and City counsel members. It will take a 10.3% increase to restore the 1986 relative parity level between a battalion chief in the fire department and a police captain.

Adoption of the City's proposal will also accelerate the erosion of the relative standing of police managers among Puget Sound jurisdictions. Seattle police managers have typically enjoyed a pay advantage over local commanders in smaller jurisdictions in the Puget Sound area. A fair settlement in this case will not only restore Seattle police managers to the historic parity with the WC 7, it will also restore the superiority of their compensation over the smaller Puget Sound police departments.

G. SPMA's Overtime Proposals

The Union proposed to include captains and majors within the overtime provision of the current Agreement In addition, the Union would also eliminate the thresholds below and above which the City has discretion to award compensatory time off in lieu of overtime compensation. Pursuant to the Union's proposal, employees would have the option to receive overtime compensation for time worked in excess of 40 hours per week. The Union would also reduce to one-half hour the period beyond work in an 8 hour day for which

employees accrue overtime.

While the Union recognizes that captains and majors are managers and expect to do what it takes to get the job done, the current working system for captains and majors in the Seattle Police Department is unfair and destructive of bargaining unit morale. Employees in these ranks now must routinely work long hours of overtime each month in order to do their jobs. A Union survey of the membership revealed that captains work an average of 48 1/2 hours of overtime per month. The majors average over 34 hours overtime per month. The precinct commanders work an average of 60 to 70 hours per week.

Testimony from the captains and majors revealed that the escalation in workload can be traced in part to the explosion in the prevalence of violence, drugs and gangs. Because the community is concerned and frightened, the City has sought to respond in part by becoming involved in community Policing. The community Policing concept expands the amount of overtime hours necessary by command officers to perform their jobs. Further, internal factors have also expanded the workloads of the command officers. The Union witnesses explained that due to staff reductions in other parts of the Department, functions such as training, inspections and research have shifted work to command officers. The Union also cites the need for a greater command presence due to the fact Seattle has a very young patrol force which requires additional supervision and direction. Police managers routinely take work home with them in order to complete tasks necessary to accomplish the job.

Regarding the executive leave provision contained in the present contract, the Union takes the Position the executive leave program does not adequately compensate members for their overtime work. The overtime work by captains and majors far outstrips the 59 to 60 hours of executive leave available to the command staff. According to the Union, a substantial amount of overtime is also put in by lieutenants "off-the-clock." The demands of the job are so great that these managers cannot take all of their executive leave and still accomplish their duties.

Turning to the City's proposal for a 3% premium pay for precinct commanders, the Union alleges this offer is more of an "insult" than a remedy. The 3% premium would only serve to legitimize the unfair work demands the City places on police managers. Nor would the 3% premium provide the City with financial incentives to alleviate the workload burdens that overtime compensation has historically served in this country. All predictions are for workloads and work hours of Seattle Police managers to increase.

The issue of whether the Fair Labor Standards Act applies

to members of this bargaining unit is the subject of litigation between the City and the Union. The City disputes the applicability of the Fair Labor Standards Act to the members of this bargaining unit. For purposes of this proceeding, the Arbitrator must assume that SPMA will not succeed in its litigation on the applicability of the Fair Labor Standards Act to the members of this unit.

For all of the above stated reasons, the Arbitrator should reject the City's offer and award the Union's proposal to modify the overtime provisions of the Collective Bargaining Agreement.

H. Medical Issues

SPMA proposes to continue current medical benefits with the City paying full costs for LEOFF II employees and for dependents of both LEOFF I and LEOFF II employees. In addition, the Union would have the City continue the current cost sharing formula for Group Health and Pacific Medical. This would result in an annual cost figure of $4,354 per employee. Un. Ex. 152.

The Union vigorously asserts that the City's assumptions. for calculating the cost for insurance seriously overstates the actual cost to the City for members of this bargaining unit. The City has computed an annual cost figure of $7,458 per employee for medical insurance.

From the viewpoint of Union, to reduce base year salaries through a total compensation analysis using the $7,458 figure not only seriously overstates the total amount paid in 1993 but will compound the inequity over the second and third years of the contract. The reasons offered by SPMA for calculating the cost of the insurance benefit are summarized as follows:

1. The use of LEOFF II premium cost best recognizes the changing demographics of this bargaining unit. The predominance of LEOFF I members of this bargaining unit will change dramatically during the term of this contract as the older officers begin to retire. As the LEOFF I membership rapidly declines, the number of LEOFF II members will rapidly increase within this bargaining unit. Thus, the declining percentage of LEOFF I members makes any expense differential temporary.

2. The Union's calculation affords the SPMA bargaining unit the benefit of city wide

pooling of health care costs and premium experience. Use of LEOFF I direct payment costs is contrary to pooling principles that the City otherwise follows in its approach to health care cost and benefit administration. The dwindling numbers of LEOFF I police group, over time, will only exacerbate the situation.

3. Adoption of LEOFF II premium costs avoids having to come to terms with the City's misleading, questionable and nonexistent data. The premium charge for dependents of LEOFF I is overpriced, and the City admits there is no data to support the charge. It is now beyond dispute that LEOFF I premium no longer bears any relation to the cost incurred in this group.

4. The use of the LEOFF II premium cost most fairly applies the benefit of this bargaining unit's share of the $2 million refund and $4 million premium freeze and premium holiday received by the City from King County Medical.

Adoption of premium rates in effect at contract expiration will enable prompt settlement of future contract negotiations. To use the 1993 premium amounts in the total compensation analysis as suggested by the City, only provides the City with an incentive to delay resolution of the dispute.

The City has used the annual medical cost figure of $7,458 in all of its total compensation exhibits. City Exs. 102, 104, 106. According to the Union, this figure is misleading and seriously overstates the medical costs incurred by the City for this bargaining unit. The City's approach to the insurance calculation assumes that all bargaining unit members are covered by the LEOFF I program when in fact the City's exhibit shows that 11 members are not LEOFF I employees. It also incorrectly assumes that all bargaining unit members will elect the most expensive LEOFF I dependent coverage. The Union claims that it would be seriously unfair to calculate the insurance cost using the most expensive numbers in order to drive down wages for members of this bargaining unit. SPMA concludes that the proper measure of the medical cost component of total compensation is the LEOFF II premium amount.

Turning to the remainder of the City's proposal on medical issues, the Union avers the Arbitrator should reject, with

one exception,. the City's medical proposals. SPMA has no objection to the City's proposal to reduce the employee share of the group health premium from 20% to 10% and the City's proposal to increase the service co-pays for doctor visits, prescription drug supplies and emergency room visits. The Arbitrator should decline to impose any preferred provider medical benefit program on the LEOFF II employees and dependents covered by King County Medical ("KCM"). The City has not justified this change by comparison with either the WC 7 or local comparators. No other bargaining unit of City employees has agreed to such a plan. SPMA has no objection to a contract provision that would permit the City to offer Preferred Provider Organization ("PPO") coverage as an option to employees in this bargaining unit.

The Arbitrator should also reject the City's attempt to impose on the employee a share of future insurance premiums after 1993. There is no benefit to the City or to the employee from premium sharing because health insurance premiums payable by employees are paid with after-tax dollars. If all future rate increases fall on the employee, the City will have no incentive to negotiate to keep those premiums down.

I. Emergency Leave

The Arbitrator should reject the City's proposal to amend Article 3.13 by limiting release time for family emergencies to LEOFF I employees. While LEOFF II employees can use sick leave for family emergencies, none of the WC 7 provide a separate paid family emergency leave benefit. The Arbitrator should reject this proposal in order to maintain parity within the bargaining unit. LEOFF II employees should not have their personal sick leave reduced in order to care for family members, when LEOFF I employees are not so restricted. Nor has the City demonstrated that any other LEOFF II employees in the City or the state must forego sick leave to handle family emergencies. Therefore, the City's proposal should be rejected by the Arbitrator.

J. Duration

The Arbitrator should adopt SPMA's proposal for a three-year contract with full retroactivity to September 1, 1992. The parties have consistently agreed to contract periods extending from September 1 until August 31 of the following year. The Arbitrator should reject the City's attempt to alter the term of the contract from January 1 through December 31. It is the position of the Union that the parties had agreed to a three-year contract extending from September 1, 1992, until August 31, 1995. On July

19, 1993, the City repudiated its agreement and bargained regressively by proposing an unlawful term of three years and four months, ending December 31, 1995. At the hearing, the City altered its proposal and offered a contract of two years and four months, ending December 31, 1994, with pay increases not effective until January 1, 1993. The changes in the City's proposals on the duration of the contract are the subject of an unfair labor practice complaint.

The proposed four-month salary adjustment period constitutes a salary freeze that carries forward year after year into the future. The City has not justified such a regressive change. By altering a change of the Contract term, the members of this bargaining unit would be placed further away from the CPI adjustment, and increase the disparity in the contract term with the WC 7 whose adjustments extend from July 1 through June 30~ SPMA is aware of no case where an interest arbitrator has ever failed to give full retroactivity to a wage increase.

K. Conclusion

The SPMA concluded in its post-hearing brief as follows:

> **Compensation of Seattle police management personnel relative to their counterparts in the comparison cities has steadily eroded each year since SPMA commenced bargaining in 1979. Troubled financial times for the City provided an early explanation, but with the City's fiscal heath restored there has been no restoration of appropriate compensation levels such as precided the crisis. The SPMA economic proposals provide a suitable basis for this restoration.**
>
> **The statute under which this proceeding is convened has as its primary goal to foster the dedicated and uninterrupted service of uniformed personnel. But such dedication does not flourish in the face of the City's consistently regressive bargaining posture.**
>
> **Nor ought it be necessary for this small bargaining unit to shoulder the burdens of litigation for every contract settlement. A proper award should facilitate future settlements.**

For these reasons and the reasons set forth above in this brief, the Arbitrator should award SPMA's proposals.

Brief, p. 149.

IV. POSITION OF THE CITY

A. Background

The City recognizes that members of the SPMA have performed admirably in steering the Department through a course of change mandated by shifting needs for police services. However, the City is unwilling to "hand over the key to the treasury" as a reward for police managers having performed their jobs well. SPMA believes fairness and equity require that they be paid at or above the average of their West Coast comparable jurisdictions. Pursuant to the Union's approach all other factors are to be ignored. The City avers that all of the statutory factors must be taken into account when setting compensation for the members of this bargaining unit. The Arbitrator must give consideration to the impact of an award on the citizens of Seattle and on the approximate 10,000 other City employees.

The City next asserts it is the task of the interest IF Arbitrator to fashion an award which constitutes an extension of the bargaining process. This Arbitrator must reject the notion that interest arbitration is the place for the attainment of unrealistic proposals which would never be acceptable in the underlying negotiation process. The Arbitrator should enter an award which will be as nearly as possible to what the parties themselves would have reached if they had continued to bargain with determination and good faith. Application of the mechanical formula proposed by SPMA does not take into account the full range of factors which are required under Washington law.

