

I. INTRODUCTION

The parties to this matter submitted their initial post hearing briefs in this matter on July 25, 2008. The date for reply briefs is August 15, 2008. The reply briefs will be sent by e-mail on August 15, 2008, to Arbitrator Foy and he will exchange the reply briefs by e-mail.

As should be the case with reply briefs, the Union will attempt to respond to the State's arguments, and avoid repeating the arguments made in its initial post hearing brief, except as necessary to provide context. Regarding areas or topics not covered in this reply brief, Mr. Arbitrator should look to the post hearing brief of the Union, in which all of the Union's arguments are detailed.

Most importantly, the Union seeks an award that is fair and equitable. The Union urges Mr. Arbitrator to award each of the Last Best Offers of the Union.

II. STATUTORY CRITERIA

In its brief, the State provides a limited view regarding the "history of negotiations between the parties." The State is not on point when we review the Union post hearing brief. The history is depicted accurately in the Union post hearing brief. The State post hearing brief denigrates the real hard core fact that the NP-4 members have not been treated equitably or fairly over the past twenty years.

In its brief, the State provides a jaded view regarding "The existing conditions of employment of similar groups of employees." The state is not on point when we review their post hearing brief. The State argues that Correction Officers do not have core duties similar to NP-1 members (Troopers) nor do they have duties similar to Judicial members (Probation Officers) but the stark reality is pointed out

by the Union in its post hearing brief that Correction Officers have fallen behind by tens of thousands when we review the Union comparables that pertain to each of the groups. I note that the aforementioned groups are similar in that they do share a number of common factors. The identifying factors were pointed out in the Union's post hearing brief. Also, the State is not on point regarding their depiction of out of State correctional pays. The Union depiction is a fairer snapshot when we take into consideration the pay(s) and the real purchasing power of those dollars in each of the States. This issue is depicted accurately in the Union's post hearing brief.

In its brief, the State minimizes the facts regarding "wages, fringe benefits and working conditions prevailing in the labor market." Specifically, the State does not and cannot rebut the fact that major corporation employees did negotiate GWI raises that averaged out above 3%. The facts are the facts. The issue is depicted accurately in the Union's post hearing brief.

In its brief, the State conveys the sentiment that "the overall compensation paid to the employees involved in the arbitration proceedings, including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food, apparel furnished and all other benefits received by such employees" is fair, reasonable and equitable. It is abundantly evident that their argument to such is a fallacy. The wages, the vacation time-off, the meal money, the longevity pay etc. etc. are substandard. The State arguments are not on point. This issue is depicted accurately in the Union's post hearing brief.

In its brief, the State attempts under the statutory factor "the ability of the employer to pay" to justify that the State does not have the ability to pay for the economic LBO's of the Union. Their theme is that the Union economic LBO's

are too high and that these are trying times. The Union offers that Mr. Genuario's testimony was not on point. He is a soothsayer of gloom and doom. The issue of "the ability of the employer to pay" was accurately defined and depicted by Professor Stodder. He addressed the present and the future ability of the State to pay. I refer to the Union post hearing brief regarding the testimony of Professor Stodder where he addresses all the nuances regarding the issue of "ability to pay". The State contended that there could be a deficit. The State has a Budget Reserve Fund Surplus of over \$1,100,000,000. That is a fact! The issue is depicted accurately in the Union's post hearing brief.

In its brief, the State offers under the statutory criteria of "Changes in the cost of living" that Mr. Genuario's testimony regarding CPI future forecasts of a little over 2% per year is accurate. All of the parties realize that those future projections are unrealistic if we think about the inflationary factors present time. Everyone is feeling the inflationary crunch. This issue is depicted accurately in the Union's post hearing brief.

In its brief, the State offers under the statutory criteria of "the interests and welfare of the employees" that the job has become safer. Their depiction is not on point. The testimony, video tapes and the tours of the two facilities tell a different story. The issue is depicted accurately in the Union's post hearing brief.

III. ISSUES

Issues U-1 through U-10 – Arbitration

The Union urges Mr. Arbitrator to award the Union LBO's for a number of reasons. The State is not on point as to why their LBO's should be awarded. The State contention that the Union is looking for a free ride is not accurate. The Union will be paying their share per the State Board regulations. The State contention that the State Board will not be able to handle the backlog nor will they be able to handle future grievances is not accurate. Director Serino testified that the State Board would be able to hear the grievances under their structure. If anything the structure that the State wants has shown itself to be non-workable. Whereas, the structure that the Union wants has shown itself to be workable. Dismissal grievance arbitration proceedings have been held timely and there is no backlog. The State Board schedules and regulates the arbitration proceedings for dismissal grievances. This issue is depicted accurately in the Union post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union's LBO's on these issues.

