IN THE MATTER OF AN INTEREST ARBITRATION UNDER
THE FIRE AND POLICE SERVICES COLLECTIVE BARGAINING ACT, R.S.B.C, 1996 c. 142

BETWEEN:

VANCOUVER POLICE BOARD

(the "Police Board")

AND:

VANCOUVER POLICE UNION

(the "Union")

(Re: Collective Agreement Renewal)

ARBITRATOR:	Stan Lanyon, Q.C.
COUNSEL:	Tom Roper, Q.C. and Ryan Copeland for the Employer Gabriel Somjen and Lisa Carlson for the Union
DATE OF HEARING:	June 9, July 2, 3, 4 and 7, 2014
PLACE OF HEARING:	Vancouver, B.C.
DATE OF DECISION:	July 29, 2014

A W A R D

I. Nature of Proceeding and Background

[1] The parties' previous collective agreement was in effect from April 1, 2010 to December 31, 2012. The parties commenced collective bargaining in respect to the renewal of this collective agreement on May 13, 2013. They met approximately twenty times - inclusive of both their own negotiations and mediation at the B.C. Labour Relations Board.

[2] On February 5, 2014 the Union applied to the Minister of Labour asking that the parties' collective bargaining dispute be resolved by arbitration under the *Fire and Police Services Collective Bargaining Act*, R.S.B.C. 1996 c 142 (the "*Act*"). On February 20, 2014 the Employer agreed that this dispute should be resolved by interest arbitration, but asked that the Minister direct this arbitration board to give greater weight to Sections 4 (6)(b), (c) and (e) of the *Act,* in order that the Board "address and correct" the growing discrepancy between police salaries and the salaries of other civic employees. On May 27, 2014, the Acting Minister of Labour directed the dispute to interest arbitration; however, she refused to make the specific direction sought by the Employer. Acting Minister Oakes stated that an arbitrator under the *Act* is bound to consider all the factors set out in Section 4(6), and therefore, the Employer could make the same submission to the arbitrator that it had made to the Minister.

[3] The parties agreed to mediation/arbitration. It soon became evident after the first day of mediation that the parties were too far apart to reach agreement. The matter then proceeded to arbitration for the remaining three days. No witnesses were called. A large number of documents were introduced, consisting of many different economic reports and studies from across the country – federal, provincial and municipal. The entire hearing was conducted by way of oral submission. The parties also made written submissions amounting to almost 200 pages.

[4] Two of the more common collective bargaining methodologies employed by parties are, first, to bargain article by article, and, if agreement is reached in respect to a particular article, record that article as having been settled in the form of a Memorandum of Agreement or an Agreed to Items record. This document is then put before an interest arbitrator as the Agreed to Items along with a list of the remaining outstanding issues. A second method also approaches bargaining on an article by article basis. However, this method is governed by the convention that nothing is agreed to until everything is agreed to. In this round of bargaining these parties chose this second method. Thus, with a few exceptions to be noted later, there remains a significant number of outstanding issues. This is the case notwithstanding that the parties, to their credit, have reduced the number of issues that are outstanding, both prior to and during this interest arbitration.

II. Outstanding Issues in Dispute

[5] The Union lists the following issues in dispute:

(a) Wages,
(b) Shift differential,
(c) Per diems,
(d) Maternity and Parental leave,
(e) Vision care,
(f) Orthopedic benefits,
(g) Healthcare spending,
(h) Psychological services,
(i) Dental services,
(j) Indemnification provisions,
(k) Sick leave,
(l) Parking,
(m) Clothing allowance,
(n) Administration of Benefit Plan.

[6] The Employer also identified the following issues in dispute:

(a) Term,
(b) Wages,
(c) Wage offsets (a number of items under this heading),
(d) Parking, and
(e) Annual leave.

[7] Amongst the most important issues in any interest arbitration are Wages and the Term of the agreement. The Term of this agreement can be dealt with summarily.

III. Term

[8] Although the Employer had reserved its right to seek a longer term collective agreement (either four or five years) it acknowledged that the parties have made their wage proposals on the premise of a three year collective agreement with a term of January 1, 2013 – December 31, 2015. I, therefore, conclude that the renewed collective agreement between these parties shall run from January 1, 2013 to December 31, 2015.

IV. Wages

[9] Not surprisingly, this has proved the most difficult issue; indeed, it may be fairly stated that this issue has proved to be more contentious than at any other time in the recent past. The Employer described the difference in the parties proposals as "stark", and the Union states that the Employer's approach to wages in this round of bargaining has had an adverse effect on the bargaining relationship.