The goal of the City in these negotiations is to work hard to be conscious and fair in its approach to labor relations with all of its 50 different bargaining units which are represented by over 30 unions. Eighty percent of the City's employees are covered by collective bargaining agreements. In the Police Department alone, there are 9 different bargaining units which must be considered in the formulation of the City's labor relations policy.

The City reviews a great many factors when determining an appropriate wage increase for represented employees. At the outset the City looks at the CPI to determine what it will take for employees to maintain their purchasing power. For many years the

CPI was the primary factor behind the City's labor negotiations. In recent years when inflation has been low, the public safety units have tried to shift the focus to looking at the WC 7 as a dominant factor for establishing wage rates.

The City also examines the local labor market to ensure that its wage and benefit package is competitive with other Puget Sound employers. The taxpayers will not support wage increases which are out of line or inappropriate with other local public sector employees. Economic conditions in the City of Seattle are also a basic criteria when determining a wage increase for City employees. Another important factor is the relationship to other bargaining units. Over the last 20 years, the members of SPMA and Seattle Police Officers' Guild have received about the same wage increase. The City cannot ignore what is happening with other City bargaining units when it negotiates with SPMA.

The City also examines the relationship of the SPMA to the stipulated comparables in the WC 7. Pursuant to its evaluation of the WC 7, the City factors in differences in the relative cost of living among the WC 7. The City also reviews the percentage increases given by the other WC 7 cities and performs a total compensation analysis. The City submits its approach is consistent with the statutory framework for resolution of disputes under interest arbitration.

The City argued that SPMA proposals are little more than "an effort to turn arbitration into gamesmanship." The Arbitrator should reject the Union's myopic focus upon the California labor market." The Arbitrator should draft an award which instructs the parties that the statute requires consideration of many factors, not just a rigid comparison with the wages paid in the WC 7.

B. City Wage Proposal

The City has proposed that members of this bargaining unit receive a 2.8% increase effective January 1, 1993. Pursuant to the City's proposal, wages would be frozen at their present level from September 1, 1992, through December 31, 1992. In reviewing the City's proposal the Arbitrator should consider that the City agreed to absorb the entire 1993 medical cost increase for the bargaining unit. The cost of that agreement worked out to approximately $79,000, which is close to 2% of the salary for this bargaining unit. While the City does not argue inability to pay, the City's financial health dictates a cautious approach to the' establishment of wages for the members of SPMA. The City is not flush with cash which should be allocated to a 15% to 30% wage increase for the members of this bargaining unit. Declining revenues and financial uncertainty in the private sector argue

against adoption of the Union's proposal.

Additionally, the City has taken significant and substantial measures in response to a slowing economy. The City has reduced expenditures in order to balance the budget. The City imposed a hiring freeze in May of 1991. In the 1992 budget 224 positions were eliminated and another 175 positions were slashed from the 1993 budget.

C. Cost of Living

The City takes the position that increases in the cost of living support the offer of a 2.8% wage increase for the first year of the contract and a cost of living increase for 1994. The U.S. CPI-W Index increased at an annual rate of 3.1% from September 1991 through August 1992, which was the last year of the prior bargaining Agreement. Since that time annualized increases in the CPI-W have ranged from 2.8% to 3.2%. Locally, the Seattle area CPI has increased at about 3.5%. If the CPI medical cost component is excluded, the CPI increase was 2.8% effective August of 1992. Since then the index without the medical component has seen an average increase of 2.8%.

The bargaining history supports a wage increase controlled by a CPI formula. Three of the four previous contract years set the wage increase based upon a CPI formula. The overwhelming majority of City bargaining units have agreed upon an increase of 90% of the CPI for 1993 wages. The City calculates that since the CPI applicable to this unit was 3.1%, use of a 90% figure results in a wage increase of 2.8%.

D. Relative Cost of Living Differences in the WC 7 Should be Given Substantial Weight by the Arbitrator

It is the position of the City that in setting wages for this bargaining unit the Arbitrator must take into account the differences in the cost of living in the WC 7. According to the City, all of the independent measures which either party offered at the arbitration hearing support the conclusion that the cost of living is higher in California than in Washington. Dr. Jonathan Leonard gave persuasive testimony that wage differences tend to reflect the cost of living differences throughout the country. Dr. Leonard explained that if you are going to compare pay levels across regions or time periods with very different pay levels, one has to take into account differences in the cost of living. In Dr. Leonard's view, all of the indexes the City used in this case tend to correlate with each other. The studies all tell the same story that the cost of living is higher, in general, in the California

comparison cities than in Seattle. The bottom line is there is unanimous support for the notion the cost of living is higher in California than in Seattle.

Even the Union witness, Mr. Kilgallon concurred with Dr.' Leonard that wages tend to reflect any cost of living differences among the WC 7.

E. Available Indexes Support the Existence of a Cost of Living Differential Between Seattle and the WC 7

Federal Pay Act. The federal government has provided by law a premium differential for certain specified West Coast cities. Law enforcement officers in Los Angeles CMSA receive a 16% differential and for law enforcement officers in San Francisco, Oakland, San Jose CMSA and in the San Diego CMSA, an 8% differential is paid. Law enforcement officers 'employed by the federal government in Seattle and Portland do not receive any differential. Kilgallon testified that in Los Angeles and the San Francisco Bay area federal employees receive an 8% pay supplement.

ACCRA. Three of the WC 7 jurisdictions participate in the ACCRA study: Portland, Long Beach and San Diego. The ACCRA intercity cost of living report revealed that for the first quarter of 1993, Seattle was 4.5% lower than the average of those three other West Coast jurisdictions.

AIRINC. AIRINC is an organization which independently prepares intercity cost of living data. AIRINC collected data during 1992 for Seattle, San Francisco and Los Angeles. The standard of living used is based on a before tax income of $50,000. AIRINC concluded that the cost of living in Seattle is 15.8% lower than the average cost of living in San Francisco and Los Angeles. If housing is excluded, the differential is about 12%.

Urban Family Budget. The Bureau of Labor Statistics published an urban family budget for many years before discontinuing it in 1981. In 1981 the average urban family budget for West Coast cities (excluding Seattle) was 5.7% higher than Seattle. The City updated this data by applying the annual CPI increase for each location. Using this methodology, the 1992 urban family budget for Seattle is 9.4% lower than the average for the other WC 7 jurisdictions

Housing Data. The City offered a number of studies concerning the cost of housing in the various West Coast jurisdictions. The Coldwell Banker study revealed that among all of the WC 7, only Portland had housing costs lower than Seattle. According to the Coldwell Banker report, the average differential

between a house in Seattle and the WC 7 was 44%.

The Federal Housing Finance Board prepared data on the average price of newly built single family homes subject to conventional first mortgages. During the first quarter of 1993 the average price of a home in Seattle was 23% less than that in the six West Coast jurisdictions. San Francisco was not included in the study.

Information provided by the National Association of Realtors from the WC 7 revealed that Seattle housing cost averaged 25% lower than the average of the WC 7 jurisdictions for the first quarter of 1993. For the entire year of 1992, Seattle was 27% lower than the average of the West Coast jurisdictions. In sum, all of the studies reveal that the cost of housing in the California cities is substantially higher than in Seattle.

Department of Commerce. The most recent data available from the Department of Commerce is for 1988. Per capita income in Seattle is 6% less than the average of the WC 7 jurisdictions. The Department of Commerce also computed the average annual pay in large metropolitan areas. For. 1989 Seattle was 6% below the average annual pay in the WC 7.

Area wage Surveys. Both parties spent a considerable amount of time compiling data and offering testimony concerning wage comparisons in the comparable jurisdictions. The Department of Labor's reports were the source of most of the data on the subject of area wage surveys. The use of the data was complicated by the fact the surveys represented different years for different jurisdictions. A change in methodology for collecting the data also complicated utilization of area wage surveys. Whatever flaws may exist in the area wage surveys, the bottom line is that wages are higher in the WC 7 than in Seattle.

For office occupations, Seattle is 5.6% below the WC 7 average. If one examines professional and technical employees, Seattle is 5.9% below the WC 7 average. Dr. Leonard testified from his review of the data that the pattern generally holds up that wages tend to be higher in California than in Seattle.

The most recent data was released after the hearing and included in the record of this case by stipulation. A review of the job categories reveals that wages are higher in the West Coast comparables than they are in Seattle. Administrative occupations in Seattle are paid 9.1% below the WC 7 average. Technical occupations in Seattle receive 4.9% less than the WC 7, and clerical occupations receive 6.5% less than the WC 7. A new category of police officer has also been included in the Department of Labor data collection system. In the Seattle police officer category, the Department of Labor study demonstrates Seattle officers are paid 10.9% less than their WC 7 counterparts.

F. The Runzheimer Study

The City commissioned a study by the Runzheimer Company to compare the cost of living in each of the West Coast jurisdictions with Seattle. The results of the Runzheimer Report are entirely consistent with the conclusions reached by the previously described intercity cost of living studies. Regardless of who does the study, the results demonstrate that cost of living and relative wages are higher in California than in Seattle. Even Union witness Kilgallon admitted that the Bay Area is a "high cost, high wage" area. This Arbitrator should follow the lead set by the most recent arbitration award between the parties by arbitrator Snow giving weight to the evidence concerning intercity cost of living.

The City maintains the Arbitrator should give Substantial credit to the Runzheimer Report. The Runzheimer Report demonstrated the total difference between the cost of living in Seattle and the average of the West Coast jurisdictions is 6.4%. Another critical fact that is often overlooked in comparing the difference between Seattle and the West Coast jurisdictions is in state and local taxes. Oregon and California have a state income tax, Washington does not. The average payment of state and local taxes for the WC 7 employees is almost $2,000 at the $62,700 income level. The members of this bargaining unit make no similar payment for state income taxes.

The Arbitrator should credit the findings of Runzheimer. Runzheimer is a well-respected organization with an impressive list of public and private clients. Public agencies and private organizations utilize Runzheimer's city cost of living data to help them adjust wages in a manner which reflects differences in cost of living between various locations.

The methodology utilized by Runzheimer to examine cost of living is reliable. Runzheimer employs demonstrated techniques for creating cost of living information about various cities. Runzheimer methodology examines living costs in the categories of taxation, transportation, housing, and goods and services. Annual family living costs in each category are totaled and compared with other jurisdictions in order to arrive at a total comparative analysis. With respect to the Union challenge to the Runzheimer data based upon its refusal to release the underlying proprietary formulas which are used in making its living costs assessments, the City argues the position is unfounded. As a private organization Runzheimer must protect its proprietary information against those who would copy and erode its Position in the marketplace. Runzheimer produces reports that are relied on by large companies

such as IBM, Weyerhaeuser and Boeing. When it produces these reports, it does not release all of the formulas or background information. The private corporations and government entities rely on the information provided by Runzheimer. The City asks the Arbitrator to make a decision based upon the Runzheimer data.

