ARBITRATION OPINION AND AWARD

In the Matter of Arbitration Between

WISCONSIN COUNCIL 40, LOCAL 2918
AFSCME, AFL-CIO

and

VERNON COUNTY (COURTHOUSE
AND HUMAN SERVICES)

Case 81
No. 43384 INT/ARB-5536
Decision No. 26360-A

ARBITRATOR: John W. Friess
Stevens Point, Wisconsin

UNIT: 39 professional and non-professional courthouse and human services employees

HEARING: June 6, 1990
Viroqua, Wisconsin

RECORD CLOSED: July 28, 1990

AWARD DATE: September 9, 1990

APPEARANCES:

For the Employer: KLOS, FLYNN & PAPENFUSS - CHARTERED
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For the Union: WISCONSIN COUNCIL 40, AFSCME, AFL-CIO
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ARBITRATION OPINION AND AWARD

Vernon Co. Courthouse and Social Service Employees
and
Vernon County

BACKGROUND AND JURISDICTION

This dispute concerns the negotiation of a collective bargaining contract between the County of Vernon (County, Employer) and Vernon County Courthouse and Social Services, Local 2918, AFSCME, AFL-CIO (Union) to replace their old contract which expired December 31, 1989.

The parties exchanged their initial proposals on August 2, 1989 and met thereafter on two occasions in an effort to reach an accord. On December 15, 1989 the Union filed a petition with the Wisconsin Employment Relations Commission (Commission) requesting arbitration pursuant to the Section 111.70(4)(cm) of the Wisconsin Statutes. On March 1, 1990 Sharon K. Imes, a member of the Commission staff, conducted an investigation which revealed that the parties were deadlocked in their negotiations. On March 1, 1990 the parties submitted their final offers and Investigator Imes notified the Commission that the parties remained at impasse and the dispute was certified by the Commission for arbitration. On March 14, 1990 the Commission submitted a panel of arbitrators to the parties. John W. Friess of Stevens Point was selected as Arbitrator and was notified by the Commission on April 24, 1990.

An arbitration hearing was held on June 6, 1990 in the Vernon County Courthouse in Viroqua, Wisconsin. At that hearing exhibits were presented and testimony was heard. It was agreed that briefs would be exchanged through the Arbitrator postmarked by July 13, 1990. Reply briefs would be sent to the Arbitrator and each party postmarked by July 27, 1990. The parties agreed the record would be closed as of the hearing date for additional evidence other than some late exhibits that both agreed could be submitted after the hearing. Subsequently, briefs and a reply brief (by the Employer) were filed with the Arbitrator as agreed, the last one of which was received July 28, 1990.

The Arbitrator is granted authority to hear the evidence and issue an arbitration award under Section 111.70(4)(cm) 6 and 7 of the Wisconsin Municipal Employment Relations Act. The Arbitrator is obligated under the terms of the statute to choose the entire final offer of the Employer or the Union. Section 111.70(4)(cm) 7 sets forth 10 criteria the Arbitrator is obligated to utilize in making the decision. These criteria are itemized in the statute and are quoted verbatim in the document that I have attached to this award as "Appendix A." For this award, these criteria will be identified as: (a) lawful authority; (b) stipulations; (c) interests and welfare of the public; (d) and (e) combined under comparables--external and internal; (f) comparisons--private employees; (g) cost of living; (h) overall compensation; (i) changes; and (j) other factors.

The employees involved in this proceeding compose a collective bargaining unit represented by the Union which is described in the labor agreement as "all employees for the Courthouse and Social Services Department, except the elected officials, supervisors, confidential, managerial or executive employees." There are approximately 39 employees in the unit.

STIPULATIONS AND FINAL OFFERS

STIPULATIONS

During the arbitration hearing the parties submitted for the record the issues to which they agreed. These issues were stated in a document executed by the parties at the hearing entitled "Stipulations of the Parties" and accepted into the record as Joint Exhibit #2. This document is attached as Appendix B. In addition, during the hearing the parties and the Arbitrator went over the final offers of both the Union and the Employer in order to determine those issues which were thus uncontested issues based upon the "Stipulation" document. The issues that were eliminated as issues to be arbitrated based upon mutual agreement at the hearing are indicated on the final offers by [] (boxed in), and the final offers of record are appended to this award as Appendix C and Appendix D.

FINAL OFFERS

The parties have stipulated to a contract duration of two years running from January 1, 1990 through December 31, 1991. Thus, both parties have submitted proposals that cover this two-year period. Based upon the final offers of record there are five issues involved in this dispute: wages in the form of across-the-board (atb) increases to the salary schedule for 1990 and 1991; the placement on the salary schedule of three accreted positions; applicability of notification of termination; vacation schedule changes; and retroactivity of on-call pay increases. The two final offers of the parties reflect the following positions:

Wages

The Union's proposal calls for an atb increase to the salary schedule and to employees off the schedule of 4.5% for 1990 and 5.0% for 1991. The Employer's offer is for an atb 1.5% increase for 1990 and a 1.5% for 1991, to be applied to Schedule A and B of the contract.

Accreted Positions

One issue here is the placement of three accreted positions (new to the bargaining unit) on the wage schedule: Mental Health Case Manager (MHCM), Financial Clerk/Bookkeeper (FC/B), and Developmental Disabilities (DD) Driver. The Union thinks the MHCM position should be place in a new pay grade of its own between Class I (clerical and para-professionals) and Class J (professionals) with 1989 monthly rates of $1,317.38 (start), $1,370.08 (6 mo.), $1,424.88 (16 mo.), $1,481.88 (30 mo.), $1,541.16 (42 mo.), and $1,602.81 (54 mo.). The County believes this position should be placed at Class E. On the Financial Clerk/Bookkeeper position the County wishes to place this position at Class C, while the Union thinks it ought to be at Class F. The DD Driver is placed in the first class (Class A) by the Employer and at the "Part-time Hourly" position by the Union.

