BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

OFFICE AND TECHNICAL EMPLOYEES UNION,
AFSCME LOCAL 2492-E

and

MARATHON COUNTY (COURTHOUSE)

Case 235
No. 52919
MA-9155

Appearances:

Mr. Philip Salamone, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 7111 Wall Street, Schofield, Wisconsin 54476, appearing on behalf of the Union.
Ruder, Ware & Michler, S.C., Attorneys at Law, 500 Third Street, P.O. Box 8050, Wausau, Wisconsin 54402-8050, by Mr. Jeffrey T. Jones, appearing on behalf of the County.

ARBITRATION AWARD

Office and Technical Employees Union, AFSCME Local 2492-E, hereafter the Union, and Marathon County (Courthouse), hereafter the County or the Employer, are parties to a collective bargaining agreement which provides for the final and binding arbitration of grievances arising thereunder. The Union, with the concurrence of the County, has requested the Wisconsin Employment Relations Commission to designate a member of its staff to act as arbitrator to hear and decide a grievance. The undersigned was so designated. Hearing was held in Wausau, Wisconsin, on December 13, 1995. The hearing was not transcribed, the parties filed post-hearing briefs and the record was closed on March 12, 1996.

ISSUE:

The Union frames the issue as follows:

> Did the County violate the collective bargaining agreement by issuing the one-day suspension and disciplinary notice to the Grievant, and, if so, what is the proper remedy?

The County frames the issue as follows:

> Whether the County's discipline of the Grievant is with just cause in accordance with Article 2, D of the agreement?
>
> If not, what is the appropriate remedy?

The arbitrator frames the issue as follows:

> Did the County have just cause to issue the March 21, 1995 disciplinary notice to the Grievant and suspend the Grievant for one day without pay?
>
> If not, what is the appropriate remedy?

RELEVANT CONTRACT PROVISIONS:

Article 2 - Management Rights

> The County possesses the sole right to operate the departments of the county and all management rights repose in it, but such rights must be exercised consistently with the other provisions of the contract. These rights include, but are not limited to, the following:
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> . . .
>
> D. To suspend, demote, discharge, and take other disciplinary action against employees for just cause;
>
> . . .

Article 13 - Sick Leave

> A. Accumulation: Every employee shall be entitled to accumulate a total not to exceed nine hundred and sixty (960) hours of total sick leave. Employees shall earn sick leave at the rate of eight (8) hours per month (3.6923 hours bi-weekly) for the first sixty (60) months of employment and twelve (12) hours per month (5.5385 hours bi-weekly) thereafter. In order to qualify for sick leave, an employee or their representative must report that the employee is sick no later than one-half (1/2) hour after the earliest time which the employee is scheduled to report for work except in cases of emergency or when the Employer is fully aware the employee will be on sick leave for an extended period. Sick leave may be used in increments of not less than one-half (1/2) hour; any fraction of less than one-half (1/2) hour shall be equal to one-half (1/2) hours.

B. Advance Notice and Use: In the event that an employee is aware in advance that he/she will be hospitalized or that sick leave benefits will be needed for an extended period of time, it shall be the duty of the employee to notify the department head as far in advance as possible in writing of the anticipated time and duration of such sick leave, the reason for requesting such sick leave and medical certification that the employee will be unable to perform his/her normal work functions. Employees will be required to begin using sick leave on the date which their doctor certifies that they are medically unable to perform their normal duties. An employee on sick leave for an extended period of time is required to notify the department head at the earliest possible time of the anticipated date on which the employee will be able to resume normal duties.

C. Evidence of Illness - Abuse: If sick for more than three (3) consecutive work days, the employee may be required to furnish the supervisor with a certification of illness signed by a licensed physician if requested by the department head or his/her immediate supervisor. Employees who abuse sick leave benefits shall earn no sick leave for six (6) months succeeding the date of last proven violation. Additional abuses of sick leave may subject an employee to dismissal.

D. Personal Use: Except as provided in "E", Family Illness, sick leave may only be used for illness or disability of the employee or for medical and dental appointments of any employee. Employees will make every attempt to schedule medical and dental appointments outside of normal working hours. However, if this is not possible and they must be scheduled during the normal work day, every attempt will be made to schedule the appointment near the beginning or end of the normal work day or near the lunch hour.