Additionally, SPMA had ample opportunity to examine the Runzheimer Report prior to the hearing in order to prepare for cross-examination of the Runzheimer representative. Counsel for the Union had adequate opportunity to cross-examine the Runzheimer representative at the arbitration hearing. The mere fact that Runzheimer retains some underlying formulas as propriety does not diminish the validity of the report's conclusions.

The City does not doubt that there are improvements which could be made in the Runzheimer methodology. While Runzheimer may not be a perfect report, it does establish it Costs more to live in F California than in Seattle.

The results of the Runzheimer study suggest there is about a 6.4% differential between living costs in Seattle and the WC 7. That differential should be included by the Arbitrator in any analysis of the total cost of compensation. Seattle compares favorably with the compensation in the WC 7 jurisdictions. City Exhibit 102 reveals that Seattle police lieutenants will be 2% over the WC 7 average if the City offer of 2.8% is awarded in this proceeding and cost of living differences are appropriately accounted for. Police captains will be 3% over the West Coast average and police majors will be over 6% above the West Coast average using similar analysis. In the last interest arbitration between these parties arbitrator Snow concluded that a differential of slightly over 5% between Seattle and the WC 7 was appropriate.

G. Benchmark for Comparison

The City takes the position that the 23-year lieutenant should be the basis for comparison. According to the City, the historical practice with respect to total costs of compensation and longevity has been to use the average tenure for lieutenants in the unit at that point in time. The City has used the 23-year lieutenant as a benchmark for comparison, while the Union has a 20-year lieutenant as the point of comparison. Since 23 years is in fact the average seniority of lieutenants, it should be adopted by the Arbitrator. The averages are easily computed and the 23-year figure can readily be used in comparison with the other WC 7 jurisdictions.

H. Medical Premiums

In making the total compensation analysis, there are two primary components to this assessment. First, one must look for the premium cost which is paid to the provider. For most SPMA members this is King County Medical. Since the 23-year officer is a LEOFF I employee, LEOFF I rates have been used. The Union has argued for a blended rate to take into account some members of the bargaining unit are LEOFF II and pay a lower rate. The City objects to using a blended rate at this time. The use of a blended rate skews the data and understates Seattle's relative Position in a total compensation analysis. The thrust of the parties' total cost compensation analysis is to look at a particular individual as the average employee for purposes of comparison. That average employee in this bargaining unit has 23 years of service and participates in the LEOFF I program.

The second issue on the medical premium calculation is to determine the appropriate year to use as the basis for making the computation. From the viewpoint of the City, the best measure of insurance costs is its most recent experience. These are the actual amounts expended by the City for LEOFF I employees. They are not estimates, they are actual expenditures to be paid for medical coverage. The Arbitrator should reject the Union's attempt to ignore the amounts actually paid to King County Medical for each LEOFF I officer. The City's figures accurately reflect that amount of premium cost. The Arbitrator should also reject any attempt to second guess the rate structure established and charged by third-party providers.

I. Uniform Allowance, Differed Compensation and Pension Pick-Up

Uniform allowance should be excluded from the total compensation analysis because there is no accurate way to ensure that a fair comparison can be made between departments that have quartermaster systems and those who require uniforms and provide equipment. Deferred compensation programs should also be excluded from the total compensation analysis based on the long-standing practice of the parties. The inclusion of the deferred compensation program in the wage analysis is fraught with uncertainty and error.

Regarding the manner in which to account for the pension pick-up, the City submits the best way of determining the' net impact on the employee is to start with the total salary paid the employee and thereafter deduct the actual contribution which is required after any pick-up has been made by the employer. The impact of this methodology is included in City Exhibit 100 and should be used by the Arbitrator as it has been in previous

arbitrations.

J. Top Step Wages

One method of analyzing the wage issue is to look simply at top step wages being received by employees in question. The issue for resolution in this case is total compensation. The base salary paid in Seattle in relation to base salary paid the WC 7 is a significant factor which weighs heavily in favor of the City's proposal. The Union's own exhibits demonstrate the Seattle base salary was only 6.7% behind the WC 7 on September 1, 1992, if the Oakland PERS figure is used, and 7.3% if the Oakland P&F is used. If the City's 2.8% increase is awarded, Seattle will only be 3.9% behind the WC 7. Given the substantial cost of living differential between the jurisdictions, City concludes members of this bargaining unit are being fairly and appropriately compensated.

The Union's cry that it has lost ground compared with the WC 7 is inaccurate. The SPMA members stand today in exactly the same place in relation to the WC 7 as they did in 1979. Any changes in the relationship between Seattle and the WC 7 can be explained by the fact that inflation has been running much higher in California than in the Seattle area.

SPMA members have fared well in comparison to other employees in the Puget Sound labor market. The results of the City's study of Puget Sound metropolitan jurisdictions who provide police services and have over 25,000 population demonstrated that Seattle lieutenants. receive 2.4% higher compensation than the average received by their Puget Sound counterparts. Seattle police captains receive 8% more than their Puget Sound area counterparts. This comparison strongly supports the City's position in this arbitration.

K. Internal Equity

The City devotes a substantial effort to try and ensure internal equity for all of its employees. The vast majority of contracts effective January 1, 1993, provided other City employees with an increase of 3.2%. That increase was arrived at by awarding 90% of the local area CPI to its employees. Unrepresented employees received this same increase. The City and SPMA have historically used the national CPI to determine the appropriate wage level. SPMA members have enjoyed a slightly higher rate based on the use of the U.S. CPI-W than was generated by the local CPI-W. It is equitable to have members of this unit receive a slightly lower rate of increase this year now that the local area CPI is increasing at a faster rate. The City's proposed 2.8% increase for

1993 is 90% of the national CPI.

The only exception to the pattern of 1993 wage increases is the Seattle Police Guild, which received a 5% increase effective January 1, 1993. The City in that situation concluded that Police Guild wages were about 10% behind their West Coast counterparts. Since SPMA members are not as far behind the West Coast jurisdictions, an increase of 2.8% is appropriate. The City's offer would also retain the differential between the ranks. On the other hand, the Union's proposal would obliterate the traditional differential between the sergeant and the lieutenant.

L. Public and Private Sector Settlements

The average increase in the WC 7 jurisdictions for the contract year July 1992 through June 1993 is 2.5%. City Ex. 87. Puget Sound jurisdictions which the City used for comparison are paying an average increase in 1993 of 3%. City Ex. 124. Double digit increases are not even close to what is happening in the local community with respect to wage increases.

Private sector wage increase for contracts effective in the 3rd quarter of 1992 was 3%. City Ex. 90. The average increase in the 4th quarter of 1992 was 2.7%. The City's proposed increase of 2.8% is consistent with negotiated private sector settlements. The Union's proposal is not even close to the reality of what is happening in contract settlements.

M. Second Year Wages

The City has proposed that the Arbitrator award a second year wage increase for 1994 of 90% of the increase in the U.S. All Cities CPI-W with a minimum of 2% and a maximum of 7%. The wage increase for SPMA bargaining unit members has frequently been tied to the CPI. The increase received by all other City employees with multi-year agreements is tied to the CPI. Forty-two bargaining units in the City have agreed on an increase for 1994. Thirty-nine of those forty-two settlements have agreed to have their 1994 increase to be set at 80% of the local CPI. The three exceptions are also tied to the CPI, but have a 100% of the CPI formula.

The Union's proposed increase tied solely to the average paid by the WC 7 is totally unacceptable to the City. First, it would impose retroactive obligations on the City whenever adjustments were made in the salary schedule for one of the West Coast jurisdictions Second, the Union was unable to explain how the formula would work concerning the treatment of pension plans. Third, the formula proposed by the Union does not mention deferred compensation programs.

In sum, City submits the Union's proposed formula is unworkable and ignores other relevant factors in setting the wage increase for the second year of the contract.

N. Three Percent Premium Pay for Precinct Captains

The City recognizes the increasing workload and responsibilities placed on precinct captains. In response to this need, the City has proposed 3% premium pay be awarded captains while acting as precinct commanders. The 3% premium will work out to over $2,000 a year. The 3% premium appropriately responds to the workload concerns raised by the Union.

O. Contract Year

Existing contract language sets the present contract year at September through August. The City proposed that the new Agreement remain in effect until December 31, 1994. The standard contract year in the state of Washington is January 1 through December 31. The change to a calendar year has been accomplished with every single bargaining unit with which the City has negotiated a contract. In the most recent negotiations with the Seattle Police Officers' Guild, the contract was changed to a January 1 effective date. The City submits its proposal to alter the contract year to a calendar year should be adopted.

P. Overtime

The Union has proposed that overtime pay be required for captains and majors. The City has rejected this proposal because the members of this bargaining unit are managers who are not required to punch a clock. It is expected that police managers will perform the work necessary to accomplish the job. As SPNA witnesses testified to at the hearing, they are not "clock watchers."

The Union offered a great deal of antidotal and other evidence to support its proposal for overtime. However, almost all of that evidence related solely to the precinct captains. The City has appropriately addressed the workload of the precinct captains with its offer for premium pay when members are employed in the job of precinct captain.

In reviewing the overtime proposal, the Arbitrator must keep in mind that SPMA members have paid meal periods. All captains and majors are paid for a hours work from 8 a.m. until 4 p.m., even thought some of this time is spent on a meal break.

Moreover, the City's position is further buttressed by

the executive leave program for majors and captains. The executive leave program provides recognition in the form of additional time off for hours worked by this group of employees in excess of 40 hours per week. Fire management employees do not receive executive leave. The executive leave benefit received by captains and majors is unique to this bargaining unit. In 1989, the negotiated settlement increased the amount of executive leave from 40 hours to 50 hours for captains and to 60 hours for majors.

Police captains and majors are also given tremendous discretion in terms of establishing their hours of work. This flexibility enables police commanders to adjust their hours and schedules to suit their personal needs and the needs of the job.

The Arbitrator should also reject SPMA's overtime proposal given the pending FLSA litigation. The lawsuit was filed a few months prior to the arbitration hearing. As a matter of law, the decision as to whether the City should be required to pay overtime for its employees should initially be decided by the United States District Court. The contract explicitly states that overtime will not be paid for captains and majors. It should remain that way unless the court determines the FLSA requires a change in the way in which overtime should be paid.

The Arbitrator should reject the Union proposals to delete executive leave in return for overtime compensation. Nor should the Union's proposal to delete the restrictions on the use of compensatory time be adopted. Neither party has addressed this issue prior to the hearing or during the hearing, and it should not be addressed by the Arbitrator.

If the Arbitrator adopted the Union proposal for overtime to captains and majors, the City offered proposals contingent on resolution of overtime for captains and majors. In the event the Arbitrator awarded the overtime proposal, the City proposed that the paid meal period provision be deleted and that a FLSA Section 7(k) hours threshold should be explicitly included in the contract. The City would also have the Arbitrator delete the restriction contained in Article 3.4.2 of the Agreement on rescheduling furlough days. The City wants to be able to adjust schedules so as to avoid unnecessary overtime. In the event the Union proposals are awarded, the City should be given flexibility to schedule employees to avoid payment of overtime.