[10] The Union seeks the following wage increases:

January 1, 2013 – 6%
January 1, 2014 – 3.5%
January 1, 2015 – 3.5%
Total: 13%

[11] The Employer has three different wage proposals. It acknowledges that its first proposal is lower than the settlements reached with other civic employees in the City of Vancouver. It says that this settlement is necessary because it acts as a corrective to the discrepancy between Police Officer salaries and other civic employees. This first proposal is structured as follows:

January 1, 2013 - .50%
January 1, 2014 – 1.50%
January 1, 2015 – 1.75%
Total: 3.75%

[12] The Employer's second proposal "mirrors" the other civic settlement wage increases. It is as follows:

January 1, 2013 – 1.75%
January 1, 2014 – 1.75%
January 1, 2015 – 2.0%
Total: 5.5%

[13] However, this settlement, the City states, would require reductions to the gratuity day banks of employees.

[14] The Employer's third proposal is that any settlement higher than that reached by these other civic employees would require significant offsets to achieve a "net zero additional cost". It gives examples of the following offsets that would be required: a reduction in the health and welfare benefits, or the increment structure, or the gratuity day bank, or shift premiums, or overtime rates, or any "other changes that generate a net savings". In other words, these would be cuts to the current collective agreement wages and benefits in order to limit any increase to 5.5% (second scenario).

[15] Underlying the Employer's approach is its fundamental disagreement with the way the *Act* has been interpreted and applied by interest arbitrators. The Employer argues that interest arbitrators under the *Act* have misapplied the enumerated factors set out in Section 4(6). It states that interest arbitrators have placed undue reliance on national comparators, specifically Sections 4(6)(a) and (d), to the exclusion of other local and regional factors, Sections 4(6)(b)(c) and (e), to the point that it has rendered these local and regional factors almost "meaningless".

V. *Fire and Police Services Collective Bargaining Act*, R.S.B.C. 1996 c 142

[16] Section 4(6) of the *Act* sets out the following seven (7) factors that an arbitrator must consider when rendering a decision:

> (6) In rendering a decision under this Act, the arbitrator or arbitration board must have regard to the following:
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> (a) terms and conditions of employment for employees doing similar work;
>
> (b) the need to maintain internal consistency and equity amongst employees;
>
> (c) terms and conditions of employment for other groups of employees who are employed by the employer;
>
> (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;
>
> (e) the interest and welfare of the community served by the employer and the employees as well as any factors affecting the community;
>
> (f) any terms of reference specified by the minister under section 3;
>
> (g) any other factor that the arbitrator or arbitration board considers relevant.

[17] Since the enactment of this statute there have been numerous awards published in respect to how these particular factors ought to be interpreted. (See for example: *Vancouver Police Board and Vancouver Police Union,* [1997] B.C.C.A.A.A. No. 621 (Lanyon); *City of Burnaby and Burnaby Firefighters Union, Local 23,* [2008] B.C.C.A.A.A. No. 220 (Gordon); *City of Richmond and Richmond Firefighters Association,* [2009] B.C.C.A.A.A. No. 106 (McPhillips; *City of Nelson and Nelson Professional Firefighters Association,* [2010] B.C.C.A.A.A. No. 174 (McPhillips); *City of Campbell River and Campbell River Firefighters Association,* October 19, 2005 (Gordon).

[18] The interpretive approach of these awards has been to adopt certain fundamental interest arbitration principles. The first is the theory of replication. In summary, an award should replicate as closely as possible an agreement that the parties themselves would have concluded had they been able to do so. In a process of mediation and/or arbitration the interest arbitrator attempts to narrow the difference between the parties so that any final award reasonably "splits the difference" between the parties; a result that the parties tacitly (if unhappily) understand. Thus, interest arbitration is essentially a conservative exercise.

[19] A second general principle is to award what is fair and reasonable. This principle was incorporated specifically into the *Act* (Section 4(6)(d) "the need to establish terms and conditions that are fair and reasonable"). This fair and reasonable rule is within the context of the principle of comparability, the third factor. Comparability is defined as the rational matching of similar occupations. This principle was also directly incorporated into the enumerated factors under Sections 4(6)(a) – (d).

[20] The *Act* assigns no weight to any of the individual factors set out in Sections 4(6)(a) – (g) of the *Act*. As the provision states, an "arbitrator or arbitration board must have regard to" all of the seven (7) factors listed in Section 4(6) (a) – (g).

