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BEFORE THE MEDIATOR-ARBITRATOR

AUG 12 1983

In the Matter of the Petition of  
 BROWN COUNTY ATTORNEY'S ASSOCIATION  
 to initiate mediation-arbitration  
 between said Petitioner and  
 BROWN COUNTY

Case No. CLXXXV  
 No. 31036  
 Med/Arb-2134  
 Decision No. 0452-A

WISCONSIN EMPLOYMENT  
 RELATIONS COMMISSION

APPEARANCES:

Parins, McKay & Mohr, S.C., Attorneys at Law, by Mr. Frederick J. Mohr, appearing on behalf of the Association.

Mr. Kenneth J. Bukowski, Corporation Counsel, appearing on behalf of the Employer.

MEDIATION-ARBITRATION AWARD

Brown County Attorney's Association, herein referred to as the Union, having petitioned the Wisconsin Employment Relations Commission to initiate mediation-arbitration proceedings in the above-entitled matter between it and Brown County, herein referred to as the Employer, and the Commission, having appointed the Undersigned as mediator-arbitrator and having notified him of that appointment on April 18, 1983, and the Undersigned, having conducted mediation followed by an arbitration hearing on June 22, 1983, in Green Bay, Wisconsin. After hearing, the parties notified the Undersigned, on July 27, 1983, that they did not wish to file post-hearing briefs. The decision in this case is based upon the record and the standards specified in S. 111.70 (4)(cm), Wis. Stats.

ISSUES

The two issues in this case are wage rates and "beeper pay". The final offer of the Association is attached hereto and marked exhibit 1, and the final offer of the Employer is attached hereto and marked exhibit 2.

POSITIONS OF THE PARTIES

With respect to the wage issue, the Association relies on the five most populous counties after Milwaukee, but excluding Winnebago and Outagamie Counties. The counties they rely on are, in order of population, Dane, Waukesha, Brown, Racine, Rock, and Kenosha. It excludes Winnebago and Outagamie because their district attorneys are not organized for collective bargaining. The Association also relied on comparison to the State Public Defenders, some of whom are based in Brown County. The Association also offered evidence that it is one of the most productive units, compared to the other county district attorney units in the state. With respect to the "beeper pay" issue, it compares itself to the professional unit of social workers in Brown County Department of Social Services.

With respect to wages, the Employer compares itself to those counties based essentially on proximity to Brown County. Its counties are Winnebago, Outagamie, Sheboygan, Fond du Lac, Manitowoc, and Washington Counties. It also argues, based upon the internal comparisons, that the Association's offer is substantially out of line with increases granted to other Brown County units or to wage increases currently being requested by unions in Brown County. It also argues that its wage proposal is substantially more than the cost-of-living increase for the comparable period. Further, it notes that, in the previous year, it gave unit employees an extra-ordinary new fifth year step, effective December 31, 1982, (the date of expiration of that contract). Although it is not included, the impact of that step in its costing of this proposal, it does note that the full impact of that step, will, of course, be felt in the 1983 contract year.

## DISCUSSION

### Wage Rates

#### i. External Comparisons

The State of Wisconsin pays public defenders, in relevant part, some of whom are located in Green Bay, as follows:

Maximum	\$38,717	Years to Maximum	6½
at 4½ years	\$34,074		
at 5½ years	\$36,307		
at 6½ years	\$38,712		

No evidence has been offered as to whether this pay plan is state wide or not. Further, the funding source for this pay plan is entirely different than that of county D.A.'s: Thus, this comparison is of limited value.

Attached and marked appendix 3 is a summary chart of the relevant portions of the pay comparisons offered by both parties. A review of the entire set of comparables clearly demonstrates that the pay differences among the counties represent more than differences attributable to cost of living. It appears they represent fundamental differences in employment policies.

Size and location appear to be significant factors and, for this reason, Dane, Waukesha, Sheboygan, Fond du Lac, Manitowoc, and Washington Counties are not comparable, because they are in different locations, including separate labor markets, and are of grossly different populations. Racine, Winnebago, and Outagamie County comparisons are comparable with respect to size or location, but not both. Rock and Kenosha are arguably comparable with respect to size. For these reasons, external comparisons are of dubious value in this proceeding and entitled to less weight than they might otherwise get.

Of these comparisons, Winnebago and Outagamie offered by the Employer are in the same labor market even though they are smaller and their D.A.'s are not organized. Although one would expect their pay levels to be somewhat lower, Outagamie pays a merit system maximum of \$32,128, which is \$872 less than the maximum requested by the Association and \$778 more than the maximum the Employer is proposing. Thus, to the extent it is useful, external comparability favors the Association's position with respect to maximums.

With respect to the five year <sup>3/</sup> level where most of the unit employees are at for at least half of the year, either party's offer would leave this unit substantially ahead of Rock and Winnebago. It is not clear how soon employees reach maximum under Winnebago's merit system, and thus, unclear how it would compare to Brown County. Brown County would be substantially behind Racine and Kenosha Counties. It would appear that, at the five year level, external comparisons are best viewed as indeterminate.

#### ii. Internal Comparisons

The evidence reveals that the settlements the county has negotiated with other units are in the range of about 5 to 5½%. Many units are still

- 1/ No challenge has been made to the accuracy of any figures and they are, accordingly, presumed accurate.
- 2/ Racine County (Sheriff's Department), (19709-A) Yaffe, 4/83.
- 3/ There are five employees in this unit. One reached their sixth year anniversary on February 1, 1983. One will not reach it until June, 1984, and the remainder reach their sixth year date in order as follows: 7/25/83, 8/14/83, and 9/1/83.

in negotiations, but the unions in these negotiations are currently asking for about a 6.2% increase for 1983. This factor tends to favor the Employer's offer.