Q. City Insurance Proposals

The City proposed three basic changes to the medical coverage provisions of Article 8. First, the City proposed that the Agreement include a preferred provider organization as part of the health care packages available for employees through King

County Medical. Second, the City seeks to modify the contract to provide that any increase in King County Medical rates would be shared between the employer and employee, with the employee paying 20%. The change would be effective in 1994. At the same time, the City would reduce the employee share of payments for HMO plans from 20% to 10%.

The City's proposals on the health care provisions are motivated by skyrocketing increases in the cost of providing insurance to the members of this bargaining unit. The annual rate for the King County Medical premium has increased from $1,536 in 1989 to $4,035 by 1993. The same type of increase occurred with the two health maintenance organizations ("HMOs") which are available as part of the health care package. The Group Health premium has doubled since 1989. The Pacific Health premium has more than doubled from 1989 to 1993. City Exs. 184, 185. The cumulative increase in inflation from 1986 to 1993 was 24%. During that same period to time, the medical component of the CPI has increased by 55%. However, the premium for King County Medical has increased by 111%. City Ex. 188.

The City health insurance programs have allowed employees the option of electing whether to participate in the King County Medical program or one of the HMOs. For City employees generally, the rate of participation in the HMOs is about 45%. On the other hand, SPMA members have elected coverage in the King County Medical plan. Only four bargaining unit members participate in the HMOs. The City premium rate in 1993 for each King County Medical employee is $4,035. The Group Health premium is $3,758. The Pacific Health premium is $3,851. The total cost of medical care insurance for SPMA members in 1993 was $469,831. City Ex. 192. That figure is over twice the amount City spent for this bargaining unit in 1988.

In response to the increase in insurance premiums, the City seeks to achieve managed care programs for the health benefit programs, premium cost sharing and cost sharing with employees. The principle component of the City's proposed changes is to implement a PPO for the SPMA bargaining unit. The majority of large public employers in the Puget Sound area have a PPO plan. Five of the WC 7 jurisdictions have a PPO plan. The PPO plan proposed by the City is a good one and should be awarded by the Arbitrator.

Turning to the Union's objections to the PPO plan, the City maintains the opposition is without merit. While it is true no other active group of City employees is required to participate in a PPO plan, one group has to be the first. The City intends to work toward requiring PPO participation for all of its employees.

The Union argued that it had not been provided adequate information to evaluate the merits of the City's proposed PPO

program. According to the City, the Union has more than been fully informed about the merits of the PPO program. There is absolutely no basis in fact to suggest the Union has been denied vital information about the PPO program.

The Union also suggested that the PPO should be offered as an option. Testimony of City witnesses explained that there is no financially viable way of writing a PPO plan which would have the necessary incentives to encourage voluntary participation in the PPO.

The City next argues the Arbitrator should award the City's proposed change in co-pays for SPMA members. Because the City wants to encourage SPMA members to use managed care it is proposing that the premium co-pay for the HMO plans be reduced to 10%. At the same time the City is proposing that effective January 1994 King County Medical enrollees will pay the difference between the 1993 and 1994 monthly premiums. King County Medical has projected there will be no increase in the 1994 premium. If that projection becomes a reality, employees will not be required to pay any additional amounts. The Arbitrator should concur with the City that it is a worthy goal to encourage the use of managed care as a method of limiting health care costs to the City.

The Arbitrator should also award the changes in the co-pay features for doctor's visits, 30-day drug supply prescriptions and emergency room visits for both of the HMOs. These changes are part of the HMO program as mandated by Group Health and Pacific Health. The theory of this is that by requiring co-pays, employees tend to take a stronger ownership position in the cost of health care. The impact on employees will be relatively minor.

R. Longevity

The Union has proposed a revision to the longevity article of the contract. In the view of the City, the facts do not warrant any increase in SPMA's longevity pay. Five of the WC 7 jurisdictions do not pay any longevity premium. The average longevity pay for a 20-year police lieutenant in the WC 7 jurisdictions is $181. A lieutenant in this bargaining unit receives $2,364 in longevity pay. The longevity pay provision was added to the 1989 Agreement. It should not be changed in the 1992 Agreement.

No other management group in the City of Seattle has longevity pay. The cost implications of the Union's proposal are excessive. During the first year the additional cost would be $263,000. The Union has simply failed to present substantial evidence of a need for modifying the longevity provision.

S. Sick Leave/Family Emergencies

The City proposes amending Article 3.13 restricting the use of release time for family emergencies to LEOFF I employees. During the term of the last Agreement, the City started allowing employees to use sick leave for dependent care when a family member is sick. Prior to this change, no such use of sick leave could be made. With the change in the family emergency leave policy, Article 3.13 leave is no longer necessary for LEOFF II employees who have sick leave benefits. At the same time the City recognizes that such leave is entirely appropriate for LEOFF I officers who do not receive sick leave benefits. The City proposal is consistent with the practices in the WC 7.

T. Conclusion

The City concluded in its post-hearing brief as follows:

> **The City has attempted to approach these proceedings, and each individual issue, in a fair and equitable manner. The City would very much like to get off the treadmill of interest arbitration, which seems to be dictating the relationship between these parties. Hopefully, as a result of guidance provided by this Award, this result can be achieved.**
>
> **The ultimate task of an interest arbiter is to determine and award the -agreement which the parties would have reached if they had been forced to keep bargaining. In 1989, the parties achieved a negotiated settlement which resulted in SPMA members being paid about 5% less than the WC7. Vol. 111:18:19-23. This negotiated settlement followed Arbiter Snow's interest arbitration award which adopted this relative relationship between Seattle and the WC7. For many years, the parties have agreed that overtime is inappropriate for majors and captains. There is nothing in the evidence to suggest that this historical practice would not have been, and should not be, replicated for each of these issues. Conversely, the case for a PPO is compelling. The City respectfully requests that its position on**

each issue be awarded in the proceeding.
Brief, p. 131.

V. ARBITRATOR'S AWARD - WAGES

A. Background

At the outset of this issue a few preliminary comments about the statutory procedure are in order. RCW 41.56.460 refers to the basis on which an interest arbitration award should be formulated as "standards or guidelines to aid it in reaching a decision." The Arbitrator is then directed to take into "consideration'' the factors listed in the provision. The listed criteria are not defined in the law. Arbitral authority has provided some guidance to the application of the statutory factors to particular cases.

The statute also provides that the Arbitrator may consider other factors "not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment." This phrase allows the parties and the interest arbitrator considerable latitude in determining what the relevant facts are on which to base an award to resolve a contract dispute.

The factors identified in the statute are "standards or guidelines" which cannot be applied with surgical precision. The relative weight to be given to any of the criteria listed in the statute is not specified. Further, it is important to note that this Arbitrator is responsible for applying the evidence to the statutory factors even if the evidence submitted by the parties is incomplete, misleading, selective or manipulative. Recognizing these problems, it still remains the obligation of this Arbitrator to apply the record evidence to the criteria set forth in the statute. In assessing the evidence and argument on the wage issue, the Arbitrator has attempted to extract facts from the record evidence which provide reasonable and credible support for this Award. The starting point for the analysis of the evidence on the wage issue in this case is comparability. Both sides devoted the majority of their evidence and argument to the issue of comparability.

Each party placed into the record numerous interest arbitration awards from other Washington cases. The Arbitrator found these decisions helpful in defining the parameters for this Award. As with any labor conflict, this case has its own unique facts which required your Arbitrator to exercise his judgment on the particular circumstances of the instant dispute. Three aspects set this case apart from a typical interest arbitration. First,

the bargaining unit is composed entirely of members who hold supervisory positions and are veterans of the Seattle Police Department. Second, due to the fact Seattle is by far Washington's largest city, all of the comparators--except one--are jurisdictions located in California. Portland, Oregon being the single exception. Third, the parties are experienced in the use of interest arbitration and have become quite sophisticated in the interest arbitration procedure.

The submission of a dispute to interest arbitration does not occur in isolation. It is part of the continuing relationship between the parties to this Collective Bargaining Agreement. Arbitrator Carlton Snow wrote in his City of Ellensburg (1992) decision about avoiding the "charade" of comparability. Snow correctly noted that it is reasonable for the parties to negotiate vigorously about the proper jurisdictions of comparability. However, he warned against the use of highly adversarial technical data and studies to support opposite viewpoints. The opinion expressed by arbitrator Snow was that the legislative intent was to "design a principle-based decision making process, not a charade disguised as a scientifically objective system."

Regarding the present case, in the judgment of this interest Arbitrator, entirely too much time was spent on legal wrangling over fine points of law. RCW 41.56. 430 contemplates "there should exist an effective and adequate alternative means of settling disputes by uniformed personnel." The parties would be better served by a de-emphasis on the legalisms and concentrating on presenting facts to assist an interest arbitrator in producing a reasoned award. Only by reducing the adversarial nature of the interest arbitration process, will the parties be able to decrease their costs, diminish the time spent in preparation and presentation of evidence, and shorten the process from submission to award. A review of the record of prior interest arbitration awards between the parties clearly reveals a pattern of increasing costs, time and complexity as each case evolved from negotiation to final award.

It is also this Arbitrator's impression the increasing adversarial nature of the process has moved the parties closer to a judicial proceeding rather than the interest arbitration system envisioned by Chapter 41-56 RCW. While this Arbitrator has carefully reviewed all of the "legal" arguments raised by the parties, I have attempted to avoid becoming enmeshed in these arguments which would operate to the detriment of a decision based on the facts placed before your Arbitrator. In their closing briefs, both parties asked the Arbitrator to draft an award which would provide guidance to the parties to resolve future contract disputes in an expeditious manner. Thus, I have strived to

concentrate on the facts of the case, and whenever possible avoid a judicial type of response to the respective positions taken by the parties.

In the instant case both parties offered substantial economic data, complex studies and expert testimony to bolster their respective positions. Each side vigorously challenged the evidence offered by the other party as flawed, defective and statistically unsound. Because of the methods by which each party sought to justify its calculation of total compensation, this Arbitrator was faced with a record that included little common ground on the proper approach to compute total compensation. The evidence and argument by both parties on the statutory factor of comparability proved the point that making comparison studies is not an exact science.

The contract period for September 1, 1991, through August 31, 1992, paid the members of this unit on a salary schedule which provided:

Police Lieutenant	**$4,422**	**$4,604**	**$4,795**
Police Captain	**$5,086**	**$5,295**	**$5,516**
Police Communications Director	**$5,086**	**$5,295**	**$5,516**
Police Major	**$6,091**	**$6,342**	

The Union's proposal would set the top step for a police lieutenant effective August 31, 1992, at $6,433. The City would freeze the existing salary from September 1, 1992, through December 31, 1992. Effective January 1, 1993, the City would increase the rate of pay by 2.8% through December 31, 1993. The top step pay for a lieutenant would be set at $4,929 per month.