E. Family Illness: Employees will be allowed to use a maximum of thirty-two (32) hours per calendar year of sick leave in cases of illness or injury in the immediate family where immediate family member requires the attention of the employee. Immediate family is defined as the employee's spouse, children, parents, or a member of the employee's household. This provision shall not apply to

employees accompanying family members to any routine medical or dental appointments.

. . .

Appendix D
Memorandum of Agreement
Regarding
Shift Selection, Vacation Selection,
And Call-In Procedures
For
Corrections Officers
In The Marathon County Sheriff's Department

. . .

III. CALL-IN PROCEDURES:

1. Effective January 1, 1990, the Marathon County Sheriff's Department shall begin a new procedure for assigning overtime to Corrections Officers as follows:

. . .

2) If no officers are available or chooses not to work when requested after exhausting the seniority list, ask the most senior officer already working on that date to work over four (4) hours or report early four (4) hours, until seniority list is exhausted. If the seniority list is exhausted and no officer chooses to work the four (4) hours over or report four (4) hours early, the County may require the least senior officer on the shift to work over four (4) hours or to report four (4) hours early.

. . .

B. If no advance notice of a short shift (i.e., late sick call in emergency leave, etc.) employees shall be called in under the procedure as contained in Paragraph A, Subparagraph 2 - four (4) hour procedure.

. . .

BACKGROUND:

Julie Dillenberg, hereafter the Grievant, has been a County Corrections Officer for approximately four years. On March 21, 1995, Lieutenant Reed issued an "Employee Disciplinary Notice" to the Grievant which stated as follows:

> On 3-17-95 at approximately 2100, Supervisor Niewolny contacted you at your home by telephone for hospital security duty. At that time you were advised that as junior person on day shift, the overtime assignment was mandatory. (consistent with page 48, section 111, sub. 3, B., of the AFSCME contract) At approximately 2230 you called back and told Supervisor Rix that you would not be in at 0300, and that you would be taking a sick day on Saturday, 3-18-95.
>
> At no time during the conversation with Supervisor Niewolny did you indicate illness. The report from Supervisor Niewolny indicates you were upset at being called in and indicated that you couldn't wait for the contract language to be changed.
>
> You have clearly violated Department Policy 25107.00 Dereliction of Duty, sub. 1. failure to obey orders, and sub.3. to be absent without authorized leave. You have also violated Department Policy 25108.00 Insubordination, sub. 1. any employee who willfully disobeys or disregards the direct order, verbal or written, of a superior officer will be considered to be insubordinate.
>
> Due to your disregard for supervisory authority and blatant policy violations you are suspended for one (1) day without pay to be taken on Wednesday, March 29th, 1995.
>
> Any future work rule violations will result in additional progressive disciplinary action.

Thereafter, the Union filed two grievances. One grievance contained the following "Statement of Grievance": "Article II (Management Rights) Management has not shown just cause for denial of Sick Leave pay as set forth by the current agreement between Local 2492E and Marathon County." The "Adjustment required" was "Withdraw the memorandum issued by Lt. Reed to C.O. Dillenberg of March 22, 1995 regarding the directive which denies C.O. the right to apply for and use her Sick Leave benefit for March 18, 1995." This grievance was denied and was not processed to arbitration.

The other grievance contained the following "Statement of Grievance": "Article II (Management Rights) Management did not show just cause for for (sic) disciplinary action which resulted in employee being charged with (1) absenteeism (2) Insubordination." The "Adjustment required" was "Withdraw Disciplinary Notice as it is stated including the withdrawal of a one (1) day suspension and make C.O. Dillenberg and any others who may be affected whole in every way." This grievance was denied and was processed to arbitration.

POSITIONS OF THE PARTIES:

Union

On March 17, 1995, the County followed the contractual requirements and involuntarily called-in the Grievant to start work at 3:00 a.m. Thereafter, the Grievant's two year old daughter became ill and began to vomit. To leave a baby in such a condition would be dangerous, immoral and possibly constitute criminal child neglect. The Grievant, who was pregnant at the time, shortly thereafter herself became ill.

At 10:30 p.m. the Grievant called the County and indicated that, since the time that she had received the call-in, she and her child had become ill and were vomiting. The Grievant further indicated that she would not be able to report to work at 3:00 a.m. Later, the Grievant called her supervisor to confirm that the day shift supervisor had been informed of the Grievant's absence.

Since the Grievant expected that the County might view her absence with a suspicious eye, she offered the bed sheets as proof of illness. The County, however, never asked to examine the soiled bedding.