[21] As stated, Section 4(6) (a) - (d) establishes the principle of comparability. An arbitrator therefore, must compare the terms and conditions of other employees "doing

similar work" (4(6)(a)); he/she must "maintain internal consistency and equity amongst the employees" (4(6) (b)); the arbitrator must "examine the terms and conditions of other employees employed by the employer (4(6)(c)); and the arbitrator must ensure that the terms and conditions are fair and reasonable in respect to the qualifications of the employee, the work they perform, the responsibilities they assume and the nature of the services they render (4(6)(d)).

[22] Section 4(6)(e) deals with the "interest and welfare of the community served …" Section 4(6)(g) addresses "any other factors" that the arbitrator considers relevant. Finally, Section 4(6)(f) is a direction to incorporate any terms of reference specified by the Minister. As I stated earlier, this is not relevant in this case.

[23] I agree with the Employer that factors 4(6) (a) - (d) address local, regional and national comparators. Conversely, factors (b), (c) and (e), emphasize local and regional concerns, whether they be collective agreement settlements or economic factors.

VI. Employer's Argument

[24] As stated, the Employer argues that these enumerated factors under Section 4(6) (a) – (g) of the *Act* have not been applied to Police and Firefighter salaries "as it was intended". It states that national comparators have been given undue weight to the exclusion of the other statutory factors. Moreover, it argues that this "arbitral trend" has, since 1995 (a year before the *Act* came in force), led to a unjustifiable "divergence" between Police and Firefighter salaries and other civic employees. This trend must now be "corrected" by giving far greater weight to the factors listed in 4(6) (b), (c) and (e); in effect, Police and Firefighter wage increases should be almost identical to those negotiated by other civic employees.

[25] The Employer argues that its primary offer of 3.75% is designed to begin to correct the discrepancy between VPU and CUPE/Teamsters wage increases. It says that its alternative position of 5.5%, which matches the existing settlement with CUPE, will "perpetuate the existing wage gap"; and if both of these proposals are rejected, and a higher

amount is awarded, the existing wage gap will only be "exacerbated"; thus, such an award will require significant offsets.

[26] Moreover, the Employer rejects the exclusive reliance on the standard comparator - the First Class Constable classification. It says that in addition to examining First Class Constable salaries, this arbitration board ought to consider Total Cash Compensation – specifically, salary increments. It relies on the RCMP Total Compensation Report, dated December, 2012. In terms of Total Cash Compensation the Report finds that Vancouver is second out of nine jurisdictions.

[27] In respect to the City of Vancouver settlements, the Employer argues that between 1994 and 2012, VPU salaries have increased a compounded 68.4%, while CUPE/Teamsters settlements over the same period have increased 50.2%. In terms of the local and regional economy, it cites the Economic Forecast Council of British Columbia (Budget and Fiscal Plan 2014/15 – 2016/17, February 19, 2014, Ministry of Finance, British Columbia) which sees real GDP increases in BC as being on average 1.4% in 2013, 2.3% in 2014 and 2.7% in 2015 (page 90). It also cites the Wage Settlement Data from the Business Council of B.C., for the year ending May 2014, which notes that settlements in the public sector averaged 1.25%, and in the private sector, 1.99%. The Employer relies upon the B.C. Public Sector Employer's Council record of settlements that demonstrates that increases for essential service workers, including employees such as paramedics, nurses, prison guards, etc. over the period 2014 – 2019, amounted to 5.5%.

[28] In respect to the City of Vancouver, the Employer argues that, notwithstanding it is *not* making an ability to pay argument, it does rely on the May 2014 Report (City of Vancouver, Financial Status and Outlook) of Ms. Patrice Impey, Chief Financial Officer for the City of Vancouver, which states that the City is facing a structural operating gap requiring cost reductions of $7 million per year; an infrastructure gap which must be financed through debt which is at its upper limit; and tax increases that exceed inflation. She notes that in the last six years the cost of VPU settlements "have exceeded the inflation cost by $50 million". Further, in 2012 the impact of VPU salaries was $15 million or 3% of

all property tax paid by residence and businesses. She concludes her report by stating that "holding VPU wages to inflation are particularly critical to maintaining the City's financial stability" (page 9).

[29] In reply to the Union's claim for 13% over three years, which is based upon the current salaries paid by other Western Provinces such as Alberta, Saskatchewan and Manitoba, the Employer argues that the industrial aggregate wage rate in BC was $45,559 in 2013, whereas in Alberta it was $57,814. Further, it cites a Royal Bank of Canada Newsletter, dated June 2014, which states that the average growth rate in Alberta over the last 4 years has been 4.3%. In 2014 and 2015 growth is predicted to be 3.7 and 3.5, respectively. B.C.'s projected growth over the period 2013 – 2015 is 1.7, 2.1 and 2.8, respectively. The Consumer Price Index for British Columbia and Alberta in May 2014 was 119.7 and 132.8 respectively.