The Arbitrator finds after careful review of the evidence and argument, as applied to the statutory criteria that the existing salary schedule should be adjusted by 2% effective September 1, 1992, through December 31, 1992. Effective January 1, 1993, the salary schedule shall be increased by 4%. For calendar year j994, the salary schedule shall be adjusted based on a CPI formula with a minimum increase of 3% and a maximum increase of 7%. The reasoning of the Arbitrator is set forth in the discussion which follows.

The 2% increase awarded by the Arbitrator for the four-month transition period will set the salary schedule effective September 1, 1992, as follows:

Police Lieutenant	**$4,510**	**$4,696**	**$4,891**
Police Captain	**$5,188**	**$5,401**	**$5,626**
Police Communications Director	**$5,188**	**$5,401**	**$5,626**

Police Major	**$6,213**	**$6,469**

Effective January 1, 1993, the salary schedule will be increased by 4% to reflect the following:

Police Lieutenant	**$4,690**	**$4,884**	**$5,087**
Police Captain	**$5,396**	**$5,617**	**$5,851**
Police Communications Director	**$5,396**	**$5,617**	**$5,851**
Police Major	**$6,462**	**$6,728**	

The Arbitrator concurs with the City that SPMA should join with the rest of the bargaining units and move to a contract year which coincides with the calendar year. However, I disagree with the City's proposal to impose a four-month wage freeze to accomplish the change. There is no justification for an award which would freeze the salary schedule of this group of employees for a four-month period. The Arbitrator will award an increase to cover the four-month period from September 1, 1992, through December 31, 1992.

A threshold issue developed between the parties over whether to use the 20-year lieutenant as the point of comparison or a 23-year lieutenant as the basis for computing wages for purposes of comparison. The parties agree that the top step for a lieutenant should serve as the benchmark for comparison. What the parties disagree over, is whether the 20-year lieutenant or the 23-year lieutenant should serve as the point of reference. The main difference in the two figures is in the vacation time earned. A lieutenant earns one additional day of vacation for each year after 20 years of employment up to a maximum of 30 years.

The City selected the 23-year lieutenant based on its computation that 23 years is the average length of service for lieutenants for the Department. City asserts that since 23 years is the average seniority, it should be used as the benchmark for comparison. On the other hand, The Union argues the 20-year lieutenant has traditionally been the benchmark position for fixing compensation of bargaining unit employees.

The Arbitrator holds that the 20-year lieutenant should serve as the benchmark for making comparisons between Seattle and the WC 7. The benchmark position should remain constant through successive contract negotiations. The city's approach of using a floating benchmark serves to complicate and confuse what should be a relatively simple point of reference to develop wage comparison data over the years. The benchmark should not turn on some average tenure of the unit at an undefined point of time.

In the present case, the Arbitrator did utilize the comparison studies of a 20-year and 23-year lieutenant depending on

the need for data to illustrate a particular point. I made no attempt to recompute either the City's 23-year point of reference or the Union's 20-year benchmark. Future negotiations would be facilitated by adoption of the 20-year lieutenant as the benchmark on which both parties develop their compensation studies. Interest arbitrators who might be called to resolve contract disputes in years to come should not be placed in the position of having to decide and evaluate compensation studies with different benchmarks as the point of reference to evaluate the wage studies.

Both the Union and City have presented compelling arguments to support their respective positions on the wage issue. The Arbitrator must reject the increase sought by Union as excessive and not justified when evaluated in the context of all of the relevant criteria. While City has not argued inability to pay, the evidence offered by the City on the Seattle area economy and financial condition of the City does not warrant an award of increasing wages by 14 to 20%.

Adoption of the SPMA's proposal would cost the City an estimated $19,584,662 over the 36-month period. City Ex. 142(A). The City calculated the percentage increase for funding the Union proposal over the 36-month period would be approximately 46.9%. Nothing in this record compels the Arbitrator to burden the City with an award carrying a price tag of the magnitude sought by SPMA. Nor was the Arbitrator persuaded by the record evidence that the members of this bargaining unit should be propelled toward the top of the salaries paid in the WC 7.

If the Arbitrator were to award the SPMA proposal the base pay for the lieutenant effective September 1, 1992, would increase from $57,540 per year to $77,196 per year. A captain would earn $88,776 per year and a major would earn $102,096 per year. Non-salary benefits driven by the base pay would see similar increases. The bottom line is the evidence as applied to the statutory criteria simply does not justify awarding SPMA's wage offer.

B. Constitutional and Statutory Authority of the Employer

No issues were raised by either party concerning the statutory and/or constitutional authority of the City.

C. Stipulation of the Parties

The stipulation of the parties regarding the appropriate comparators was of major significance to this interest arbitration. The parties agreed that seven West Coast jurisdictions referred to

as the WC 7 should serve as the primary point of reference with which to measure Seattle police management wages.

The seven jurisdictions are as follows:

CITY	POPULATION	# OF SWORN EMPLOYEES	RATIO
Long Beach	**480,000**	**734**	**1/654**
Oakland	**365,800**	**713**	**1/513**
Portland	**464,000**	**898**	**1/517**
Sacramento	**385,100**	**622**	**1/619**
San Diego	**1,144,347**	**1,854**	**1/617**
San Francisco	**750,000**	**1,829**	**1/410**
San Jose	**803,000**	**1,196**	**1/671**
AVERAGE RATIO			**1/572**
SEATTLE	**522,000**	**1,252**	**1/417**

City Ex. 170.

D. Cost of Living

Cost of living is a factor which must be considered by an arbitrator under RCW 41.60.460. SPMA and the City agree the U.S. All Cities Index, CPI-W, is an appropriate measure of changes in cost of living. The parties offered widely divergent views on how the cost of living criteria should be applied in the instant case.

SPMA takes the position the cost of living factor is a "secondary guideline" for interest arbitration best used for making mid-term economic adjustments. According to the Union, the comparison of wages, hours and conditions of employment between Seattle and the WC 7 provides the appropriate standard to determine wages for September 1992. Thus, the Arbitrator should not utilize cost of living data in establishing the initial wage level for the 1992 Agreement.

It is the position of Union that a CPI formula should be adopted for the second and third years of its proposed three-year contract. In the view of Union, the CPI is correctly employed to ensure purchasing power is not eroded during the later years of a multi-year contract.

The City argues the Arbitrator must take into account the cost of living factor when establishing police wages. In support of its 2.8% wage offer, City presented evidence the U.S. CPI-W

Index increased at an annual rate of 3.1% from September 1991 through August 1992. Further, the annualized increases in the CPI have ranged from 2.8% to 3.2%. The average increase over the relevant period has been about 3%. The Seattle area CPI increased by about 3.5%.

Moreover, the City asserts that if the medical component is removed from the CPI, then the CPI Index recorded increases of 2.6% to 3%, with an average of about 2.8%. City Ex. 81. The CPI applicable to SPMA members was 3.L%. Hence, City submits its 2.8% offer for 1993 is consistent with the CPI factor.

The Arbitrator finds that SPMA's position that cost of living should not be considered in creating the wage schedule for the first year of the contract to be without merit. RCW 41.56.460 draws no distinction between using the cost of living factor as a guide whether one is determining wages for the first, second or third years of a collective bargaining agreement. In the judgment of this Arbitrator, the cost of living factor as measured by the CPI-W, argues against the 13% to 20% increases proposed by Union.

The CPI-W has been stable since the period of the 1991-92 contract, through the present time. Generally, the CPI-W has reflected increases of around 3%. The Arbitrator's award of 2% for the last four months of 1992 and 4% for 1993 is consistent with the CPI when measured against the data on comparative wages and benefits paid in the WC 7.

E. Intercity Cost of Living Data

One of the most controversial areas of this dispute was the City's attempt to bolster its position with evidence on the relative cost of living differences in the WC 7. SPMA adamantly resisted the introduction and consideration of intercity cost of living data. Earlier in this Award the Arbitrator rejected the Union's motion to exclude all intercity cost of living evidence from the record as a matter of law.

The question now turns to what, if any, weight should be given to the evidence offered by the City on cost of living differences between Seattle and the WC 7. This Arbitrator finds arbitrator Snow's approach in his 1988 decision on the use of the inter-area cost of living data well-reasoned and justifiable under RCW 41.56.460. Snow wrote in his 1988 award--in part--regarding relative cost of living data as follows:

> **Yet, neither comparability data nor the stipulations of the parties are dispositive of the issue. The statute has set forth a number of standards to be considered, employing such**

other factors which are normally or traditionally taken into consideration in the determination of wages. Implicit in the statute is a legislative recognition that it would be too simplistic merely to compare wages paid in large cities along the west coast, without acknowledging that different economic conditions may prevail among them. Thus, the legislature has instructed arbitration panels to consider factors such as the cost-of-living or traditional factors such as the dynamics of the local labor market and the impact of a "labor area."

Award, p. 35, Emphasis added.

Snow wrote in rejecting the SPMA position on the Runzheimer Report:

At the same time, the Consumer Price Index clearly is a useful tool, although an imprecise one, in evaluating inter-city comparisons. For example, if wages in Seattle and San Francisco have been approximately the same since 1967 but inflation was drastically higher in San Francisco than in Seattle during the ensuing years, logically one can expect that wages in San Francisco would have to increase faster than those in Seattle in order for wage parity to exist. It is reasonable to conclude that, if dollars have greater purchasing power in one city than in another, this fact ought to be taken into account in determining an appropriate wage. Accordingly, the CPI data may be used to indicate generally how significant are the disparities in actual compensation between comparable cities. Nor has RCW 41. 56.450 or 41.56.460 restricted the arbitration panel's use of the economic data in the way suggested by the Association. The CPI and other inter-city "cost-of-living" comparisons could have relevance and have been used in determining the appropriate wage to be paid members of the bargaining unit. It is important to stress that the statutory criteria are not completely separable, and no one factor can be relied on exclusively

without some recognition of the impact on other statutory criteria.

Award, pp. 46, 47, Emphasis added.

Even with its faults, Snow concluded the Runzheimer study was a valuable tool in determining wages for this bargaining unit. Snow reasoned:

> **As a result of such uncertainties, the Runzheimer Report has been used only as another source of guidance: and the arbitrator has not relied exclusively on the conclusions of the Runzheimer Report as a precise measure of cost-of-living differences between Seattle and the comparative cities. At the same time, the Report has not been discounted entirely. As the evidence submitted by the parties made clear, the Runzheimer Report was not the only evidence showing that the cost-of-living in comparative cities is higher than it is in Seattle.**
>
> **Award, P 56, Emphasis added.**

The evidence offered by the City on intercity cost of living through the Runzheimer Report housing data, ACCRA report and the AIRINC study all support the City's position that cost of living is higher in the California comparators, than in Seattle, Washington. Under the Federal Pay Act certain federal law enforcement officers are paid a premium when assigned to such high cost areas as San Francisco or Los Angeles. Federal law enforcement officers assigned to Seattle and Portland do not receive the premium.

The Area Wage surveys conducted by the Department of Labor were the subject of considerable debate. Each side made their own points based on a reading of the Area Wage surveys, and related information. The Arbitrator holds the City made the better case for its proposition that for various occupations, "wages are higher in the WC 7 than in Seattle."