A sub-issue that is part of this issue is how "red-lined" or "red-circled" employees should be handled. The Union's offer places the "new" employees (in the above listed positions) on the schedule at a point closest (but not less) to their 1990 salary level. If an employee makes more than the schedule maximum for the classification, the employee will be placed "off" the schedule and "red-circled," but will receive the 1991 increase. The County would merely "red-line" any individual whose 1990 wage rate is higher than what the salary schedule calls for, and that employee's salary would be frozen until the salary schedule catches up to the employee's wage level.

Notification of Termination

The Union proposes to change the requirement of the Employer to notify employees if/when they will be terminated. Currently the Employer needs only to notify regular full-time employees, the Union proposes to change the wording to specify that all regular (including part-time) employees would receive 14 days notice. The Employer wants to maintain the status quo.

Vacation Schedule

The County is satisfied with the current vacation schedule, but the Union proposes to adjust the current schedule of 3 weeks after 10 years to 3 weeks after 8 years and to adjust 4 weeks after 20 years to 4 weeks after 18 years.

Retroactivity of On-Call Pay

The County does not believe that on-call pay increases should be retroactive to January 1, 1990. The Union's offer allows for full retroactivity of all economic items, including on-call pay increases.

ISSUES SUBJECT TO ARBITRATION

Final Offer Issues

After eliminating the stipulated and agreed-upon issues, there remain five final offer issues subject to this Arbitration: wages; accreted positions; notification of termination; vacation schedule; and on-call pay retroactivity.

Other Issues

At the hearing and in their briefs the parties raised two other issues relevant to this Arbitration and that will be addressed in this decision. These are: appropriate comparables and costs of implementing the compensation system.

DISCUSSION

INTRODUCTION

The Arbitrator is charged with determining the more reasonable of two offers, however, in this case neither final offer appears to be very reasonable at all. The two offers are very far apart on the economics, based on the fact both parties use different ways to cost the implementation of a new progressive salary schedule awarded in an arbitration issued last year. The County has offered an extremely low wages-only increase to the new salary schedule in order to pay the costs of implementing the new schedule. The Union ignores the very high cost to the County of putting and moving the employees on the new schedule (which the Union fought for and won the previous year), asking even more in a percentage increase in wages than the inflation rate during the period while at the same time demanding changes in the vacation schedule, retroactive pay for the on-call positions, and another change in the contract. Neither party has proposed any reasonable solution to the high economic impact of implementing the new wage schedule.

Since both offers appear to be basically unreasonable, the job of the Arbitrator will be to determine which offer is less unreasonable. In doing this, I will need to determine the most appropriate way to view the costs associated with the implementation of the compensation schedule, and then determine which offer more closely meets the reasonableness standards set forth in Section 111.70(4)(cm) of the Wisconsin Statutes.

The report of these decisions will be accomplished in two parts of this "DISCUSSION" section. In the first, PARAMETERS OF ANALYSIS, I will respond to the parties suggestions as to how the evidence is to be viewed and establish the procedures by which the offers will be analyzed.

In the second part, ANALYSIS AND OPINION, I will analyze the data and substantive arguments proffered by the parties on each of the issues utilizing the parameters established in the PARAMETERS OF ANALYSIS. In both parts I will summarize briefly each party's specific position on the pertinent issue(s) and criteria. "////" indicates that the Arbitrator's analysis and opinion follows.

PARAMETERS OF ANALYSIS

The parties in this case have presented evidence and argument both as to the way they believe the Arbitrator should proceed to analyze the evidence in the record as well as to the favorableness of their case on the issues being contested. In this section I will respond to the parties' objections, arguments and suggestions on how the evidence should be analyzed, and then establish the procedures and parameters by which the parties' final offers will be analyzed.

Evaluation of Evidence

The parties presented no formal objections to submitted evidence at the hearing or in their briefs. However, each raised concerns regarding the applicability or appropriateness of certain evidence presented by the other.

These issues are: appropriate comparables, appropriate CPI data, accreted positions and management rights, and the cost of compensation schedule implementation. Each is discussed separately.

Comparables

The Union proposes, without much justification, thirteen counties from the surrounding area as units of government that are comparable to Vernon County. The County objects to these counties as being comparable saying that the Union's choice of comparable counties is so faulted as to be useless. Based upon population, the County maintains that with Vernon County at a population of 26,000, La Crosse (97,000), Columbia (44,000), Wood (75,000), Sauk (46,000), and Grant (52,000) are obviously not comparable. Likewise, the County contends that Monroe and Juneau Counties, while somewhat more comparable on population, have a tax base with a far more industrial base than Vernon County's agricultural base. Instead the Employer maintains that the Arbitrator must use and give great weight to the voluntary settlements of other employee contracts between the same union and the County.

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Regarding this issue of comparability, the two parties are at the extremes: the Union proposes nearly every Wisconsin county within a 100 mile radius, and the County rejects all the external comparables and proposes to use only the internal comparables (other county unionized groups). Since it is a specific obligation of the Arbitrator to compare the wages, hours, and conditions of employment of the employees subject to this arbitration with other employees performing similar jobs in public and private employment (criteria d, e, and f), neither position is reasonable and I will need to establish the appropriate external and/or internal comparable units/employee groups for comparison purposes.

External Comparables

As mentioned above the Union proposes thirteen area counties for making wage and benefit comparisons. The Employer essentially rejects these counties as external comparables, but offers no other external employee groups either public or private to use for comparisons.