The Grievant commonly, and legitimately, avoids volunteering for overtime. Neither this fact, nor the fact that the Grievant displayed displeasure when called in to work early on March 18, 1995, demonstrates that the Grievant fabricated an excuse to avoid working the overtime.

The County asserts that the Grievant "refused" to report to work for CPR training and

argues that there was a "reprimand" for this event. The record, however, is void of any documentation. As the Grievant stated at hearing, the CPR incident occurred over three years ago, during the winter driving season, when driving conditions in her area were unfavorable. How long is such a minor, undocumented alleged infraction to be held against the Grievant?

The County allowed the Grievant to use either vacation or compensatory time for her absence on March 18, 1995. If the day off was not legitimate, then why has the County allowed any use of sick leave?

The Grievant is a Correction Officer for Marathon County Sheriff's Department, has a very good work record, and has never before been insubordinate or misused sick leave. Every management witness admitted that, prior to the incident, they had never known the Grievant to be dishonest.

In a disciplinary matter, the burden of proof lies squarely on the shoulder of management. The County has conducted a flawed investigation and has refused to examine relevant evidence. The County has not proven that it has "just cause" for discipline.

The grievance should be sustained and the Grievant made whole for her losses. Assuming *arguendo*, that the Grievant did engage in the misconduct alleged by the County, it would be a minor infraction of the rules and should be subject to a less serious discipline than a one-day suspension.

County

The Grievant's response to Corrections Supervisor Niewolny's directive to report to work, i.e., angry, belligerent tone, slamming telephone down, loud voice, etc., demonstrates that she disagreed with that directive. The Grievant did not report any illness to Corrections Supervisor Niewolny and did not report any illness to Corrections Supervisor Rix until she had been advised that she had an obligation to report to work.

The evidence demonstrates that the Grievant raised the illness issue because she did not wish to report to work as directed. The Grievant's "offer of proof", i.e., the bed sheets, is evidence of a guilty conscience.

The Grievant has not been receptive to work beyond her normal work hours and, in fact, has rejected call-ins in the past. In 1992, the Grievant refused to report to work outside her normal work hours for CPR training. Although the Grievant claims that she could not report to work because of adverse weather conditions, other correction officers were able to report to work, including those who lived in other localities. The Grievant's failure to attend the Personnel Committee meeting on her grievance is consistent with her position that she does not wish to do any "work" outside of her normal work hours.

The implication that the Grievant's pregnancy caused her to become ill is contrary to the record evidence. The physician statement of April 26, 1995 certifies that the Grievant could perform her normal work duties. If, in late April of 1995, the Grievant was able to perform her normal work duties, her pregnancy on March 17, 1995, certainly did not cause an illness which disabled her to the extent that she was unable to report to work.

By refusing to report to work early on March 18, 1995, as directed by her supervisor, the Grievant resorted to "self help." It is well established arbitral law that discipline is particularly appropriate where an employe resorts to "self help". The Grievant's conduct is contrary to the requirement of Article 3, which states that "In the event of a grievance, the employee shall continue to perform the assigned task and grieve the complaint later."

At 10:30 p.m., the Grievant telephoned Corrections Supervisor Rix and stated "mark me down sick for Saturday." The Grievant indicated that she was ill for only two to three hours. If one accepts that the Grievant was ill, she certainly was able to report for work as directed.

The call-in procedure set forth in Appendix D of the 1993-94 collective bargaining agreement does not state that a correction officer may refuse to report to work because of a family member's illness. Rather, the terms of the provision specifically state that the least senior officer (here, the Grievant) must report to work. The call-in procedures were obviously designed to ensure that the jail facility has sufficient staff to protect the safety of the public and the welfare of the inmates.

By memorandum dated March 22, 1995, Lieutenant Reed advised the Grievant that any request for use of sick leave for her absence on March 18, 1995, would be denied. The fact that the Grievant did not process the grievance beyond the first step of the grievance procedure, where it had been denied, indicates that she was fully aware that she was not entitled to sick leave pay for the day of her absence because neither she, nor her daughter, were ill on the day in question.

The County did not reject the Grievant's offer to bring in the bed sheets. Rather, the Grievant failed to make good on her "offer of proof" until the date of the arbitration hearing

The credible evidence establishes that the Grievant refused a direct order to report to work and was absent without leave. The Grievant was disrespectful and verbally abusive to her supervisors and in violation of multiple Department rules.