Through the testimony of Dr. Leonard, the City was able to demonstrate that "wage differences tend to reflect cost of living differences." Dr. Leonard correctly reasoned that if you are going to compare pay levels across regions then it is necessary to take into account differences in the cost of living. Responding to the Union's attacks on the reliability of the numerous attempts to measure intercity cost of living, Dr. Leonard observed while none of the indexes is without fault, they all give "unanimous

support for the notion that the cost of living is higher in California than" in Washington.

Union expert witness Kilgallon pointed to flaws and weaknesses in the City's effort to measure intercity cost of living between Seattle and the California comparators. Kilgallon's analysis picked around the edges of the City's evidence concerning intercity cost of living. In the judgment of this Arbitrator, Kilgallon was not able to demonstrate the City's evidence on intercity cost of living was fundamentally flawed, and should therefore be totally ignored.

Moreover, counsel for the Union presented a comprehensive and wide-ranging attack on the validity of utilizing intercity cost of living data to resolve this dispute. Many of those same arguments were raised before arbitrator Snow and were rejected by Snow. This Arbitrator concurs with arbitrator Snow that to allow any flaw or weakness in the evidence to eliminate its evidentiary usefulness would incorrectly remove a great deal of helpful information from consideration by an interest arbitrator.

The Arbitrator was convinced by the Union's arguments that the City's evidence on intercity cost of living should not be applied in a rigid or mechanical manner. The City submitted the results of all of its intercity cost of living data "suggest there is about a 6.4% differential between Seattle and the WC 7." Based on this 6.4% differential, the City argued the Arbitrator should include this figure in any analysis of the total compensation paid SPMA members.

The Arbitrator holds the City's evidence does not rise to the level which would warrant the application of a precise mathematical formula to the determination of Seattle police wages for the 1992-1994 contract. Given the varying degrees of reliability and errors in the cost of living data, the Arbitrator rejects the City's attempt to drive wages down for Seattle police managers based on a purported "6.4%" intercity cost of living differential between Seattle and the WC 7.

The Arbitrator finds the City's cost of living data permits a reasonable inference that cost of living in the comparative California cities is higher than in Seattle. The totality of the intercity cost of living data serves to prove the wage disparity between Seattle and the WC 7 is not as great as alleged by the Union. When viewed in light of the City data and other relevant factors, the Arbitrator concludes SPMA's proposal which seeks between a 13.7% and 20.3% increase in salary and longevity in order to bring wages to the average of the WC 7, is not justified.

F. Comparability

The driving force behind the positions of the parties on the wage issue was comparability. While the parties stipulated to the seven West Coast cities that should be used to define Seattle police management wages, they differed sharply on the methodology which should be used to calculate total compensation provided to police managers in the comparator jurisdictions. The parties agreed to certain basic compensation data in constructing their respective exhibits on total compensation. However, they vigorously disagreed over the use of such elements as the appropriate benchmark for comparison, medical insurance premiums, intercity cost of living data, CPI figures, uniform allowance, pension contributions and deferred compensation in determining total compensation for purpose of creating comparison studies. The evidence and testimony offered by the parties was extensive and the subject of major controversy during the course of the arbitration.

The starting point for examination is to look at the top step wage being paid to employees in the WC 7, without regard to other elements of compensation. Even this process was complicated by the use of different time periods and assumptions regarding the top step wage. Union Exhibit 35(a) revealed a maximum base wage as of September 1992 as follows:

	Annual Basis
City	**Base Salary**
Long Beach	**$66,308**
Oakland (PERS)	**$64,008**
Oakland (P&F)	**$67,092**
Portland	**$56,627**
Sacramento	**$53,518**
San Diego	**$63,099**
San Francisco	**$62,413**
San Jose	**$65,605**
Average - PERS	**$61,654**
Average - P&F	**$62,095**
Seattle	**$57,540**

Variance of Seattle from Average

PERS	
Hours/dollars	**-$4,114**
Percent	**-6.7%**
P&F	
Hours/dollars	**-$4,555**
Percent	**-7.3%**

Un. Ex. 35(a).

A similar study for base wages paid as of September 1993 demonstrated:

Annual Basis

City	Base Salary
Long Beach	$68,298
Oakland (PERS)	$70,608
Oakland (P&F)	$74,016
Portland	$58,046
Sacramento	$55,712
San Diego	$63,747
San Francisco	$65,533
San Jose	$65,605
Average - PERS	$63,936
Average - P&F	$64,422
Seattle	$57,540

Variance of Seattle from Average

PERS	
Hours/dollars	-$6,396
Percent	-10.0%
P&F	
Hours/dollars	-$6,882
Percent	-10.7%

Un. Ex. 37.

The Union study of base wages shows Seattle had a base salary of 6.7% behind the WC 7 on September 1, 1993, if the Oakland PERS figure is used, or 7.3% behind the WC 7 if the Oakland P&F figure is used. SPMA used the 20-year lieutenant as the benchmark. The City wanted to compare the 23-year lieutenant which would narrow the wage difference because of additional vacation time for a Seattle officer.

The City's study of base salaries for 1993 revealed similar figures. City Exs. 92-99. The City reasoned that adoption of its 2.8% proposal would place Seattle 3.9% (4.5%) behind the average of the WC 7. Given the substantial difference in the cost of living between jurisdictions, City submits SPMA members are

fairly and appropriately compensated. If the Union's reading of the base salary figures is correct as of September 1, 1992, an increase of 7.1% (PERS) or 7.9% (P&F) is necessary to restore the Seattle base salary for a lieutenant to the average of the WC 7. In addition, the Union views the gap between Seattle and the average of the WC 7 growing to 11.1% (PERS) and 13.2% (P&F) in September 1993.

Next, the parties turned to making comparisons based on total compensation. Because each side included different factors in their total compensation analysis, widely different conclusions were reached on exactly how Seattle police managers stand in relation to their counterparts in the WC 7. Each side also reduced their total compensation to an hourly rate to make a comparison.

The results of the SPMA compensation per hour computations for September 1992 are displayed at Union Exhibit 35(a). Several columns from the Union study are noteworthy for review in this case. They are:

	Annual Basis			
	14 Total Direct Compen-sation and Health Care Costs	16 Total Compen sation of Employee Pension	20 Total Compen-sation net Pension Contrib.	24 Total Comp net of Employee Contrib.
Long Beach	$72,104	$78,072	$78,072	$42.80
Oakland (PERS)	$74,897	$81,053	$81,053	45.23
Oakland (P&F)	$77,413	$77,413	$77,413	43.20
Portland	$62,585	$66,548	$66,548	36.73
Sacramento	$71,293	$77,146	$77,146	42.48
San Diego	$68,152	$72,335	$70,082	38.25
San Francisco	$67,543	$68,183	$64,344	35.43
San Jose	$79,638	$79,638	$73,079	38.30
Average - PERS	$70,887	$74,711	$72,904	$39.89
Average - P&F	$71,247	$74,191	$72,384	$39.60
Seattle	$66,212	$66,212	$62,621	$34.18
	Variance of Seattle from Average			
PERS				
Hours/dollars	-$4,676	-$8,499	-$10,282	-$5.71
Percent	-6.6%	-11.4%	-14.1%	-14.3%
P&F				
Hours/dollars	-$5,035	-$7,979	$ 9,763	-$5.42

Percent	**-7.1%**	**-10.8%**	**-13.5%**	**-13.7%**

Base Salary Increase Indicated to Attain Average

PERS	**7.1%**	**12.8%**	**16.4%**	**16.7%**
P&F	**7.6%**	**12.1%**	**15.6%**	**15.9%**

Un. Ex. 35(a).

The Union concludes that column 14 shows the sum of all direct compensation and employer health care cost placing Seattle 6.6% below average for the WC 7. (7.1% for P&F). According to Union, an increase of 7.1% is required as of September 1, 1992, to bring the members up to the average of the WC 7 for total Direct Compensation and Health Care Costs. (7.6% for P&F).

Additionally, if the pension pick-up is added the effect is even more dramatic. Column 16 demonstrates the average compensation for WC 7 lieutenants including pension pick-up on September 1, 1992, is 12.8% above Seattle (PERS) and 12.1% (P&F). Total Compensation Net of Pension Pick-Up is displayed at column 20. The disparity at this comparison proves the need for an increase of 16.4% (PERS) and 15.6% (P&F) to reach the average of the WC 7. According to the Union1 if the calculations are done on an hourly basis an increase of 16.7% (PERS) and 15.9% (P&F) is warranted.

The City performed its own Total Compensation Net Employee Contributions for hours worked by a 23-year police lieutenant. The study revealed in relevant part for 1993 as follows:

TOTAL COMPENSATION NET EMPLOYEE PENSION CONTRIBUTIONS FOR HOURS WORKED BY 23-YEAR POLICE LIEUTENANTS IN WEST COAST CITIES 1993

Compensation Items	Long Beach	Oakland	Portland	Sacramento	San Diego	San Francisco	San Jose
Total Comp. Less Pension	$71,505	$77,927	$62,492	$70,641	$65,115	$63,704	$72,106
Cost of Living Adjustment	91.4%	93.0%	96.9%	98.5%	92.5%	91.2%	92.3%
Total Comp Per Year Adjusted To C.O.L.	$65,356	$72,472	$60,555	$69,581	$60,231	$58,034	$66,554
Total Comp. Per Hour Worked	$35.83	$40.44	$33.42	$38.32	$32.88	$31.96	$34.88

COMPENSATION ITEMS	AVERAGE EXCLUDING SEATTLE	SEATTLE
Total Comp. Less Pension	$69,070	$65,279
Cost of Living Adjust.	93.7%	100.0%
Total Comp. Per Year Adjusted to C.O.L.	$64,683	$65,279
Total Comp. Per Hour Worked	$35.39	$36.11

City Ex. 102.

Based on this computation the City concludes Seattle is 2% above the average for the WC 7 in total compensation paid.

Two major factors caused the parties to reach different conclusions about the relative standing of SPMA members and the WC 7. First, the City used an annual health care cost figure of $7,458. SPMA used an annual figure of $4,356 on the LEOFF II premium rate for 1992. Second, the City made a cost of living adjustment to the total compensation based on its relative cost of living data which it claimed demonstrated cost of living is slightly over 6% less in Seattle than in the WC 7.

The Arbitrator held in the discussion on cost of living that he was not willing to accept a rigid formula to account for cost of living differences between Seattle and the WC 7. The Arbitrator does accept the City's evidence as a general proposition that demonstrates the cost of living is higher in the California cities than in Seattle. At this point it is critical to note that cost of living is only one of several factors an interest arbitrator must consider when making a salary determination under the statute.