[30] Finally, the Employer says that many of the factors that the Union relies upon for its wage increase proposal, such as job content and workload, have already been factored into their current wages; furthermore, there have been no significant changes in these factors to justify any increase to their wages.

VII. Union's Argument

[31] The Union argues that the comparability of wages between police forces in major Canadian cities has been longstanding, and as well, predates the current *Act*. Moreover, the standard of comparability has always been examined through the salary of a First Class Constable. The Employer's attempt to include increments as another factor in comparing salaries would potentially lead to a comparison based on total compensation. This would make interest arbitrations under the *Act* more complex, lengthy and costly.

[32] The Union stresses many of the factors that have been historically included in the analysis of police salaries. These include such factors as the uniqueness of policing, workload, the increase in serious and more violent crimes, policing in the Downtown

Eastside, gang violence, civil disobedience and newer factors, such as the increasing number of the mentally ill who live on the street. It says the complexity of policing has increased with new technology, equipment, complex legal decisions and legislation, more sophisticated investigations, increased judicial and public scrutiny, and multiple civilian oversight.

[33] Beginning with the Cost of Living, the Union cites the Economist, 2013 Worldwide Cost of Living Survey, which ranks Vancouver out of 140 cities worldwide the 21st most expensive city to live in. Ten years ago Vancouver was ranked 69th. In 2013, Montreal was ranked 30th and Toronto 47th. The Union states that there is no dispute that Vancouver is one of the most unaffordable cities in respect to the price of housing. It says that the Bank of Canada has stated that the average selling price of a home in Vancouver is now nearly eleven times the average of a Vancouver family's household income. The Royal Bank of Canada's housing affordability report has called Vancouver the "worst" place in Canada to afford a house. This has a negative impact on all essential service workers who can no longer afford to live in the City.

[34] The Union further relies on the Conference Board of Canada's annual analysis of economic conditions in Canada's thirteen larger cities: *Conference Board Metropolitan Outlook,* Spring 2014. The Report states that Vancouver is expected to top the roster of 13 cities in growth with GDP increases of 3.2% annual until 2018. The report predicts that over the next two years Vancouver's economy will see "significant improvements". Furthermore, the Union cites the March 7, 2014, Standard and Poor's Rating Service which affirmed the City's Double AA credit rating, citing the City's "very positive liquidity position, strong economy and healthy budgetary performance".

[35] Most important, the Union argues, is that the Vancouver Police Department proportion of the City's annual operating budget has remained constant for many years. From 1996, when the *Act* was passed, to 2014, the portion of the Vancouver Police Department's budget to the City of Vancouver's operating budget, has fluctuated between a

low of 18.9% to a high of 20.5%. In 2013 it was 19.1%. The fact that this has remained constant, the Union argues, means that police salaries have not become "inordinately high".

[36] In respect to Ms. Impey's report to this Board the Union relies upon two of the City of Vancouver's own reports. First, the City of Vancouver 2014 Capital and Operating Budget, (page 14) under the heading Guiding Principles for Financial Sustainability, states that the City's debt is financially sustainable over the next five years:

> The City determines its long-term borrowing capacity for regular, non-utility related capital programs by limiting the ratio of annual tax-supported debt-servicing charges to operating expenditures at 10%. The ratio was 7.7% in 2012, and is forecast to increase slightly to 7.8% in 2013 and 7.9% in 2014. The ratio is expected to peak in 2019 and gradually stabilize and decrease thereafter due to better alignment of new debt issuance and maturities and ongoing debt reduction on the City's regular capital program.

[37] Second, the City of Vancouver Property Tax Review Commission Report, dated January 2014, set out some of its findings in this summary form:

> Review of the Data
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> The Commission examined a variety of data on Vancouver, a set of municipalities within Metro Vancouver, and cities across Canada. The Commission's findings are presented as follows:
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> - Tax Share – Vancouver's overall tax shift from non-residential to residential properties has exceeded that of every other municipality examined.
> - Class 6 Tax Rates – The rate has declined significantly over the period in Vancouver than it has in all other cities examined.
> - Class 6 Assessment – Class 6 property values, on average, have remained among the strongest of the comparison groups since 2010.
> - Class 6 Taxes per capita – The data show a decrease in taxes paid since 2006 in Vancouver, but an increase in almost all other comparison cities.