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The record contains no data relating to what comparables the parties (or other arbitrators) have relied upon in other contract negotiations. However, both parties present exhibits containing data and statistics for different counties in the area and around the state. Most of this is in the form of excerpts from the Wisconsin Blue Book 1987-88. Chart I (on next page) was prepared from this data using the Union's proposed thirteen counties.

Regarding the comparability based upon population, the County is right: Columbia, Grant, La Crosse, Sauk, and Wood can be eliminated. Supporting the elimination of Columbia, La Crosse, Sauk, and Wood, are the data on Ratio of Farms to Population and Ratio of Farm Land to Population. On both of these measurements these counties show much less percentage of farms and farm land compared to population than that of Vernon County. Another county that should probably be eliminated based upon population (because it is much smaller) and

the Ratio of Farms to Population and Ratio of Farm Land to Population is Adams County.

CHART I

EXTERNAL COMPARABLES
COMPARABILITY STATISTICS AND COMPARISONS

	Pop.[1] Est. 1986	Num of[2] Farms 1985	Acres in[2] Farms 1985	Ratio Farms to Pop.	Ratio Land to Pop.	Gross[3] Tax Rate 1985	Per Cap.[4] Income 1985
Adams	15,099	450	121,000	2.980	8.014	21.59	5,082
Columbia	43,902	1,650	365,000	3.758	8.314	20.49	7,746
+Crawford*	16,527	1,150	289,000	6.958	17.487	24.03	5,131
Grant	51,795	2,590	684,000	5.000	13.206	22.10	5,631
+Iowa	20,280	1,450	425,000	7.150	20.957	22.94	5,895
+Jackson	16,771	920	257,000	5.486	15.324	22.59	5,204
+Juneau*	21,861	830	200,000	3.780	9.149	23.45	5,772
LaCrosse*	96,648	880	211,000	.911	2.183	24.62	8,039
+Monroe*	36,517	1,790	383,000	4.902	10.488	20.61	6,330
+Richland*	17,355	1,250	310,000	7.202	17.862	25.46	5,610
Sauk*	45,613	1,640	403,000	3.595	8.834	23.63	7,066
+Trempealeau	26,521	1,620	401,000	6.108	15.120	24.74	5,623
Wood	75,806	1,250	247,000	1.649	3.258	27.00	8,775
Vernon	26,082	2,430	427,000	9.317	16.371	24.44	5,408
Average (+)	22,261	1,287	323,571	5.941	15.198	23.42	5,652
Ratio-VC/Avg	117.2	188.8	132.2	156.8	107.7	104.4	95.7

\+ Indicates counties found comparable for this arbitration.
* Indicates counties contiguous with Vernon County.
1 County Exhibit 15.
2 County Exhibit 12.
3 County Exhibit 18.
4 County Exhibit 14.

Therefore, taking into account the concerns of the Employer while, at the same time, working to select an appropriate set of external comparables, the following counties are selected as comparable with Vernon County for this arbitration decision: Crawford, Iowa, Jackson, Juneau, Monroe, Richland, and Trempealeau.

Internal Comparables

The County argues that the Arbitrator should concentrate on the internal comparables--the other employee groups of Vernon County which are organized and have contracts with the Employer. The record shows these Vernon County groups to be: Sheriff's Department, Highway Department, and Vernon Manor. The

Union raises no objection to the three other county units being used for internal comparisons, and suggests a fourth, the non-unionized County employees.

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The parties seem to agree that the three other units will be acceptable for internal comparisons, so I too will adopt them. The County non-union employees also is appropriate for comparisons. The only concern is that, with the exception of Vernon Manor, neither party provides much in the way of settlement data other than wage increases. Lack of proper settlement data makes total package comparisons very difficult.

The County proposes (Brief, p. 7) an interesting internal comparable: the average Vernon County taxpayer. The County basically believes that the wages and benefits of the County workers should be compared to the average wages and benefits of the taxpayers of the county. Actually, there is a certain logical appeal to this comparison. The trouble in this case is that the Employer failed to provide specific statistics relating to the wages and benefits of the average Vernon County taxpayer to which the employee's wages and benefits here could be compared.

CPI Data

There are two sub-issues relating to the Consumer Price Index (CPI). First, which table the parties (and Arbitrator) ought to used, and second, whether CPI factors include fringe costs (e.g. insurance), and thus whether the CPI should be compared to wage-only increases or to total package costs.

Union Exhibits 7 and 8 are copies from the Consumer Price Indexes (CPI), January 18, 1990. The Union in part relies on this CPI data for determining the cost of living for the area. The Employer objects that the Union insists upon using the Metropolitan tables of CPI when it should be apparent to all that the appropriate Vernon County CPI equivalent is rural.

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It certainly is apparent to me that Vernon County is rural--a glance back at Chart I reveals that. And the Union has only supplied CPI data for metro and urban areas--data which certainly do not seem relevant. The problem though, is that these are the only CPI data submitted by the parties. While the County objects to relying on these data, the County fails to provide other, perhaps more appropriate, data. This leaves the choice of either no data, or poor data.

Although each situation is certainly different, it is my opinion here that the proposed urban and metro CPI data in the record are just not appropriate and, thus, should not be used directly in this arbitration for setting the local and/or regional cost of living.

So, does this leave us without any indication of what the inflationary rate was during the period? Not necessarily. The County states in its Brief (p. 6) that a fair inflationary figure for the period is 4.0%. While the County presents no supportive evidence for its proposed figure, it is confirmed by an average of 4.0% of wages-only settlements among the comparable counties. This figure is also somewhat confirmed by the CPI data in evidence

that show an average of increases in Small Metro and Non-metro Areas for 1989 consumer prices of 4.2%. Therefore, I think it is reasonable to assume the inflationary rate for the period for this county was around 4.0%.