The County's action in issuing a one-day suspension for the Grievant's misconduct on March 17, 1995, was not unreasonable, arbitrary or capricious. The arbitrator should defer to the County's judgment as to the proper penalty to be imposed for the Grievant's misconduct and find that the County's discipline of the Grievant is for "just cause".

DISCUSSION

The following facts are not in dispute: On March 17, 1995, at approximately 9:00 p.m., Corrections Supervisor Niewolny telephoned the Grievant to advise her that she was being called-in to start work at 3:00 a.m. on March 18, 1995, which was four hours earlier than her scheduled starting time. The Grievant, with a raised voice, told Corrections Supervisor Niewolny that she could not wait for the contract language to be changed. When Corrections Supervisor Niewolny replied that she had no choice, but rather, had to direct the Grievant to report to work early, the Grievant hung up the phone. At approximately 10:30 p.m., the Grievant telephoned the County Jail and spoke with Corrections Supervisor Rix. At that time, the Grievant told Corrections Supervisor Rix "There is no way I'm going to be there at 3AM." When Corrections Supervisor Rix advised the Grievant that she had an obligation to report to work, the Grievant responded "My kid is sick, and so am I, and I'll bring the bedsheets to prove it." When Corrections Supervisor Rix advised the Grievant that she was likely to face a disciplinary action if she did not report to work, the Grievant responded "Do whatever you have to do, I'm not coming to work" and "Mark me down sick for Saturday." At 6:30 a.m., the Grievant telephoned the Jail and asked Corrections Supervisor Rix if she had informed the day shift supervisor that the Grievant would not be in to work. Corrections Supervisor Rix responded that she had. The Grievant then asked Corrections Supervisor Rix if the Grievant should bring in the bed sheets as evidence and Corrections Supervisor Rix responded that she had finished with the discussion and that the Grievant should do what the Grievant thought was best.

The Grievant claims the following: at the time of her conversation with Corrections Supervisor Niewolny, she was upset because she did not think that it was fair that the contract required the "low man" to work the overtime; at the time of her conversation with Corrections Supervisor Niewolny, the Grievant intended to report to work as directed; the Grievant and her child were not sick at the time of the conversation with Corrections Supervisor Niewolny; approximately one hour after the conversation with Corrections Supervisor Niewolny, the Grievant's two year old child woke-up crying and the Grievant discovered that her child had vomited in bed; the Grievant, who was several months pregnant, vomited in response to the odor and became ill for two or three hours; by the time that the Grievant telephoned the County Jail to advise Corrections Supervisor Rix that she and her child were sick, her child had vomited several more times; and that the child had vomited as late as 6:30 a.m.

The County, contrary to the Union, asserts that the Grievant's claim that she and her daughter were ill is not credible. In support of this assertion, the County argues that the Grievant's conduct during the conversation with Corrections Supervisor Niewolny demonstrates that the Grievant was unwilling to work the mandatory overtime.

The record demonstrates that, during the conversation with Corrections Supervisor Niewolny, the Grievant was upset, spoke in a loud voice, and ended the conversation by abruptly

hanging up the phone. 1/ This conduct of the Grievant must be assessed within the context of the conversation between the Grievant and Corrections Supervisor Niewolny.

Corrections Supervisor Niewolny does not claim, and the record does not demonstrate, that the Grievant told Corrections Supervisor Niewolny that she would not report to work as directed. Rather, Corrections Supervisor Niewolny and the Grievant agree that the Grievant made only one statement to Corrections Supervisor Niewolny, i.e., that the Grievant could not wait for the contract language to change. 2/ Within the context of this conversation, the evidence of the Grievant's conduct demonstrates nothing more than that the Grievant was unhappy that the contract required the Grievant to work overtime. 3/

In summary, the evidence of the conversation between Corrections Supervisor Niewolny and the Grievant, does not demonstrate that the Grievant refused Corrections Supervisor Niewolny's directive to report to work early. Nor does it demonstrate that the Grievant was unwilling to abide by Corrections Supervisor Niewolny's directive to report to work early on March 18, 1995.

As the County argues, the Grievant did not mention any illness when she spoke with Corrections Supervisor Niewolny. The Grievant, however, has offered an explanation for this "failure", i.e., she and her child were not ill at that time.