Issue U-11

This issue was withdrawn by the Union.

Issue U-12 – Suspension Implementation

The Union urges Mr. Arbitrator to award the Union LBO. The State argument in their brief is not on point. The State sees no benefit by forestalling the implementation of the suspension. Conversely, the Union sees it otherwise. This issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union's LBO on this issue.

Issues U-13 through U-16 – General Wage Increases

The Union urges Mr. Arbitrator to award the Union LBO's regarding General Wage Increases. The State arguments are not on point. The State postulates that the Union GWI's are too high and that the pattern justifies their LBO's. Nothing is further from the truth when we look at the State pattern(s). I refer to the Union's post hearing brief regarding such. The State argues that the economic situation is deteriorating. The State did not prove that the situation is deteriorating in Connecticut. Professor Stodder predicted that Connecticut would not incur the same economic problems as others. I refer to his testimony in the Union post hearing brief as to the State of Connecticut ability to pay. The State LBO's are too low. GWI's of 3.25%, 3.5%, 3.5% and 3.5% are realistic under the circumstances. This issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issues U-17 through U-20 – Annual Increments

The Union urges Mr. Arbitrator to award the Union LBO's regarding Annual Increments.

Before I reply to the State arguments regarding the Annual Increments, the Union agrees to the State financial numbers regarding the costs each year of the Annual Increments which significantly decreases the overall costs of the Union's LBO. This does not mean that the Union is agreeing to the State LBO's regarding Annual Increments.

The State argues that the delays of six months are a direct reaction to the current economic situation. The Union argues that the economic situation is not what was projected by Mr. Genuario. In fact, the Union points to the current and future economic situation as depicted by Professor Stodder. He offers numerous reasons as to why the State of Connecticut does have the ability to pay for Union's LBO's. I refer to the Union post hearing brief under ability to pay, for the '08 fiscal year there is a surplus of over \$1,100,000,000 in the Budget Reserve Fund. This issue is depicted accurately in the Union's post hearing brief.

The Annual Increments for each year should be paid to NP-4 members on time. Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union's LBO's on these issues.

Issues U-21 and U-67 – Longevity

The State argues in their brief that the Union LBO's regarding longevity are unjustified monetarily in that the Union is going up three-fold. The Union offers that even though C.G.S. 5-213 was amended the CPI numbers from 1977 to the present project an increase of more than three-fold. The Union LBO of going up three fold is reasonable when we think about the purchasing power issues. This issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on this issue.

Issues U-22 through U-25 – Night Shift Differential

The Union urges Mr. Arbitrator to award the Union LBO's regarding Night Shift Differential money. The State argues that the NP-4 Nigh Shift Differential rates are comparable to other State units at the present time. They base their delay due to the general future economic forecasts. The Union does not agree with the State financial forecasts of gloom and doom. The issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issues U-26 through U-29 – Weekend Differential

The Union urges Mr. Arbitrator to award the Union LBO's regarding Weekend Differential. The State argues that the NP-4 Weekend Differential rates are currently the same or higher than other State units. They base their delay due to

the general future economic forecasts. The Union does not agree with the State financial forecasts of gloom and doom. The issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issues U-30 through U-33 – Meal Rate

The Union urges Mr. Arbitrator to award the Union LBO's regarding the Meal Rate. The State argues that it is appropriate to raise the meal rate to \$8.50 the first year of the Agreement and to \$9.00 the third year of the Agreement.

Their argument is predicated on the fact that the Union increases are excessive each year and that the Union increases would represent extra cash for the employees. The Union argues that the State has gone away from their pattern theory. The State Police unit employees receive over \$17.00 a day for their meal money rate. Is it excessive to go up from an \$8.00 meal rate by \$2.00 the first year if we look at the State Police unit employees at a rate of over \$17.00 per day? I think not. Nor is it unreasonable for an increase of \$1.00 per day in each of the successive years. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issue U-34 – Meal Rate O.T. Unanticipated

The Union urges Mr. Arbitrator to award the Union LBO regarding meal money for NP-4 members working unanticipated overtime. The State argues that the Union LBO is defective. The Union counters that the LBO is not defective in that it would replace the existing language with employees receiving the meal money no matter how long they worked due to unanticipated hold overtime. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-35 through U-39 – Bumps Top Step

The Union urges Mr. Arbitrator to award the Union LBO's regarding bumps to the top step. The State argues that the bumps are not justified and that it is not true that NP-4 members have fallen behind other bargaining units. First, the Union points to the fact that the State dollar amounts are inordinately high in each of the years regarding the costs of the bumps. The Union stands by their projections as to what the costs are. The issues are depicted accurately in the Union's post hearing brief. NP-4 members have fallen significantly behind other bargaining units. This unit should not be penalized due to the size of the unit and the costs.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issues U-40 through U-44 – Additional Steps