On the second sub-issue, regarding whether the CPI incorporates other fringe costs (e.g. insurance) of a employer, I must agree with the Union and Arbitrator Kerkman (Union Brief, p. 6) that CPI basically deals with the increases related to direct consumer costs like food, clothing, gasoline, rent, etc., that is, "...goods and services that people buy for day-to-day living." ("Brief Explanation of the CPI," Union Exhibit 7.) It is increases (and decreases) in these costs that cost of living wage increases (decreases) balance out, not the total costs to the employer. In my opinion cost of living figures (such as CPI) should be compared to percentage wage changes, and not to total package cost figures.

Accreted Positions and Management Rights

The County argues (Brief, p. 7) that "the County has a duty to rate Union jobs county-wide as to difficulty and responsibility and to classify wages rates accordingly", "...that such was done in this instance...", and therefore the County's decision "...should not be revised by arbitration."

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It seems the County's argument here is either that the issues of the wages and conditions of employment of these three disputed accreted positions should not be subject to arbitration, or if they are, the Arbitrator should not over-turn the County's decision based upon some inherent right of management not to have its decisions questioned and changed by an arbitrator.

On the first claim that the accreted positions should not be part of this arbitration, the time for objections to issues being mandatory or permissive is past. The fact is that these issues are part of both parties' final offers, and thus, based upon a lack of jurisdiction to remove issues outside of stipulation, are, and shall continue to be, a subject of this arbitration.

On the second theory, while the County certainly does have a right to establish a fair compensation schedule, conduct job evaluations, and to place individual employees on that schedule (Joint Exhibit 1--Labor Contract, Article II, p.2), the Union, because these issues have to do with wages and conditions of employment, also has the right to review and object to the results of that process, which is how much individuals or whole classifications of employees are paid. I know of no inherent management rights' principle that would automatically give the County its position on this issue "just because" (it says so). Moreover, I am not aware of, and the County has not pointed out, any arbitral principle which would apply and provide the basis to support the County's theory here. Like the other issues in this case, both parties are required to present evidence, testimony, and argument to explain and justify their position which the Arbitrator must analyze vis-a-vis the statutory criteria, and then choose the more reasonable proposal.

On the accreted positions and management rights, I reject the County's stated or implied theory(s) of justification.

Cost of Compensation Schedule Implementation

Probably the most important, if not determinative, issue in this case is how this Arbitrator should view and handle the costs associated with the implementation of the progressive salary schedule previously ordered by Arbitrator Yaffe in an immediately prior decision dated January 20, 1989 (Yaffe Decision). This issue is important and likely determinative because of the great importance the parties themselves place on the issue and the effect differing interpretations will have on the economics of the case.

The Union strenuously objects to the inclusion of step increases in the costing of the final offers. The Union says this exclusion of step increases when costing offers is supported by other arbitrators who state that, with the exception of school districts, step increments are generally not a standard cost measurement in the public and private sectors. More importantly, the Union flatly states that finding for the County's offer in this case will simply reverse the previous Yaffe Decision. In addition, the Union points out that the Vernon County non-union employees are covered by a wage schedule that includes 30 step increments and these are not costed into the wage increase by the County for the non-union employees.

The County rejects the Union's assumption that the substantial increases in wages ordered by the Yaffe Decision should not be considered by this Arbitrator. The County maintains that the Arbitrator in the Yaffe Decision certainly confirms the law and the County's position that the County must get credit in any subsequent contracts for the increased costs of the progressive wage schedule.

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This issue will be discussed under the following headings: history of the issue, Yaffe Decision, issue clarification, response to parties' arguments and claims, and summary and opinion.

History of Issue

The Union points out in its brief (p. 2) that to fully understand this wage issue, the parties' bargaining history of the previous contract must be discussed. I concur, and present this brief history.

The parties reached an impasse in their previous contract negotiations and the dispute was resolved in arbitration by (what I will refer to as) the Yaffe Decision [VERNON COUNTY COURTHOUSE AND SOCIAL SERVICES, LOCAL 2918, AFSCME, AFL-CIO and VERNON COUNTY (COURTHOUSE AND SOCIAL SERVICES), case 77, No. 40087, INT/ARB-4774, Decision No. 25577-A, Arbitrator Byron Yaffe, Madison, Wisconsin, January 20, 1989]. The Yaffe Decision dealt with several issues, one of which was a progressive compensation schedule for the unit employees proposed by the Union. Arbitrator Yaffe found in favor of the Union offer and thus ordered the implementation of the compensation schedule.

Prior to the award, the parties collective bargaining agreement contained only one (1) wage rate for each employee classification. By virtue of the award, the wage schedule changed into a Step System with steps of 6, 18, 30, 42, and 54 months of service for each employee classification. Each step is 4% above the step below it. In addition to this compensation schedule, the

award included an implementation schedule (proposed by the Union) for existing employees which called for employees to advance an additional step each January 1 until all employees were at the proper step.

The current dispute over the salary schedule has to do with the cost related to implementing the Yaffe Decision.

Yaffe Decision

I do not believe it is within the jurisdiction of this interest Arbitrator to rule on the interpretation of a previous arbitration decision. And it is not my intent to provide, nor should my comments here be construed as, a legal interpretation of the Yaffe Decision. However, the parties in their exhibits, and oral and written arguments made many claims and took positions which were based upon their interpretation of the Yaffe Decision. In order to adequately respond to these arguments and claims, I feel compelled to discuss briefly that arbitration decision.