- Commercial Development – Vancouver's relative ability to attract investment, as measured by Class 6 building permit values, has been strong.
- Vacancy Rates – Available data, though limited, do not suggest problems in the office and retail (mall-based) sectors in Vancouver.
- Taxes across Canada – Municipal business taxes in Vancouver are competitive with those in other large Canadian cities.

[38] The Union relies upon the following freely negotiated collective agreement settlements in other parts of Canada: in Winnipeg, a four year agreement, 2013 – 2016, was reached with a 13% increase; in 2011, the Toronto Police Association ratified a new agreement with wage increases of 11.2% over four years; the Peel Regional Police Association ratified a four year agreement with their officers with a 10.98% increase; the York Police Association ratified a new agreement in 2013 with a 7.94 % increase over three years; the Niagara Police agreed to an increase of 7.6% over three years beginning 2013.

[39] Finally, the Union points to the fact that the increases it received in the last Collective Agreement (2010 – 2012), freely negotiated, amounted to 2.95 (2010), 2.95 (2011) and 2.55 (2012) (a total of 8.45%). These increases were based on Toronto as the comparator. However, during that same period, CUPE, at the City of Vancouver received increases of 4.0 (2010), 4.0 (2.11) and 1.25 (total of 9.25%).

VIII. Analysis and Decision Regarding Wages

[40] The Employer argues vigorously that local and regional economic conditions, and local collective agreement settlements, should prevail over all other criteria in the setting of Police and Firefighter salaries. Alternatively, if national comparators are used, the greatest weight should be given to the RCMP and to Montreal. It says that these two police forces have been employed on many past occasions as national comparators, and should continue to be relied upon. As of 2012, Montreal police earned $74,058 rising to $77,050 in 2014; the RCMP as of 2012 are paid $79,308 rising to $82,108 in 2014. The existing salary of Vancouver Police is $86,004 as of 2012.

[41] The Employer's argument that local settlements and local economic conditions ought to be given the greatest weight in determining Police and Firefighter salaries is a longstanding one. Arbitrator Albertini, in *Vancouver Police Board v. Vancouver Police Union,*1995 B.C.C.A.A.A. No. 238, summarized the Employer's argument in that round of bargaining as follows:

> It is the Employer's position that local economic conditions should be the "principle criteria" because those conditions have produced other settlements within the Province, settlements negotiated in free collective bargaining. They reflect the general state of British Columbia including efforts to contain current tax levels. In particular, the level of settlements for other public sector employees with special emphasis on the municipal settlement recently negotiated between the Greater Vancouver Regional District (the GVRD) on behalf of its members and C.U.P.E. which includes Local 1004, the bargaining agent for the Vancouver's outside workers. In addition, relative earnings as reflected by the Industrial Aggregate measurement within and between provinces should be seriously considered.
>
> (para 9)

[42] He concluded that the comparability of police officer wage rates in Vancouver should be those paid to other officers employed by other major Canadian cities:

> The external criteria proposed by the Union and the local conditions criteria proposed by the Employer are not convenient temporal positions taken for this case. They are deep rooted long standing positions which are legitimate negotiating positions. Unfortunately, one must prevail. While not absolute, I am satisfied that the principle criteria in the development of police officer wage rates in the city of Vancouver should be by comparison to those paid to the officers employed in other major Canadian cities.
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> (para 25)

[43] Prior to the enactment of the *Fire and Police Services Collective Bargaining Act,* Arbitrator Hope, in *Vancouver Police Board v. Vancouver Police Union,* 1993 B.C.C.A.A.A. No.

363, came to the following two conclusions in respect to the comparability of Vancouver Police salaries to the salaries of other police officers nationally:

> It is not a question of whether there has been a "tracking" of wages in other centres. It is a question of whether the relationship between wages in Vancouver and wages in other police forces across the country has been acknowledged by the parties to be a dominant and traditional factor in the fixing of wage rates. The facts are overwhelming. In support of the conclusion that both parties and arbitrators appointed by them have recognized that factor as having a dominant influence, albeit with reluctance on the part of the Employer in negotiating within that reality.
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> …
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> In the resolution of conflicting positions, an arbitrator is required to follow well-defined principles, and, in the circumstances before me, those principles compelled the conclusion that an historical relationship does exist which favours fixing wages in Vancouver on the basis of a comparison with wage rates to police officers in other major centres, subject always to any relevant local conditions that impact on the issue. I turn now to the specific issues raised in dispute.
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> (para 70 and 74)