It is plausible that, without prior warning, a two year old child would wake up vomiting. It is also plausible that the Grievant, who was several months pregnant at the time, would become ill when exposed to her child's vomit. 4/ The Grievant's claim that she was not sick at the time of

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1/ While Corrections Supervisor Niewolny testified that the Grievant hung up in mid-conversation, it is not evident that Corrections Supervisor Niewolny, or the Grievant, had anything more to say.

2/ The contract language in effect on March 17, 1995 obligated the junior officer to work if the more senior officers refused the work. The Grievant was the junior officer on days. Under the successor agreement, which had been agreed upon but not yet ratified, the least senior officer on duty would have been required to work the extra hours.

3/ At hearing, the Grievant confirmed that she was upset because she thought the call-in language was unfair.

4/ In late April of 1995, the Grievant's physician certified that the Grievant could perform her normal work duties as long as the Grievant did not work more than eight hours in a twenty-four hour period or more than forty hours per week. This fact, however, does not provide a reasonable basis to discredit the Grievant's claim that she was ill for two or three hours during the evening of March 17, 1995. It is common for women in the initial months of pregnancy to suffer bouts of nausea.

the conversation with Corrections Supervisor Niewolny, but that she and her child were sick at the time of the conversation with Corrections Supervisor Rix, is inherently credible.

The Grievant was testy when she spoke with Corrections Supervisor Rix. The County argues that the Grievant's testiness demonstrates an unwillingness to work the overtime assignment. However, given the context of the conversation, it is more plausible, as the Grievant stated at hearing, that she was testy because she was ill and tired from caring for a sick child.

The Grievant was on the defensive when she spoke with Corrections Supervisor Rix. The Grievant, however, was reporting sick in a mandatory call-in situation. Under such circumstances, it would be normal for an employe to be apprehensive about her supervisor's reaction, to be on the defensive, and to attempt to forestall criticism by offering proof, such as the soiled bed sheets.

In summary, neither the comments made by the Grievant to Corrections Supervisor Rix, nor the manner in which the Grievant made these comments, demonstrates that the Grievant refused to report to work as directed by Corrections Supervisor Niewolny because the Grievant did not want to work the mandatory overtime. Rather, the evidence of the conversation between the Grievant and Corrections Supervisor Rix demonstrates that the Grievant telephoned Corrections Supervisor Rix to report that she would be taking a sick leave day on March 18, 1995 because she and her child were ill.

As the County argues, the Grievant does not like to work overtime and generally refuses requests to work voluntary overtime. 5/ Given the fact that the Grievant has the right to refuse voluntary overtime, the Grievant's refusal to work voluntary overtime does not give rise to any negative inference. 6/

The record demonstrates that, in 1992, the Grievant was disciplined because she walked out of CPR training. 7/ The record also demonstrates that the Grievant missed a CPR class; that the Grievant claimed that she could not make the class because of winter road conditions; and that

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5/ It is not evident, however, that the Grievant has a history of abusing sick leave, or of refusing to work mandatory overtime.

6/ Nor does the Grievant's failure to attend the Fourth Step Grievance meeting give rise to any inference concerning the credibility of the Grievant's claim that she and her child were sick when she spoke with Rix on March 17, 1995.

7/ Personnel Director's response to the grievance indicates that the Grievant received a written reprimand for this conduct.

the Grievant was not disciplined for missing this class. 8/

Notwithstanding the County's argument to the contrary, the evidence concerning the CPR classes does not establish that the Grievant has, or is likely to, invent excuses to avoid working overtime. Nor does the record otherwise establish that the Grievant is not truthful. 9/

In summary, the Grievant's testimony that she and her child were ill at the time that she telephoned Corrections Supervisor Rix is inherently credible and has not been rebutted by the record evidence. Accordingly, the undersigned rejects the County's argument that the Grievant fabricated a sick leave excuse to avoid reporting to work early.

The contract provides the Grievant with a right to use sick leave for personal illness, as well as for family illness. Family illness is defined as "cases of illness or injury in the immediate family where the immediate family member requires the attention of the employee."

Neither the call-in provisions relied upon by the County, nor the sick leave provision, prohibit the use of sick leave in mandatory call-in situations. Accordingly, the undersigned rejects the County's claim that the Grievant is not entitled to use sick leave in a mandatory call-in situation. 10/

It is immaterial that the Grievant's sickness lasted no more than two or three hours. The record warrants the conclusion that the Grievant was ill at the time that she reported her illness to Corrections Supervisor Rix.