As mentioned above, there were several issues that the Yaffe Decision resolved, the compensation schedule being only one. The pertinent part of the Discussion section of this award (p. 5) is:

> "It is also clear from the record that the parties' wage offers will have very little difference in their economic impact on both employees and the County in 1988 and '89. The major difference would be in the long term impact of the Union's wage proposal, assuming for the sake of argument that the wage progression system it proposes remains in the parties' successor collective bargaining agreements--which is at this point in time speculative at best.
>
> Under these circumstances, while there appears to be some support for the Union's effort to make unit employee's wages somewhat more competitive with the wages earned by similarly situated employees employed by other counties in the area, there is no assurance that its wage proposal will accomplish that end, or even begin to do so. Under such circumstances, it does not seem reasonable to award a significantly revised compensation system with long term impact, which the parties will probably fight over again the next round of negotiations. Although such a change might be supported by comparability, it is not evident to the undersigned that it is well designed to remedy the pay equity problems the Union is trying to address herein; and absent persuasive evidence or argument that it will do so, the undersigned can find no persuasive reason to impose upon the County the significantly restructured compensation system proposed by the Union."

Despite this stinging condemnation of the Union's compensation system, Arbitrator Yaffe, based upon the other issues and the overall reasonableness of the offers, found in favor of the Union and ordered the Union's final offer, including the new progressive salary structure, to be included in the parties' contract. It is my strong impression that Arbitrator Yaffe probably would not have ordered the Union's proposed wage schedule had it been the only issue in the dispute.

Issue Clarification

Not uncommon, the parties seem here to be fighting over different issues. The Employer posses the problem as one of costing--how the two offers will be costed given the new salary schedule--and thus what atb increase is reasonable given the high costs to the County already resulting from the Yaffe Decision. The Union seems to agree the problem is costing, but frames the issue as one of including (or more accurately, excluding) step increases into the cost of the offers. Both miss I think an important part.

Perhaps what would be helpful is a clarification of terms. Based upon what I believe to be prevailing arbitral thinking, as well as standard personnel practices, I will use the following terms when discussing this issue.

The parties are in the process of implementing a new salary schedule (the merit of that decision is discussed below). The schedule has steps through which all new employees will move based upon their time of service--"yearly step costs." Because this is a new schedule, existing employees are being brought into the system through an implementation plan--"implementation costs." And then, the parties are/were negotiating over the amount of increase to apply to each cell in the salary schedule as well as off-schedule employees for the next year(s)--"cost of living increase."

While all these individual costs do add up for the County, keeping them segregated can be helpful not only for costing purposes, but also for designing plans and assigning future value/costs. I think the real questions related to this wage dispute are: What is the best compensation schedule for the courthouse and human service employees of Vernon County? Given the need for and existence of a new compensation schedule, what is the most cost effective way to implement that schedule? Then, what would be a reasonable cost of living increase to the schedule?

Response to Parties' Arguments and Claims

The Union claims that if the County's final offer in this dispute is selected, this Arbitrator will simply be reversing the Yaffe Decision (Union Brief, p. 3). I disagree with this assessment. Nowhere in the Employer's offer is there any proposal relating to a change in the salary structure--it is only an across-the-board increase. It is true that under the County's offer the individual cells in the salary schedule will only increase by 1.5% (cost of living increase), but the structure would be held intact--6, 18, 30, 42, and 54 month steps while maintaining 4% increments between the steps. Nowhere in the County's offer is there a proposal for a different implementation plan other than the Union's plan as printed in the contract--employees would still move up the schedule as proposed by the Union and ordered by Arbitrator Yaffe. Finding for the County here would result in an adjustment to the same salary schedule of 1.5%; maybe not the kind of increase the Union is requesting, but certainly not a reversal of the previous arbitration decision.

The County maintains that it would be naive for them to believe that the County would have the power to bargain away the progressive schedule once it is placed into the contract by an arbitrator. This is not correct. Parties

can always negotiate clauses out of a contract no matter how they got there--whether through negotiation or through arbitration.

But perhaps the County does not believe it has the power to bargain away the wage schedule, even though it may have the right. Again I have to disagree with the County's assessment of how "permanent" the arbitrator's decision was on this issue. As mentioned above, Arbitrator Yaffe was not convinced the Union's schedule was worth very much, and only very reluctantly, and based upon other reasons, ordered the parties to adopt the schedule. This schedule was not a long standing practice of the parties originally negotiated into the contract. It was ordered over the strong objections of the County *and only very reluctantly and hesitatingly by the arbitrator--something which* ought to be noteworthy to the Union, but if not, certainly to other arbitrators (at least it is to me). The County had the right and, I believe, the power to object again--it certainly appears they had at least one arbitrator on their side.

Curiously (although speculation on my part) I think Arbitrator Yaffe actually was giving the County "permission" to object to the schedule being forced upon them. It is my clear impression that his references to it being speculation on his part that the system would remain in the contract, and that *the parties would probably continue the fight in future negotiations over the* salary schedule, to me, are arbitral hints to the parties (particularly the County) that they should try again to develop a better salary schedule and implementation plan next time they are at the table. I think it was perhaps "naive" of the County to believe that it did not have the power to negotiated *a better deal for itself regarding the schedule and implementation plan, given* the lack of real support by Arbitrator Yaffe of the Union's proposed salary schedule.

Based upon these "arbitral hints," the County claims that the County must *get credit in subsequent contracts (i.e. this contract and thus this* arbitration) for the increased costs of the implementing the ordered progressive wage schedule. I disagree. One arbitrator can no more order the parties how to settle a future dispute, much less order how another arbitrator should rule. Arbitrator Yaffe's hints were for the parties to use, not this Arbitrator. If the County is eligible for some kind of credit based upon a previous arbitration, that credit is not this Arbitrator's to give, it is the Union's prerogative though the negotiation process. This decision will be based upon the reasonableness of the offers as revealed through the current facts in the instant record, and not upon some perceived outstanding marker or unfulfilled quid-pro-quo.