[44] Indeed, as far back as 1971, in the *Board of Police Commissioners for the City Vancouver v. Vancouver Policemans Union,* May 14, 1971, Arbitrator Blair came to the conclusion that salaries of Vancouver Police Officers ought to be comparable to those of Toronto and Montreal. He stated the following:

> As we have seen, Vancouver Police, in terms of wage rate, have since 1966 been allowed to fall behind the Police of not only Toronto and Montreal but of many other Canadian cities as well. After considering most carefully all of the facts and circumstances under which it occurred, one cannot in all conscience support this drop in their position. On the contrary, in the light of all these things which we have been discussing in the foregoing, one is forced to the conclusion that Vancouver Police are at least entitled to wage parity with the Police of Toronto and Montreal – and with the Police of those other

> major Canadian cities which we know to be on the latter's level.
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> (p. 12)
> (emphasis added)

[45] I have emphasized the last part of this quote because it is a recognition that comparators may vary over time. There is nothing surprising in this - the economies in different provinces will vary over time. This principle of comparability is not rooted in one or two specific cities but rather to the larger metropolitan areas of Canada whose police officers perform the same demanding, complex and dangerous work that the Vancouver Police Officers do. I conclude, therefore, that Vancouver Police should be in the "same comparative range" as the larger metropolitan police forces in other parts of Canada – whichever they may be. *Vancouver Police Board v. Vancouver Police Union,* 1997 B.C.C.A.A.A. No. 621 (Lanyon); *Vancouver Police Board v. Vancouver Police Union,* 2000 B.C.C.A.A.A. No. 308 (Munroe).

[46] I also draw the same conclusion as Arbitrator Munroe in *Vancouver Police Board v. Vancouver Police Union,* 2000 B.C.C.A.A.A. No. 308 that "in the present circumstances, my conclusion is that the external comparison should be accorded the greatest weight, but with the local wage environment having some moderating influence". This is the result of the uncontested fact that the most compelling comparators, are, of course, other police forces. The work of Police Officers is unlike the work of any other civic employee. I stated the following in *Vancouver Police Board v. Vancouver Police Union,* 1997 B.C.C.A.A.A. No. 621:

> First, I accept the uniqueness of policing. It is not an occupation or profession comparable to other public sector employees. Both the nature of the work and the nature of the public responsibilities are different. This has to do with their duties and powers and, as captured in past arbitral awards and academic literature, the necessity at some point to lay their "life on the line". I also accept the unavailability of similar local comparisons. The police forces of Canada's three largest cities experience criminal activity on a scale not experienced by smaller municipal forces.

[47] The City of Vancouver, in this arbitration, seeks not simply a rebalancing of the statutory factors in Section 4(6) (a) – (g) to address its specific circumstances; rather, in fact, it seeks to overturn the current arbitral policy under the *Act* as a whole; in effect, to stand the current policy on its head. As a general rule, it says that local comparators are to be given the greatest weight, and national comparators assigned less weight. To do so would be to repeal 40 years of arbitral jurisprudence. I am not prepared to do that.

[48] In conjunction with this calculation that greater weight should be assigned to national comparatory standards, I also affirm that this standard should be based upon a First Class Constable salary. The Employer wants to add to this national standard the cost of increments. It says that if increments are added in, the Vancouver Police Force are rated second of nine municipalities. However, the use of the First Class Constable salary is not simply a matter of a comparative standard for the Vancouver City Police; rather, it is the normative *national standard*. This current standard permits a rational matching of all salaries, of all police, across the country. In the RCMP Pay Council Report, dated March 2014, the report lists a total of 85 Police Departments, with 50 or more employees, across the country, and it compares their salaries based upon the First Class Constable salary: "*Canadian 1st Class Constable Salaries*".

[49] The difficulty in setting out additional factors, such as increments, and adding that factor to this comparative calculation, is that it leads potentially to an analysis of total compensation. By permitting the parties to "cherry pick" one or two factors (which favour their analysis) would indeed very quickly lead to an analysis based upon total compensation. I agree that this would make hearings more complex, lengthier and more costly. This, of course, does not in any way preclude the parties from examining total compensation during their own collective bargaining negotiations. I therefore maintain the First Class Constable salary as the standard comparator.