### iii. Cost of Living

The new money total cost increase <sup>4/</sup> for 1983 represented by the Employer's offer is 5.2%, while the Association's offer is 10.5%.

The annual percentage change in BLS CPI for all urban consumers from December 1981 to December 1982 was 3.9%, and January 1981 to January 1982 was 3.8%. This factor heavily favors the Employer.

### iv. Other Factors

The Employer instituted a new step at the five-year level, effective December 31, 1982. The full impact of that step will, of course, be felt in the 1983 contract year, as substantially increased take home pay. This factor adds substantial weight to the Employer's position.

The Association offered evidence that it is one of the most productive units, compared to the other counties in the state. The evidence supports this view, and this factor favors the Association.

#### Beeper Pay

The Association compared its "beeper pay" to that of Brown Counties Social Services unit. This unit receives \$10 per week day evening, \$100 per weekend, and \$50 per holiday. This data heavily favors the Association's position.

#### WEIGHT

The wage issue is, by far, the most important issue and, thus, is given determinative weight. In this case, the evidence of external comparability is entitled to little weight because of significant differences among the compared counties and particularly in the light of substantial differences in pay structures. To the extent external evidence might otherwise be probative, it is specifically inconclusive for attorneys at the five year pay level, which pay level is of the primary concern for the 1983 contract year. The other factors which remain heavily favor the Employer's position. Accordingly, the final offer of the Employer is adopted.

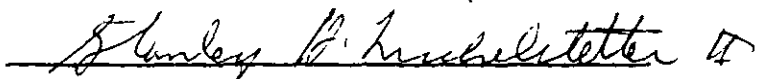
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<sup>4/</sup> By this method, the wage increase granted, effective December 31, 1982, is treated as if it had been in effect the full year before.

AWARD

That the final offer of the Employer be incorporated into the parties' 1983 collective bargaining agreement.

Dated this 8th day of August, 1983, at Milwaukee, Wisconsin.



Stanley H. Michelstetter II  
Mediator-Arbitrator

Exhibit 1

FINAL OFFER

BROWN COUNTY ATTORNEY ASSOCIATION

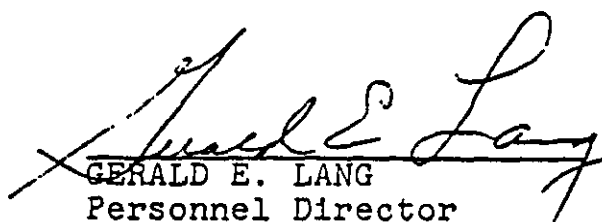
Assign EX 3  
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J/Am D

- I. Beeper Pay: \$50.00 per day for each day an attorney is required to carry the beeper.
- II. Wages:
- |                  |          |
|------------------|----------|
| Start -          | \$19,000 |
| After 6 months - | 20,500   |
| After 1 year -   | 22,850   |
| After 2 years -  | 24,850   |
| After 3 years -  | 26,850   |
| After 4 years -  | 29,000   |
| After 5 years -  | 31,500   |
| After 6 years -  | 33,000   |

BROWN COUNTY ATTORNEY'S ASSOCIATIONCOUNTY FINAL OFFER

## Wages -

Starting Salary	\$19,000.
After Six Months	\$20,500.
After 1st Anniversary	\$22,850.
After 2nd Anniversary	\$24,850.
After 3rd Anniversary	\$26,850.
After 4th Anniversary	\$28,850.
After 5th Anniversary	\$31,350.

  
GERALD E. LANG  
Personnel Director

ARBITRATOR'S NOTE: The Employer proposes continuing the current beeper pay provision. This reads as follows:

28 4.03 Beeper Pay. Members of the Association assigned by the District  
29 Attorney to carry a beeper on a weekend or a holiday during the work  
30 week shall receive \$50.00 for a weekend and \$25.00 for a holiday during  
31 the work week. Beeper pay will begin on May 28, 1982.

March 2, 1983

EXHIBIT 3

	<u>Dane</u>	<u>Waukesha</u>	<u>Brown</u>		<u>Racine</u>	<u>Rock</u> <sup>1/</sup>	<u>Winnebago</u>	<u>Outagamie</u>	<u>Kenosha</u>	<u>Sheboygan</u>	<u>Fond du Lac</u>	<u>Manitowoc</u>	<u>Wash.</u>
Population	323,545 <sup>2/</sup>	293,300	171,476		170,838	137,207	131,732	123,783	121,631	100,935	87,700	82,294	63,495
			<u>Employer</u>	<u>Union</u>									
Maximum	45,351	34,008	31,350	33,000	36,038	35,578	30,516	32,128	34,284.57	31,512	25,549	22,243	25,958
Years	13	6	5	6	6	7	merit	merit	3	4	1 <sup>3/</sup>	started	3
5 year	31,535	32,400	31,350	31,500	34,796	30,847			34,284.57	31,512		only;	25,958
6 year	34,122	34,008	31,350	33,000	36,038	33,227			34,284.57	31,512		data	25,958
7 year	35,500	34,008	31,350	33,000	36,038	35,578			34,284.57	31,512		incomplete	25,958

1/ 1982 wages

2/ I take arbitral notice of population for all counties listed from a uniform source: Wisconsin Legal Directory, 1982. (Legal Directories Publishing Company, Inc.) This factor is not determinative.

3/ One year - 24,271; merit to 25,549.