The health care cost used by City to make its computations was $7,458 annually. The average health care cost in the WC 7 is $4,855, excluding Seattle. The Seattle figure is

$2,603 above the average, and is $4,208 above San Diego at the lowest contribution level of $3,250. While the Seattle figure represents an accurate health cost to City per member, the Arbitrator is convinced the $7,458 is so far out of line with the WC 7 that it unfairly distorts the comparison. The members of SPMA have no control over the $7,458 figure. SPMA urged the Arbitrator to use a blended premium rate in calculating total compensation. In the judgment of the Arbitrator, the use of a blended rate would improperly skew the data. However, this Arbitrator cannot disregard the fact the Seattle figure is approximately 54% higher than the average and should be discounted in the final analysis.

The Arbitrator further finds the evidence offered by the City is cause for restraint in the matter of salary improvements for this group of employees. However, the evidence before this Arbitrator falls far short of the need for a four-month wage freeze, followed by a 2.8% increase for the next twelve months for the SPMA bargaining unit. Adoption of the City's position would drive the relative standing of this group of employees in a downward direction when measured against their counterparts in the WC 7. The dedicated and uninterrupted public service of this group of employees would not be well-served by an award which would push the wage structure of police managers lower in the rankings with the comparators.

SPMA vigorously argued throughout the arbitration that the legislative mandate compelled an award which would "restore" the total compensation to the average of the WC 7. There is absolutely no such requirement in the statute. Whenever one compares compensation and computes averages, it means one of the comparators must be at the bottom of the group and another will be at the top of the list. Normally, the goal of this Arbitrator has been to provide a remedy to correct problems where the pay scale is substantially below the average of the comparators. In other words, where the low paying jurisdiction's total compensation bears little or no resemblance to total compensation paid by the comparators, catch up pay may be justified.

The Arbitrator finds the members of this bargaining unit are providing productive and efficient police management services for the citizens of Seattle. Responding to crime and developing appropriate responses to crime has placed greater work demands on the police managers. However, the admirable performance of this dedicated group of officers does not translate into a justification for an excessive and extravagant wage settlement.

No purpose would be served by this Arbitrator giving a detailed analysis of the specific total computation analysis made by the parties because of the inherent differences in methodology used in the computations. What can be derived from a close

examination of the wage comparison studies offered by both parties is that this group of employees is well paid and enjoys a competitive and advantageous salary schedule. In addition, the membership enjoys a high level of non-salary benefits beyond the payment of wages resulting from the salary schedule. In terms of the overall wages and benefits it can be safely concluded SPMA members are not in need of a significant increase based on a catch up because their total compensation is substantially out of line when measured against the WC 7.

This Arbitrator specifically rejects the Position of the City that the wages and benefits for members of this unit should be found to be unreasonable or extravagant when measured against the salaries of other law enforcement personnel, particularly the WC 7. What is evident from the evidence before this Arbitrator is that this group of employees enjoys a competitive package of wages and benefits which still allows room for improvement when evaluated against all of the statutory criteria. A salary adjustment for the duration of this contract which would diminish the relative standing of SPMA members in terms of total compensation with the WC 7 must be avoided.

The implementation of this Award will set the salary schedule with a 2% increase effective September 1, 1992, through December 31, 1992, as follows:

Police Lieutenant	**$4,510 $4,696 $4,891**
Police Captain	**$5,188 $5,401 $5,626**
Police Communications Director	**$5,188 $5,401 $5,626**
Police Major	**$6,213 $6,469**

The 4% increase effective January 1, 1993, through December 31, 1993; will create a salary schedule which reads:

Police Lieutenant	**$4,690 $4,884 $5,087**
Police Captain	**$5,396 $5,617 $5,851**
Police Communications Director	**$5,396 $5,617 $5,851**
Police Major	**$6,462 $6,728**

Union Exhibit 36 displayed the maximum base salaries effective September 1993 as follows:

City	**[2] Maximum Base Salary**
Long Beach, CA (1)	**$68,298**
Oakland, CA (PERS)	**$70,608**

Oakland, CA (P&F)	**$74,016**
Portland, OR	**$58,046**
Sacramento, CA	**$55,712**
San Diego, CA	**$63,747**
San Francisco, CA	**$65,533**
San Jose, CA	**$65,605**
Average - using PERS	**$63,936**
Average - using P&F	**$64,422**
Seattle, WA	**$57,540**

The Award of this Arbitrator will put in place a salary schedule that is competitive and will maintain the relative wage ranking of SPMA members when compared to the pay levels in the WC 7. For the period July 1992 through June 1993 the average increase in the WC 7 was 2.5%. City Ex. 87. The Award of this Arbitrator placing the top step wage for a lieutenant at $61,044 in 1993 is within the range of reasonableness when measured against the factors enumerated in RCW 41.56.460. While the City did not make an inability to pay argument, it urged fiscal restraint based on economic conditions in Seattle. The salary schedule fashioned by the Arbitrator takes into account the expressed concerns of the City that an award should be consistent with the current fiscal condition of the City.

The Arbitrator also gave considerable weight to the internal equity factor. For contracts effective on January 11 1993, the pattern of settlements for City bargaining units was a 3.2% increase. The 3.2% figure was based on the 90% of the CPI formula. The major exception to this pattern was the SPOG which received a 5% increase effective January if 1993. City Ex. 88. The 4% increase for this bargaining unit in 1993 fits within the settlement patterns for other City employees of 3.2% and the 5% agreed to for Seattle police officers represented by the SPOG.

Moreover, the Award is in line with the range of settlements being given to other public and private settlements in the Puget Sound area for 1992-93 City Exhibit 89 reflects an average wage increase of 3% by the employers surveyed. If the Arbitrator had adopted the SPMA position, the wage settlement would have been totally out of touch with public and private wage adjustments in the Puget Sound area.

In coming to a decision on the 1993 salary adjustment, the Arbitrator was cognizant of the fact the City absorbed the entire 1993 medical cost increase for SPMA members. The amount of the increase is approximately $79,000. By rejecting the City's proposal for a PPO, the Arbitrator has essentially retained the

status quo on insurance for the duration of this Agreement. The acceptance of the Union's position on the PPO issue caused this Arbitrator to exercise restraint in the amount of the wage increase to be set for 1993.

G. 1994 Adjustment

The Union proposed a 1994 wage adjustment based on a formula that would cause the "total compensation" of the members of this bargaining unit to be not less than the "average of the WC 7." The Arbitrator holds this formula would be unworkable and unduly complex to administer. As these proceedings dramatically illustrated, the determination of total compensation is not a simple task.

Moreover, the Union proposal would require a continuing adjustment of Seattle wages because the language fails to exclude mid-term contract changes that might be implemented in the WC 7 compensation packages from the formula. Adoption of the proposed formula would essentially require the City to write a blank check for 1994 wages to be paid to this bargaining unit.

The formula proposed by the Union is objectionable because it would tie Seattle wages to the average of the total compensation paid in the WC 7. This Arbitrator has previously rejected the Union approach to establishing the compensation schedule for SPMA members based exclusively on the average compensation paid in the WC 7. There is nothing in the record or law that mandates SPMA members to be paid total compensation equal to the average of the WC 7.

The CPI formula proposed by the City is reasonable and should be adopted with one exception. The minimum increase should be set at 3% rather than the 2% as proposed by the City. The Arbitrator will modify the City's proposed language to reflect this change.

H. Longevity

The Arbitrator in Section IX of this Award rejected the SPMA proposal to expand and increase the longevity pay. The current longevity Percentages shall remain unchanged. The amount of longevity pay shall be adjusted to reflect the premium based on the top pay step of the lieutenant effective January 1, 1993.

I. Premium Pay for Precinct Captains

The Arbitrator discussed this issue in Section VII, Overtime, of the Award. In that discussion the Arbitrator rejected

the union position and found in favor of the City 3% premium for captains who serve as a precinct commander. The City's new language proposed at A.7 will be awarded.

J. Changes in Circumstances During Pendency of the Proceeding

The Arbitrator received numerous revised and corrected exhibits after the conclusion of the arbitration hearing. These exhibits were submitted by mutual agreement of the parties. The Arbitrator also received a series of correspondence from counsel concerning pending unfair labor practice litigation between the parties. This correspondence was disregarded by the Arbitrator in formulating his Award.

K. Other Factors Normally or Traditionally Taken Into Consideration in the Determination of Wages, Hours and Conditions of Employment

The discussion regarding intercity cost of living data is also held appropriate for evaluation under this criteria.

In sum, the Arbitrator will order a 2% increase effective from September 1, 1992, through December 31, 1992, as part of the transition to a calendar year contract term. Effective January 1, 1993, the salary schedule shall be adjusted by 4%. Effective January 1, 1994, an increase derived from the City's formula based on the CPI-W shall be implemented with the modification of a 3% minimum. The City's proposal on premium pay for precinct captains will be ordered. All SPMA proposals regarding the salary issue are hereby rejected.

AWARD

The Arbitrator awards that Appendix A - Salaries shall provide as follows:

APPENDIX A - SALARIES

A.1 The classifications and corresponding rates of pay covered by this Agreement are as follows. Said rates of pay are effective September 1, 1992, through December 31, 1992.

Police Lieutenant	**$4,510**	**$4,696**	**$4,891**
Police Captain	**$5,188**	**$5,401**	**$5,626**
Police Communications Director	**$5,188**	**$5,401**	**$5,626**
Police Major	**$6,213**	**$6,469**	

A.2 Effective January 1, 1993, the base wage rates enumerated in Section A.1 shall be increased by 4%. Longevity pay will be adjusted in accordance with the new salary scheduled effective January 1, 1993.

A.3 Effective January 1, 1994, the base wage rates set forth in Section A.1 as adjusted pursuant to Section A.2 above shall be increased by ninety percent (90%) of the percentage increase from July 1992 to July 1993 in the United States City Average Consumer Price Index for Urban Wage Earners and Clerical Workers (the U.S. CPI-W). The salary increase will in no case be less than 3% or greater than 7%. Longevity pay will be adjusted in accordance with the new salary schedule effective January 1, 1994.

A.4 In the event the "Consumer Price Index" becomes unavailable, the parties shall jointly request the Bureau of Labor Statistics to provide a comparable Index for the purposes of computing such increase, and if that is not satisfactory, the parties shall promptly undertake negotiations solely with respect to agreeing upon a substitute formula for determining a comparable adjustment.

A.5 Effective September 1, 1989, a salary premium based on five percent (5%) of their actual base wage rates shall be paid to Police Lieutenants assigned to the Bomb Squad while so assigned.

A.6 Effective September 1, 1992, longevity premiums based upon the top pay step of the classification Police Lieutenant shall be added to salaries in Section A.1 during the life of this Agreement in accordance with the following schedules:

Longevity	Percentage	Monthly Equivalent in Dollars Effective September 1, 1992
Completion of fifteen (15) years of service	3%	$132
Completion of twenty (20) years of service	4%	$176

A.7 Effective September 1, 1992, a salary premium based on three percent (3%) of their actual base wage rate shall be paid to Police Captains while assigned to the position of precinct commander.