[50] Notwithstanding my conclusion that external comparisons should be accorded greater weight, there are decisions under the *Act* that have given greater weight to local settlements and local and regional economic conditions. For example, in the *Greater Victoria*

Labour Relations Association and Victoria Police Union, unreported, 2002 – 2004 (Lanyon) I refused to grant the Victoria Police a 1.2% increase that would have given them parity with the Vancouver Police. I did so on the basis of the existing local economic conditions in Victoria which, on average, had lower wages and a lower cost of living. Further, in *City of Nelson v. Nelson Police Association,* 2005 B.C.C.A.A.A. No. 130 (Lanyon), I declined to award to the Nelson City Police increases that would have given them parity with Victoria. Again, I declined to do so based on local economic conditions, and awarded Nelson City Police the same increase as City of Nelson's CUPE bargaining unit. A third example was when the City of Prince Rupert was facing economic difficulties. The City was $10 million in debt, the unemployment rate was twice that of Vancouver, and concessions had been made by the other municipal unions. As a result, in *City of Prince Rupert and Prince Rupert Firefighters Association,* 2004 B.C.C.A.A.A. No. 236, I awarded the Firefighters the same increases as the City of Prince Rupert CUPE bargaining unit: 1% in 2000 and 0% in 2001 – 2004. Thus, in summary, an arbitrator under the *Act* is compelled to weigh all factors. Those enumerated factors that stress local and economic conditions can be, and have been, applied in the circumstances where it is fair and reasonable to do so.

[51] Turning to the parties' own collective bargaining relationship, it should be noted that in Schedule F, No. 1 of the Collective Agreement (entitled, *Principles to Guide the Negotiation of Benefit Provisions Between the Employer and the Union*) these parties have specifically set out what aspects of the collective agreement are to be governed by local comparators. Schedule F states that certain fringe benefits will be "patterned after the provisions negotiated by the bargaining agents of those other employees". For example, benefits such as annual leaves, public holidays, medical services plans, sick leave and gratuity plans, workers compensation benefits, dental services, compassionate and parental leaves will all be patterned after local CUPE/Teamster agreements with the City of Vancouver. Other benefits such as clothing allowance, and court time allowances will be based upon municipal police forces and other departments in Canada. Other benefits fall into a hybrid category - comparisons are made both to other police departments and to employees of the City. An example of this are shift differentials. Finally, some benefits are treated on their own merits without the need to compare to either internal or external comparators. An example of this are psychological

services. What has expressly been omitted is salaries. By direct inference, therefore, the exclusion of salaries from the parties' own comparison scheme in Schedule F lends further credence to the use of national and/or external comparators in respect to salaries.

[52] Second, in the last round of collective bargaining, 2010 – 2012, the parties freely negotiated and reached a collective agreement without reliance on an interest arbitrator. The increases agreed to place a Vancouver First Class Constables salary in 2012 in the same comparative range as that of Toronto and York: Vancouver, 2012, $86,004; Toronto, 2012, $86,366, York, 2012, $85,988.

[53] Traditionally, the external comparators have been Toronto, Montreal and the RCMP. As stated earlier, Montreal and the RCMP now lag substantially behind. The leading comparators are now the Western Provinces of Alberta, Saskatchewan and Manitoba. For example, Calgary and Edmonton, at the end of 2013, have established First Class Constable rates of $91,391 and $91,245 respectively. This is more than a $5,000 increase over the $86,004 paid to a First Class Constable at the end of 2012 in Vancouver. Regina, at the end of 2014, is paying its First Class Constables $91,407, and Winnipeg, which settled with its police officers for a 13% increase over the period December 24, 2012 to December 23, 2016, will pay a First Class Constable $96,850 at the end of 2016. The Toronto settlement is less than these Western Provinces. At the end of 2013 a First Class Constable in Toronto will earn $88,844; and at the end of 2014 that same Constable will earn $90,621. York, settled for 7.94% over three years (2013 – 2015), resulting in a First Class Constable receiving $93,022 at the end of 2015.

[54] I have concluded that the settlement in Alberta is "too rich" for the City of Vancouver. The province of Alberta has had an average growth of more than 4% over the last 4 years. Its average industrial aggregate wage is $57,814 as compared to $45,559 in British Columbia. By inference I also reject the settlement in Winnipeg. Thus, I decline to impose the Union's proposed increase of 13% over 3 years which is based on the Edmonton, Calgary and Winnipeg Collective Agreements. In rejecting these settlements I therefore give greater weight to the local economic conditions in this province and to the City of

Vancouver's current economic circumstances, notwithstanding that the arbitral jurisprudence places the Vancouver Police amongst the leading comparators. Thus, I incorporate Arbitrator Munroe's conclusion in *Vancouver Police Board v. Vancouver Police Union, supra,* that local wage settlements should exercise a "moderating influence" over extra provincial elements. And the more that these national comparators skew the local wage differences, the greater the weight that should be given to regional and wage settlements.