Regarding the both parties' arguments related to the step increases being included in the costing, I think there is some merit to the Union's arguments here. But the Union somewhat misses the point of the step increases in that, in this case, the dispute really isn't over the yearly step increases, it is over the implementation increases. There is no evidence here as to the cost of the yearly step increases, so I assume they are negligible. The big ticket item is the high cost of moving people onto and through the schedule to their correct step (presumably affecting nearly every employee except those that are "red-lined" and off the schedule). These two step increase costs (yearly step costs and implementation costs) are really two different kinds of costs.

Some support I see for the County's position of costing the implementation costs with the cost of living increase is that another Vernon County unit (the Highway Department) settled for less of a wage increase in order to get a new benefit. Apparently the highway group negotiated the implementation of a new longevity schedule which cost the County 2.75% of the package. With another 1.75% wage increase added to the schedule, the total package cost was 4.5%. It would seem that discounting wage increases as a way to cover implementation costs of new programs and benefits has at least some president with this County. A major problem with this is that the record contains no data to determine what the overall impact was to the Highway Department's wage schedule for a less than "standard" wage increase. Also it is hard to tell what other concessions the County made with that group in order to get that voluntary settlement.

Summary and Opinion

In my opinion while the parties did not have to, they probably should have negotiated (if they didn't) the implementation increase of their salary schedule separate from the cost of living increase. Thus, I think they should be kept separate for discussions here. This is because no matter what the cost of implementation, in order to keep the new schedule competitive or on par with other employee groups, there needs to be adjustments (either up or down) to the schedule itself to match cost of living changes in the community and/or region.

This issue, in my view, is really a dispute over what constitutes a reasonable salary schedule and reasonable costs for implementing that new schedule. It is my distinct impression that the County could have again objected to the Union's wage system and implementation (in the negotiation process as well as this arbitration)--the previous arbitration award implicitly gave the County "permission" to continue to object. But the County made neither a proposal regarding a different salary schedule, nor a proposal for a better implementation plan. As a matter of fact, the County characterized its final offer (County Brief, p.1) on the wages as: "Wages: Acceptance of built-in steps for 90 & 91 as contained in old contract...." Presenting a final offer with neither a new schedule nor a different implementation plan, and then explicitly accepting the ordered schedule, constitutes, in my opinion, a waiver of the right to object not only to the salary schedule, but also to the implementation plan attached to the schedule and the costs that go with that implementation. The County cannot complain on one hand that the schedule is no good and the costs of implementing it are too high, then on the other not propose a different solution. The door was left open by Arbitrator Yaffe, but then closed by the County itself.

This means that the first two questions raised above in "Issue Clarification" (What's the best schedule? and What's the best implementation procedure?) no longer are relevant to this discussion. By accepting the new schedule with the implementation plan, the County has eliminated these questions as relevant issues of this Arbitration. This leaves the remaining question: What is a reasonable cost of living increase to the schedule?

Therefore, based upon all of the above discussion and for the reasons stated therein, I find, for this arbitration, the costs of implementing the salary schedule should be considered separate from costs associated with any

cost of living increase, and, because the County by accepting the schedule has accepted the implementation costs, the only relevant wage issue to be dealt with is the question of determining the appropriate cost of living increase to be applied to the salary schedule.

Reasonableness Tests' Criteria

As mentioned earlier, the statutes require the Arbitrator to judge the reasonableness of the offers based upon ten criteria. The relevancy of the criteria and the weight to be placed on each criterion will be establish in this section.

Criteria Not Relevant

Lawful Authority

The lawful authority of the Employer has not been challenged or denied, so this criterion will not be used in this decision process.

Comparisons--Private Employees

No evidence was provided by either party related to private sector wages or practices so this criterion is not relevant to this award.

Changes

The parties present no evidence of relevant changes in circumstances during the pendency of the arbitration proceedings so this criterion is eliminated from the discussion.

Relevant Criteria and Appropriate Weight

Stipulations

Although the parties did not talk much or place much emphasis on the stipulations, because there are several issues that have already been agreed to that have economic implications, the stipulations will be considered relevant, but will receive little weight.

Interests and Welfare of the Public

Both parties place some importance on this criterion. The County says that it would not be trite to remind us all that the negotiation/arbitration process is a political as well as an economic process; that if it is to continue as a tool of municipal labor relations, it must reflect to an extent the attitudes of the general public; and that the public's attitude toward holding down governmental costs, of which labor rates are paramount, are currently expressed by citizen tax groups, State government promises of local levy limits, and taxpayer withholding of payment of property taxes. The Union presents evidence and argument relating to the County's ability to pay its offer.

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The interests and welfare of the public is indeed an important criterion in an interests arbitration, and this case is no exception. Both sides present evidence and argument relating to the County's ability and/or willingness to pay the Union's offer. Based upon this, the Interests and Welfare of the Public will receive a moderate amount of weight in this case.

Comparisons--External and Internal Comparables

As mentioned above, the parties present quite a bit of argument related to both the external and internal comparables. The Union emphasizes the external comparables, but compares its offer to the internal settlements as well. The County believes the Arbitrator must give substantial weight to the voluntary settlement of other employee contracts in the County (internal comparables). Based upon this, comparisons with other public employees and employees doing similar work will receive substantial weight in this case, with the external comparables receiving equal weight as the internal comparables.