VI. ARBITRATOR'S AWARD - MEDICAL COVERAGE

Present in Article 8, Medical Coverage, is a generous package of health insurance benefits. There are no issues before the Arbitrator concerning the level of the benefits available to SPMA members. The focus of the dispute is over how the medical benefits will be delivered and who will pay for the cost of the insurance programs. The health insurance cost to City for the 63 SPMA members and dependents for 1993 will be $469,831. City Ex. 192. This figure used the "L-1 Premium/Dental/Direct Costs" to make the calculation of total cost.

SPMA proposed to continue the existing programs with the City paying the vast majority of the costs for medical coverage. The City made three main proposals in an effort to contain the rapidly rising cost of providing health insurance to the members. First, the City would include a PPO as part of the health care package.

Second, the City proposed that any increase in the King County Medical rates, beginning in 1994, would be shared between the employer and employee, with the employee paying 20%. At the same time the City would reduce the co-pay for the HMO plans from its current level of 20% to 10%. Third, the City proposes some minor changes in the co-pay features of the Group Health and Pacific Medical plans.

Regarding the City's proposal to include a PPO, the Arbitrator is not convinced he should force a PPO program on the members of this unit at this time. The only PPO currently in existence with the City involves "retired" Seattle Police Officers' Guild members. While it is true PPO plans are common in both the WC 7 and major public employers in the Puget Sound area, PPO plans, with one exception, are not part of the health insurance program for employees of the City of Seattle. This Arbitrator is not willing to place SPMA members at the forefront of the PPO movement for City workers.

The Arbitrator does concur with the City that increasing the co-pay on KCM rates to require members' share in any increase in the 1994 premium is warranted. If the SPMA is going to continue its adamant objection to a PPO program, members should start paying a portion of the cost to continue an expensive package with KCM. The majority of the members of this unit are enrolled in the KCM plan which is the most expensive option available to deliver health insurance coverage to this unit. The 1993 rate is $4,035 for KCM. City Ex. 182. The Group Health premium is $3,758. City Ex. 184. The Pacific Health rate for 1993 is $3,851. City Ex. 185.

Moreover, the City as part of its proposal has offered to decrease the co-pay for the HMOs from 20% to 10%. With this option available, SPMA members who want to reduce the amount of the co-pay can do so by changing coverage from KCM to one of the two HMO

plans. As a practical matter, there will be no co-pay in 1994 because KCM has notified the City it does not intend to increase the premium for 1994.

The Arbitrator notes that the City's proposed language does not use the 20% figure as the amount of the co-pay, but would have the members pay 100% of the difference between the 1993 and 1994 insurance premium rate. The Arbitrator will award modified language to require the parties to share equally in any increase in the KCM premium. In this manner, both the members and the City will have a stake in future premium increases for KCM coverage.

The Arbitrator also holds that City proposals to change the co-pay features for doctor visits, 30-day drug supply prescriptions and emergency room visits for both of the HMO programs are well-taken. Adoption of this proposal will require members to pay a $5 fee for each visit to a provider, increase the prescription fee from $3 to $5, and increase the emergency room fee from $25 to $50 per visit.

In sum, the Arbitrator holds that the time for adopting a PPO is rapidly approaching as a means to control health care costs. However, the subject should be deferred to the next round of bargaining. The Arbitrator's adoption of premium cost sharing for the KCM plan is intended to demonstrate to the SPMA that the status quo regarding KCM should not continue beyond the term of this contract. The City's goal to encourage SPMA members to use managed care is valid and should be pursued in future negotiations.

AWARD

The Arbitrator awards that Article 8 shall be modified to state:

> **Premium Sharing: Effective January 1, 1994, King County Medical (KCM) enrollees and the City will each pay 50% of the difference between the 1993 and 1994 monthly premiums, which reflect the plan ranges described below. For calendar year 1994, Group Health (GH) and Pacific Health (PH) enrollees will pay 10% of each year's respective monthly premium.**
>
> **Effective January 1, 1994, co-payments at Group Health Cooperative and Pacific Health, will require subscribers to pay a $5 fee for each visit to a provider, $5 for each 30-day prescription drug supply and $50 for each emergency room visit.**

The remainder of Article 8 shall remain unchanged.

VII. ARBITRATOR'S AWARD - OVERTIME

The Arbitrator concludes the City's position is correct that the members of this bargaining unit should not have the benefit of flexibility in determining their work schedules and participate in a generous executive leave program, while at the same time be entitled to overtime compensation for work in excess of 40 hours. While there is certainly merit to providing some overtime opportunities for members of this unit who are compelled to work many hours in excess of 40 hours per week, this Arbitrator is unwilling to force overtime on the parties without a change in the way scheduling is accomplished. Since SPMA has made no proposal which would modify the members' flexibility to determine their own work schedules or to delete executive leave, the Arbitrator is compelled to reject the Union's proposal for overtime.

Pursuant to Section 3.4.1 overtime compensation is available to lieutenants. Captains and majors do not earn overtime compensation for work in excess of 40 hours per week. However, captains and majors do participate in an "executive leave" program which provides for paid time off in lieu of overtime. During each calendar year a major is granted 60 hours of noncumulative paid executive leave. A captain is granted 50 hours of noncumulative paid executive leave. The executive leave program went into the contract in 1984. The amount of executive leave time was raised to its present levels in the 1989 negotiations. As Assistant Chief Brasfield testified; paying managers overtime would run counter to the concept that commanders are paid to take initiative and make independent judgments. Managers are not required to punch a clock. They are expected to give and take flexibility to get the job done. City of Seattle, Beck, 1983. Working additional hours is expected and required when one is a manager in the Police Department and in other areas of City government.

Moreover, in evaluating this proposal, the Arbitrator has taken into account SPMA members are paid for the standard eight hours of work which includes paid meal periods. The fact the members of this unit enjoy a paid meal period argues against the adoption of the Union's overtime proposal for captains and majors.

One of the most compelling reasons for rejecting the overtime proposal for majors and captains is the presence of the executive leave program. The executive leave program is unique to the members of this bargaining unit. The executive leave program was negotiated into the contract as recognition for the long hours

of work and standby time worked by captains and majors. City Ex. 210. During the 1989 negotiations, SPMA negotiated an increase in the amount of time available for executive leave. The presence of a generous executive leave program mitigates against SPMA's claim that captains and majors should also receive overtime.

The SPMA has filed a lawsuit pursuant to the FLSA seeking overtime pay for all bargaining unit members for all hours worked over 40 hours per week. Given the existence of the FLSA lawsuit, this Arbitrator is persuaded the status quo should not be significantly altered by this interest arbitration proceedings. Once the FLSA issues are resolved, the course of future bargaining concerning overtime will be established. When that day arrives, the parties will be able to negotiate within established legal guidelines.

The City has not ignored the increased workload and responsibilities placed on precinct captains. The City's proposal to add a 3% premium to captains while acting as a precinct commander is an appropriate response to a demonstrated problem. The Arbitrator will award the 3% in the wage issue section of this Award.

AWARD

The Arbitrator awards that the SPMA's proposals to modify the overtime article should not be adopted. Section 3.4 shall remain unchanged in the successor contract, except as modified by the mutual agreement of the parties.

VIII. ARBITRATOR'S AWARD - SICK LEAVE/FAMILY EMERGENCIES

Article 3.13 currently provides that both LEOFF I and LEOFF II employees can be granted paid time off to attend to family emergencies. During the term of the last contract, the City began allowing employees to use sick leave for family emergencies. LEOFF II employees can use sick leave for family emergencies.

The change in policy regarding the use of sick leave for family emergencies prompted the City to propose a modification to Article 3.13 to limit use of sick leave to LEOFF I employees.

The Arbitrator finds that LEOFF II employees should not be required to forego sick leave to handle family emergencies. LEOFF I employees are not similarly restricted. The Arbitrator concurs with the Union that the City's proposal should be rejected.

AWARD

The Arbitrator awards that the City proposal to modify

Article 3.13 should not become a part of the Collective Bargaining Agreement and the provision shall remain unchanged.

IX. ARBITRATOR'S AWARD - LONGEVITY

Present contract language sets longevity premiums as a percentage of the top step of a police lieutenant. Jt. Ex. 9, Appendix A - Salaries, A.6. There are two longevity steps. After completion of 15 years of service, the member earns a 3% longevity premium. At the completion of 20 years of service, the longevity premium increases to 4%. This translates into a $2,364 longevity premium for a 20-plus year Seattle police lieutenant. City Ex. 102.

The longevity provision was first added to the contract in 1990. The Union proposal would create a longevity scale of 4% for a 10 year employee, rising to 10% for a 25 year employee. Only two of the five WC 7 jurisdictions pay longevity premiums. The Seattle longevity pay for veteran officers exceeds the $1,164 paid in Oakland and $100 paid in Sacramento. City Ex. 102. The Arbitrator concurs with the City that the cost of funding the Union proposal is excessive.

The Arbitrator holds the current longevity premium is reasonable and adequate when examined against the internal and external comparators. Since the Union has failed to present persuasive evidence to justify the substantial change to the longevity program, the Arbitrator concludes the Union proposal should not become a part of the contract.

AWARD

The Arbitrator awards that Appendix A - Salaries, A.6, longevity, based on a 3% longevity premium after 15 years of service and a 4% longevity premium after 20 years of service, shall remain unchanged.

X. ARBITRATOR'S AWARD - DURATION

There are two issues in dispute over this provision of the contract. First, the City proposed to change the contract from its current September through August configuration, to a calendar year of January through December. Second, the City proposed that the new contract remain in effect until December 31, 1994. The Union proposed a three-year contract commencing September 1, 1993, through August 31, 1995.

The Arbitrator finds the contract year should be changed to coincide with the calendar year. Collective bargaining

agreements which begin their contract cycle on January 1 are the norm in the state of Washington. The City has agreed to a calendar year contract with all unions it has had the opportunity to negotiate with on the subject. The SPOG agreed to a January 1 effective date in the latest round of bargaining. The City's case that better financial planning could be achieved with a January 1 effective date was convincing.

The Arbitrator does not agree with the City's proposed wage freeze for the period September 1, 1992, through December 31, 1992. I will address the pay issue in the discussion on wages.

The change in the configuration to a calendar year will result in a contract with a duration of two years and four months or 28 months. This Arbitrator normally favors multi-year agreements of three years. While the Union proposed a three-year contract, the Arbitrator believes a contract year of two years and four months will not represent a hardship on either party. The Award in the instant case of a contract--eight months short of the three-year Agreement the Union was seeking--is justified on a one-time basis in order to accomplish the move to the January 1 effective date.

Moreover, the Arbitrator refused to award the City's proposal for a PPO on the ground the time was not ripe to impose a PPO on SPMA members. As I noted in the discussion concerning medical coverage, the status quo cannot continue in the methods by which medical insurance coverage is provided to the members of this unit. A contract duration of less than three years will require the parties to come to grips with the insurance issue for 1995 and thereafter.

AWARD

The Arbitrator awards that the term of this Agreement shall be from September 1, 1992, through December 31, 1994.

Respectfully submitted,

Gary L. Axon
Arbitrator
Dated: December 31, 1993