[55] However, the City did not make an ability to pay argument and its economic forecast, on balance, is quite positive over the next three years. Therefore, I conclude that a 7.0% increase in the First Class Constable's salary is warranted in the circumstances before me. This increase shall be broken down in the following yearly increments:

2013 – 2.5%
2014 – 2.0%
2015 – 2.5%
Total 7.0%

[56] In absolute dollars (rounded off) this amounts to the following increase in the First Class Constable's salary:

2013 - $88,154
2014 - $89,917
2015 - $92,165

[57] This puts a Vancouver Police Officer (First Class Constable) in the same comparative range as Toronto and other Ontario settlements; in 2013 a Police Officer in Vancouver will earn $88,154; in Toronto, 2013, $88,844; in 2014, Vancouver, $89,917; in Toronto, 2014, $90,621; and in 2015, a First Class Constable in York will earn $93,022, and in Vancouver that same officer will earn $92,165.

[58] I also conclude that there are no offsets. To do so would be to directly reduce these percentage increases; in effect, giving with one hand and taking away with the other. Such offsets are not warranted given that these increases, although in the same comparative range as Toronto, still fall somewhat below them.

[59] I wish to make one final remark in respect to the economic reports. The parties, as expected, select aspect of these many different reports that are in furtherance of their arguments. My approach to these reports is to prefer statistical information that is an actual summary of past or current economic circumstances, rather than speculative predictions; that does not mean, of course, that such predictions have no value.

IX. Other Issues in Dispute

[60] With the exception of the four items to follow, I have decided not to address the remaining outstanding issues in dispute. As stated, interest arbitration is a conservative process. It works best when the differences referred to a third party are few in number. Mature collective bargaining relationships, such as the one before me, have crafted a collective agreement over a good number of years. During numerous rounds of collective bargaining the parties have arrived at many different and difficult trade offs. For an interest arbitrator to delve too deeply into that collective agreement, without any knowledge of those tradeoffs, may potentially upset this delicate balance achieved over many years. The increases in these remaining issues sought by the Union are substantial. The proposed cuts sought by the Employer are equally substantial. Having read the parties' extensive submissions, and listen to their comprehensive arguments, I have decided to limit this Award to the Wages and Term of the agreement. I therefore decline to address all other proposed changes to the collective agreement.

[61] There are four exceptions to this. They involve non-monetary items. Two involve the structuring of committees. The first is an agreement by the parties to establish a Reformatting Committee. The purpose of this Committee is to examine the collective agreement and reformat it into a more easily understood document. It is described as a

"housekeeping" committee. Each side shall have three members on the committee. This committee shall have only the power of recommendation. Its recommendations can be re-examined by any other internal processes of these parties; however, only the City and the Union have the power to make any binding amendments to the collective agreement.

[62] A second committee is a Benefits Administration Committee. It also has only the power of recommendation. There will be three members from each party on the committee. The purpose of this committee is to examine in good faith the feasibility of transferring the administration of the Health and Welfare Benefit Plans to the Union. The Union states that it can save the Employer at least several hundred thousand dollars a year in respect to the operation of these plans. Any final decision in respect to this potential transfer of the plan can only be made by the Employer and the Union jointly. If the committee is not able to agree to the terms of the transfer then, of course, the administration of the benefit plan remains with the Employer.

[63] Third, the parties have agreed to amend Schedule E, No. 4, Operations Deployment Model 11 Hour Shift, specifically Article 4(c), to read as follows:

> Upon transfer from 11 hour shift position, members outstanding balances must be reconciled. Where a positive balance remains, the Employer will pay that balance down to zero at the Employee's current rate of pay. Where a negative balance remains, the employee will identify which leave bank the hours are to be drawn from within two weeks of transfer. Where a source is not identified there will be discussion between the member and the Employer to determine the source of the deduction.

[64] Fourth, the *Police Act* R.S.B.C. 1996 c. 367 includes expungement provisions in respect to a Police Officer's discipline record. The parties have agreed that these specific provisions are subject to the grievance/arbitration process under their collective agreement.

[65] The terms and conditions set out in this Award, along with the expired 2010 – 2012 Collective Agreement, shall form the parties renewed Collective Agreement and be in force from January 1, 2013 to December 21, 2015.

[66] It is so Awarded.

[67] Dated at the City of New Westminster in the Province of British Columbia this 29th day of July, 2014.

Stan Lanyon, Q.C.