Cost of Living

The parties do not discuss this criterion much. The Union relies on the urban and metro CPI data which has been found not relevant, and the County offers no substitute data, but maintains (County Brief, p. 3) that substantial weight be placed on this criterion. As indicated above, the cost of living will be defined in terms of the range of near-relevant CPI data and the settlement pattern among the comparables, both internal and external--approximately 4%. A small amount of weight will be placed on this specific criterion.

Overall Compensation

The County believes and strenuously argues that all costs (including the costs of implementing the salary schedule) of the parties' offers be considered by the Arbitrator. The County submits (Brief, p.6) that this criterion should carry so much weight so as to be determinative of the dispute. The Union, as indicated above, disagrees, at least to the extent that the costs of the schedule implementation is included in the overall compensation of the employees.

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The overall compensation comparisons of the two offers is important in this case. The issue of including the costs of the schedule implementation has been discussed earlier--while they should be separated from the costing of the offers, these costs should certainly be considered as part of the overall compensation package. This criterion will have a moderate amount of weight.

Other

Equity

The Union raises equity concerns related to 1) the part-time employees be treated differently regarding notification of termination, 2) the accretion of the 3 human service positions, and 3) the on-call retroactivity. Thus, the criterion of "Equity" will be considered relevant and will receive moderate weight.

Past Practice

The County on several issues argues indirectly that its offer is supported by the past practice of the parties, and that the Union has a special burden to prove its case and have the Arbitrator order changes in the contract. Past practice is relevant to those issues in which one party is proposing a change, and will receive substantial weight.

Summary

In summary, in determining whether the parties' offers are reasonable, the following criteria have been found relevant and carry the following weight: Stipulations, little; Interests and Welfare of the Public, moderate; Comparisons--External and Internal, substantial evenly split; Cost of Living, small; Overall Compensation, moderate; Equity, moderate; and Past Practice, substantial.

Prioritization and Weighting of Issues

The parties have presented the Arbitrator with five substantive issues. Based upon what the parties have specifically stated in their briefs and/or reply briefs as to how the issues ought to be weighted, and also upon the amount of effort (primarily amount of space) each spent in their written arguments on each of the issues, I place weight on the issues in the following manner:

Issue	Weight
Wages	Majority
Accreted Positions	Small
Vacation Schedule	Small
Notification of Termination	Little
On-Call Pay Retroactivity	Little

ANALYSIS AND OPINION

In this section I will discuss each of the issues and determine the reasonableness of each of the offers using the criteria and weight assigned to each as described above. Each issue will begin with a brief summary of each party's position on the issue.

Because of the number of issues, it will not be feasible to specifically discuss each criterion as it would apply to an issue. While I will thoroughly consider the relevant criteria as it applies to each of the issues, I may not make a direct reference to it in discussing the issue.

Wages

The Union's proposal calls for an atb increase to the salary schedule and to employees off the schedule of 4.5% for 1990 and 5.0% for 1991. The Employer's offer is for an atb 1.5% increase for 1990 and a 1.5% for 1991, to be applied to Schedule A and B of the contract.

The Union argues that if the step increments are excluded from the costing of the final offers, the Union's proposal is almost exactly the same as the other Vernon County settlements. The Union points out that since the County did not submit wage comparisons with other counties, the Union would have to rely on its own submissions. Based on these, the Union submits that on every benchmark comparison of starting rates and top rates, the Vernon County employees lag far behind the external comparables. Given the fact that most of the Vernon County employees are only at step 30 (2 steps below the top of 54), they lag so far behind the wages in comparable counties that they are entitled to "catch-up." The Union also states that the cost of living of 4.5% as identified in the CPI supports its proposal. Regarding total compensation, the Union argues that Vernon County offers the lowest benefit package of all the other comparable counties, including lowest percentage of contribution to family health insurance, no sick leave pay-out, lowest number of holidays, and no longevity provision. And on the issue of the County's ability to pay, the Union points out that 1) the County's farm exhibits are out of date and current data show an upturn in the farm economy; and 2) the County is in excellent financial shape with a large surplus, under budgeted expenses, substantial money for capital expenditures, and large percentage of budget reimbursed from State and Federal funds.

The County maintains that the total cost of both offers should be the determining factor, and points out the Union's offer would result in an unbelievable 18.65% increase over the two years compared to the County's offer of 12.89%. The County argues that its offer to this unit (costed at an average of 6.45% for each year) is comparable to the other three unionized units (annual increases ranging from 6.18% to 6.87%). The County stresses that Vernon County 1) is an agriculture-based economy that has a tax base that cannot justify more than a basic inflationary increase, 2) has had substantial annual tax rate increases the past few years, 3) has unpaid taxes that increase at the same rate as the tax levies effectively balancing out the tax rate increases, and 4) is a much poorer county than the comparables being 16th from the bottom of 72 counties in per capita income. The County points out that it certainly is not a function of the arbitration process to create an "elite" class of county employees whose salary and fringes greatly exceed the per capita compensation of the other residents of the county who must support them.

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I determined above that the costs associated with the implementation of the new salary schedule would be considered separate from any cost of living

increases. Thus, this Wages issue will be discussed in two parts: implementation costs and cost of living increase.

Implementation Costs

I indicated above that the County, by accepting the new schedule and implementation plan and not presenting any alternative solution to the high implementation costs, must accept them. Even so, I feel compelled to discuss this issue a bit more.

The County calculates the costs for implementing (bringing employees onto) the new schedule at about 3% per year. This certainly is high and without doubt places quite a burden on the County's budget. Compared to the internal comparables, the total package cost to the Employer of the Union's offer (of 8.7% for 1990 compared to an average settlement of 6.2%) is clearly way out of line.