The Union urges Mr. Arbitrator to award the Union LBO's regarding additional steps. The State argues that the cost is prohibitive and that this unit does not have a need for additional steps. First the Union points to the fact that the State dollar amounts are inordinately high each year. The Union stands by their projections as to what the costs are. Also, the costs of an additional step will be offset in that top step lumps will not be paid that year. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issues U-45 through U-49 – Lump Sum Top Step

The Union urges Mr. Arbitrator to award the Union LBO's regarding lump sum payments to top step employees. The State argues that the method of determining the amount each employee should be paid needs to remain a fixed amount. They do not want to pay a percentage of the employees' base salary amount. The Union refers to the Union post hearing brief as to why it should be a percentage. Also, I note that no lump sum payment for top step employees will be paid the years that the Union is awarded an additional top step. That will defer the overall costs of the lumps sum payments to top step employees. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issues U-50 through U-54 – Revised Pay Plans

The Union urges Mr. Arbitrator to award the Union LBO's regarding revised pay plans. The State argues that the costs are prohibitive and that NP-4 members are paid favorably to comparable classifications. The Union argues that the costs are not prohibitive with the Union standing by their financial projections. Again, this union should not be penalized due to its size. The State comparables are not on point. The Union comparables are on point both In-State and Out of State. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issues U-55 – Compensation Response Device

The Union urges Mr. Arbitrator to award the Union LBO regarding the issues of compensation for response devices. The State argues that carrying the response device is a voluntary act under the present system. The Union offers that it is not voluntary but mandatory that NP-4 members in CERT, SOG and K-9 carry response devices 24/7. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-56 – Vacation

The Union urges Mr. Arbitrator to award the Union LBO regarding the issue of vacation. The State argues that NP-4 members have vacation time accruals comparable to other units. They argue that NP-4 members work less days per year than other unit employees thus they have accruals that are hard to beat. The State has counted “normal” days off as part of the employees’ annual vacation accruals which doesn’t accurately reflect the amounts. They argue that the costs are prohibitive if the Union LBO is awarded. The Union offers that the costs are not prohibitive. The issues are depicted accurately in the Union’s post hearing brief.

Given the above and the evidence and argument outlined in the Union’s brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-57 – Dry Cleaning Deletion and Stipend Appearance/Cleaning

The Union urges Mr. Arbitrator to award the Union LBO regarding the issue of the stipend and the deletion. The State argues that the Union offered no evidence in support of the need for special compensation. The issues are depicted accurately in the Union’s post hearing brief.

Given the above and the evidence and argument outlined in the Union’s brief, Mr. Arbitrator should award the Union LBO on this issue.

Issues U-58 – Paid Leave Drills

The Union urges Mr. Arbitrator to award the Union LBO regarding the issue of more time for paid leave drills. The State argues that NP-4 members have over the years received benefits that address paid leave for drills. They argue that the

legislature has passed legislation to give additional benefits, the benefits gained only dealt with active duty personnel, not weekend drills. The Union argues that there is a need for more paid time off to do weekend drills. If a person has to use vacation time to get paid; it's evident that there is not enough time allocated for such in the Agreement. The issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-59 through U-61 – Tuition Reimbursement

The Union urges Mr. Arbitrator to award the Union LBO's regarding the issues of tuition reimbursement. The State argues that their one-time increase to \$80,000 is sufficient. The Union argues that the existing amount should go up ultimately by 50% like the rates did. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO's on these issues.

Issue U-62 – Rollover Tuition Funds

The Union urges Mr. Arbitrator to award the Union LBO regarding the issues of rolling over tuition funds from one Agreement to the next Agreement. The State argues that this is an illegal subject of bargaining and at its best a permissive subject of bargaining. The Union argues that it is a legal and mandatory subject with the State position being erroneous. The issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-63 – Meal Money Parole

The Union urges Mr. Arbitrator to award the Union LBO regarding the issue of meal money for parole employees. The State argues that parole employees are not assigned to a facility and that the meal money allowance arose from food tampering by inmates at the facilities. The State Police receive meal money and their food was never tampered with by the inmates. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-64 – Meal Money Counselors in Community Service

The Union urges Mr. Arbitrator to award the Union LBO regarding the issue of meal money for Counselors working in Community Service. The State argues that counselor employees are not assigned to a facility and that the meal money allowance arose from food tampering by inmates at the facilities. The State Police receive meal money and their food was never tampered with by the inmates. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-64 – Parole Pagers

