

BEFORE THE ARBITRATOR

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In the Matter of the Arbitration of a Dispute Between  
**MILWAUKEE DEPUTY SHERIFFS' ASSOCIATION**  
and  
**MILWAUKEE COUNTY (SHERIFF'S DEPARTMENT)**

Case 659  
No. 68016  
MA-14088

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**Appearances:**

**Mathew L. Granitz**, Cermele & Associates, S.C., Attorneys at Law, 6310 West Bluemound Road, Suite 200, Milwaukee, Wisconsin 53213, for the Association.

**Timothy R. Schoewe**, Deputy Corporation Counsel, Milwaukee County, Milwaukee County Courthouse, Room 303, 901 North Ninth Street, Milwaukee, Wisconsin 53233, for the County.

**ARBITRATION AWARD**

Pursuant to the terms of a contract between the Milwaukee Deputy Sheriffs' Association and Milwaukee County, the Wisconsin Employment Relations Commission assigned me to act as grievance arbitrator regarding a July 4, 2007 work assignment dispute between the parties. A hearing was held in Milwaukee, Wisconsin on September 11, 2008. No transcript or other recording of the hearing was made. The parties filed briefs and reply briefs, the last of which was received October 29, 2008.

**ISSUE**

The parties agreed that I am to resolve the following issue:

Did the County violate Secs. 3.02(e), 3.15(4) and/or 3.25 of the contract?

If so, what is the appropriate remedy?

## DISCUSSION

As this matter has unfolded, there is little left for me to decide.

As the County persuasively argues, an October 14, 2008 Award issued by Arbitrator Gallagher as to a Memorial Day version of this Fourth of July dispute definitively resolves the overtime component (Secs. 3.02(e) and 3.15(4)) of this proceeding. Therefore, those portions of the grievance are dismissed.

As to the Sec. 3.25 portion of the dispute, the County admits that it did not provide two weeks notice and in a March 25, 2008 Grievance Disposition Form concedes that “Management erred when it did not notify employees of the shift change two (2) weeks in advance.” The County now argues that the following Sec. 3.25 exception to the two week notice requirement excuses the lack of two week’s notice:

. . . provided, however, that such assignments or shift changes may be made with less notice in cases of emergency or to change the employee’s work setting in order to improve his work performance or to increase departmental efficiency.

Contrary to the County’s argument, the Sheriff’s interest in having more coverage in the County parks during a holiday is clearly not an “emergency.” While an argument can be made (and the County makes same) that the assignment in question did “increase departmental efficiency”, the record makes clear that the absence of two weeks notice was simply because “patrol didn’t get around to it.” In such circumstances, I am persuaded that the County did violate Sec. 3.25 of the contract.<sup>1</sup>

The County correctly notes that Sec. 3.25 does not specify what, if any, remedy should be available for a violation thereof and contends Sec. 3.25 certainly does not authorize the eight hours of compensatory time sought by the grievants. As noted above, the parties have given me authority to provide whatever remedy is appropriate. Without some remedy, the County will have no incentive to follow Sec. 3.25 in the future. Thus, some remedy is

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<sup>1</sup> In reaching this conclusion, I acknowledge the fact that before formal (but one day untimely) notice was provided to the affected employees, there was some discussion among at least some of the court-assigned deputies during roll call as to the likelihood of working parks on the Fourth of July. However, I am satisfied that such informal discussion does not meet the requirements of Sec. 3.25.

appropriate. However, given the “one day late” nature of the County’s violation, I am persuaded eight hours of compensatory time is excessive. Therefore, I am awarding one hour of compensatory time to each of the grievants covered by this Award.

Dated at Madison, Wisconsin, this 14th day of January, 2009.

Peter G. Davis /s/

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Peter G. Davis, Arbitrator