A two year old child who has been vomiting repeatedly has an illness which requires the attention of a parent. Since the Grievant is a single parent, the undersigned is persuaded that her child had an illness which required the Grievant's attention. The undersigned is satisfied that the condition of the Grievant's child entitled the Grievant to use sick leave for a family illness on March 18, 1995.

When Corrections Supervisor Rix told the Grievant that she had an obligation to work, the

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8/ Despite the County's argument to the contrary, the evidence that employes, residing in other areas of the county, were able to drive to the CPR class does not demonstrate that the roads in the Grievant's area could be traveled safely.

9/ As the Union argues, Corrections Supervisor Rix and Lieutenant Reed agree that, prior to March 17, 1995, the Grievant did not provide any reason to question the Grievant's credibility.

10/ The testimony of Lieutenant Reed establishes that the Grievant was not disciplined for using sick leave in a mandatory call-in situation, but rather, was disciplined because the Grievant's supervisors did not believe the Grievant's claim that she and her child were ill.

Grievant responded by explaining that she and her child were sick. Corrections Supervisor Rix did not, thereafter, order the Grievant in to work. Rather, Corrections Supervisor Rix stated that the Grievant "would likely face a disciplinary action if she did not report to work". 11/ While this comment of Corrections Supervisor Rix placed the Grievant on notice that her sick leave claim would be subject to further investigation, it did not constitute a rejection of the Grievant's sick leave claim. 12/

At the time that the Grievant called-in sick, she was not told that she could not use sick leave on March 18, 1995. Thus, contrary to the argument of the County, the Grievant's failure to report to work on March 18, 1995 did not involve insubordination, "self-help", nor did it violate the "work now, grieve later" principle recognized in Article 3 of the labor contract.

As the County argues, the County has a legitimate interest in providing adequate staffing to protect the safety of the public and the welfare of inmates. The record, however, establishes that the County was able to provide necessary coverage without the presence of the Grievant. Thus, this is not a situation where the Grievant's failure to report to work endangered the health, safety or welfare of the public or inmates.

Conclusion

The "Employee Disciplinary Notice" establishes that the Grievant was disciplined for "absenteeism," defined in the written text of the notice as "absent without authorized leave" and for "insubordination," defined in the written text of the notice as "any employee who willfully disobeys or disregards the direct order, verbal or written, of a superior officer." The order alleged to have been violated is the order to report to work at 3:00 a.m. on March 18, 1995.

For the reasons discussed above, the undersigned is persuaded that the Grievant was

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11/ Employer Exhibit #3.

12/ Indeed, it is not evident that the Grievant's request for sick leave was expressly rejected until March 22, 1995, when Lieutenant Reed issued a memorandum stating, *inter alia*, "Any request for use of sick leave for your absence on 3-18-95 will be denied".

contractually entitled to use sick leave on March 18, 1995. The Grievant was not absent without leave on that date and the Grievant was not insubordinate when she did not report to work at 3:00 a.m. on March 18, 1995. 13/

13/ The fact that the grievance on the denial of the use of a sick leave day for March 18, 1995 was not pursued through the grievance procedure does not alter the conclusion reached herein.

As the Union argues, the County does not have just cause to discipline the Grievant for the "absenteeism" and "insubordination" alleged in the "Employee Disciplinary Notice" dated March 21, 1995. 14/ Accordingly, the grievance has been sustained.

Based upon the above and foregoing, and the record as a whole, the undersigned issues the following

AWARD

1. The County did not have just cause to issue the March 21, 1995 disciplinary notice to the Grievant and suspend the Grievant for one day without pay.

2. The County is to immediately take the following remedial action:

a) rescind the "Employee Disciplinary Notice" dated March 21, 1995

b) expunge any reference to this "Employee Disciplinary Notice" and the one day suspension from the Grievant's personnel files

c) make the Grievant whole for any loss in wages and benefits resulting from the one day suspension without pay which was imposed by the "Employee Disciplinary Notice" dated March 21, 1995.

Dated at Madison, Wisconsin, this 11th day of September, 1996.

By Coleen A. Burns /s/
Coleen A. Burns, Arbitrator

14/ The evidence of the Grievant's conduct towards Corrections Supervisor Niewolny and Corrections Supervisor Rix demonstrates that the Grievant was testy when she spoke to her supervisors. However, contrary to the argument of the County, the evidence of the Grievant's conduct does not establish that the Grievant was disrespectful or that the Grievant verbally abused her supervisors.