The Union urges Mr. Arbitrator to award the Union LBO regarding the issue of increasing the amount of compensatory time that a parole service employee receives. The State argues that there is no reasonable argument in favor of increasing the compensation. They argue that they already get the vehicle. The Union argues that the vehicle has nothing to do with the amount of compensatory time they receive. The issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue U-66 – Duration

The Union urges Mr. Arbitrator to award the Union LBO regarding the issue of duration. The State argues that it would be irresponsible to award a four year contract when all evidence demonstrates a failing economy. The issue is depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue A1S – Transfer/Worker Compensation

The Union urges Mr. Arbitrator to award the Union LBO on this issue for a number of reasons. The State assertion that there are different DOC liaisons for different facilities is accurate. The assertion the change of liaisons due to a transfer could reduce services is not accurate. The DOC facility based liaison does very little in managing the person out on worker compensation. Their input comes into play when the person is returning to work and even then their input is minor.

Also, the State points to the issue of the overlap process being used regularly. The Union does not agree. The State didn't provide enough information to say that overlaps are used regularly. The State claims that the CTU unit would have problems was not proven substantively or theoretically by the State witness Richard Miele. Thus, that argument should be dismissed. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue A2S – Updating Facility Transfer List

The Union urges Mr. Arbitrator to award the Union LBO on this issue for a number of reasons. In their post hearing brief the State offers "this will help to relieve the administrative burden on the Agency by giving them one less set of time-consuming tasks over the course of the year." The Union proved through their witness, Albert Chiucarello, that this task is not a task nor is it daunting.

In their post hearing brief, the State offers "As there is no foreseeable harm to NP-4 members, this is a reasonable proposal and should be awarded." The Union

refers to the Union post hearing brief where the Union offers that there would be harm done to NP-4 members if the State is awarded their LBO. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue A3S – Updating Shift Transfer List

The Union urges Mr. Arbitrator to award the Union LBO on this issue. The State argued that this LBO would give the State uniformity with State LBO A2S. The Union argues that the shift transfer lists are done at the facilities. The State did not contend that they were having problems or that this was a task. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue A4S – Med Cert Requirement

The Union urges Mr. Arbitrator to award the Union LBO on this issue for a number of reasons. In their post hearing brief the State contends that this writer testified that all other employees also are required to provide medical certificates when they are absent five or more consecutive days. The Union offers that this writer testified that this unit is a unit that has to provide a Med Cert on the fifth day and that other units have to provide a Med Cert on the sixth day. This is a significant fact. This unit is penalized already. The State misdepicts the issue.

The employer in their brief, raises the issue of abuse, they already have policies and directives at their disposal. These alleged abuses could be illustrated within the employee's specific evaluations which could entail an economic impact on the individual with a delayed annual increase. The State's proposal seeks a catch all policy, rather than utilize the options available to management, if they just do their job.

The State offers in their post hearing brief that Callahan testified that NP-4 members average the use of 19.1 days of sick leave per year based on a 7.25 hour work day. Again the State is using a sleight of hand methodology to come up with 19.1 days. **Eighty** percent of the members work an 8.25 hour day. By using the 7.25 hour day number the number of sick days are inflated. The Union number of 16.5 days of sick leave per year is more accurate. The State misdepicts the issue.

The State argues that there is an overtime cost to fill the slots left open due to sick leave usage. The Union counters that the State overtime numbers due to sick leave usage are inflated. Not all overtime is due to sick leave usage. Overtime is created when employees are out on Vacation leave, Personal leave, Worker Compensation leave, Union Business Leave, Union Release Leave. Again the State misdepicts the issue. Also, the Union offers that not all overtime is at time and a half. NP-4 members work a 36.25 hour work week with time and a half being paid after 40 hours not 36.25 hours. The issues are depicted accurately in the Union's post hearing brief.

Given the above and the evidence and argument outlined in the Union's brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue A5S – Grievance Procedure

The Union refers to U-1 through U-10.

Issue A13S – Maintenance On-Call Standby

The Union urges Mr. Arbitrator to award the Union LBO on this issue. In their brief the State contends that “they have had significant problems getting employees to respond to after-hour calls.” The Union argues that the State did not prove that point by and through the testimony they offered. The issues are depicted accurately in the Union’s post hearing brief.

Given the above and the evidence and argument outlined in the Union’s brief, Mr. Arbitrator should award the Union LBO on this issue.

Issue A14S – Drug Testing

The Union urges Mr. Arbitrator to award the Union LBO on this issue. The State offers that their LBO expands the language to include random testing. The State through their “key” witness presents only speculative testimony stating the “Union” said there was a problem. The Union refers to the Union rationale in the post hearing brief in that it responds to the State argument(s).

Given the above and the evidence and argument outlined in the Union’s brief, Mr. Arbitrator should award the Union LBO on this issue.