But the County, having accepted the schedule with the 4% increments, could have mitigated these costs (through negotiation or arbitration). Some ways that come to mind are: use half-step moves per year until all employees are at the correct step; provide a yearly dollar or percentage increases to those not on the correct step until they are; move certain classifications at different rates; provide less percentage increase to off-schedule employees; etc. Other ways parties have worked to reduce the overall costs to the employer while maintaining the competitiveness of the wage schedule is to apply split increases to lower County costs while keeping the "lift" (overall increase to schedule) competitive. Perhaps the parties thought of these and even tried negotiating them. The point is that there were (and still are) things the County could have done (could do) to reduce the high costs of moving the employees onto and through the new schedule without eroding the salary schedule.

Cost of Living Increases

Stipulations

The items to which the parties have stipulated do not reveal any extraordinary economic concession or benefit that should be considered here. I find the stipulations fairly balanced and that neither offer is preferred on this basis.

Cost of Living

With the cost of living established at approximately 4.0%, the Unions' offer of 4.5% is significantly closer to the inflationary rate than the County's 1.5%. Regarding this, the Union's offer is significantly more reasonable than the County's.

On the criterion of ability to pay, the record shows that 1) Vernon County is definitely agriculturally based (Chart I), but that there appears to be an upturn in the farm economy (Union Brief, p.16); 2) the County seems to have an adequate reserve for contingency and capital expenses (County Exhibits 9-11, Union Exhibit 48); 3) the income of the County is below the average (by

4.3%) of the comparable counties (Chart I); and 4) delinquent taxes increased in 1989, but lack of data does not allow comparisons with the comparable counties. While the story here is somewhat mixed, it appears the County is in fairly good shape economically, even though its gross income per capita is below average.

Based upon this criterion, the Union's offer is significantly more reasonable.

Comparables--Internal

With the exception of the Highway Department at 1.75%, the other employee groups in the County received a wages-only increases well above what the County accepts as the inflation of 4%: Sheriff's Department at 6.05% and Vernon Manor at 4.95%. (The record does not contain data on the percentage increase the non-union employees received.) Even including the Highway Department's low settlement, the average percentage increase of the internal comparables is 4.25%. The Union's offer is substantially closer to the other settlements in the County than the Employer's offer and thus is substantially more reasonable.

Comparables--External

A key element in the County's argument that its lower offer to this employee group is justified is that Vernon County is poorer than its neighbors and comparable counties. I firmly agree with this concept--a county which is poorer than its comparables (i.e. has a lower gross per capita income level) should not have to pay at the same level as its comparables. And clearly the record shows (as summarized in Chart I) that the Vernon County residents do make less than the comparables

Thus it is established, at least for the time period in question here, that Vernon County is justified in paying its workers less than its comparables. The question is: How much less?

Based upon the standard raised by the County, and without any historical wage and compensation information in the record, I think it is reasonable and logical for the County to pay less than its comparables at the same rate it is below the average per capita income. Chart I shows that Vernon County's average per capita income is 95.7% of the average of the comparables, or 4.3% below average. Giving the County this benefit of the doubt, it would be reasonable that Vernon County wages would be 4.3% below the average salaries of the comparables.

But Chart II (on next page) shows that the average of the Vernon County starting rates is 83.6% of the average of average of the starting rates of all the classifications of comparables. The same is true for the top rates, with the figure being 88.5% below the average. This means that on average the Vernon County employees' salary schedule is between 11.5% and 17.4% below the average of the comparables salary schedule. And an important point here, as stressed by the Union, is that no one is at the top of the schedule. If this comparison was done with actual wages paid, the gap between Vernon County and the other comparable counties would be even greater! In my opinion, based

upon these statistics alone, there is not doubt that, even giving the County the benefit of being able to justify lower pay rates, "catch-up" is more than justified.

CHART II

AVERAGE 1989 WAGE RATES--EXTERNAL COMPARABLES
7 COMPARABLE COUNTIES

	1989 Start Rates			1989 Top Rates		
	Average	Vernon County	Ratio VC/Avg	Average	Vernon County	Ratio VC/Avg
Soc Worker I	1569	1382	88.1	1709	1682	98.4
Soc Worker II	1741	1448	83.2	1918	1761	91.8
IM Assistant	1103	905	82.0	1262	1102	87.3
IM Worker	1283	970	75.6	1403	1181	84.2
Clerk I	1027	869	84.6	1171	1058	90.4
Clerk II	1073	905	84.3	1310	1102	84.1
Clerk III	1182	956	80.9	1386	1163	83.9
Secretary	1018	905	88.9	1231	1102	89.5
Deputy	1183	999	84.4	1404	1216	86.6
Average	1242	1038	83.6	1422	1263	88.5
+Avg Inc 4%	1292			1479		
+County 1.5%		1054	81.6		1282	86.7
+Union 4.5%		1085	84.0		1320	89.2

Source: Union Exhibits 10-19

So then looking (again at Chart II) as to how the offers will change the relationship to the average of the comparable salary schedules, we can see that the Union's offer basically maintains the gap (only raising the starting rates by 0.4% and the top rates by 0.7%) while the County's offer further erodes the salary schedule (decreases the starting rates by 2.0% and decreases the top rates by 1.8%). In my mind these are the most damaging comparisons and reveal how unreasonable the County's offer really is.

[An interesting side point revealed by Chart II is how the data substantiate Arbitrator Yaffe's conclusion that the new salary schedule does not address major inequities in the wages among the different classifications. Using these comparisons, the IM Worker, for example, is way (24.4%) below the average starting rate of the comparables. Perhaps the parties can use this chart to correct problems with their new schedule?]

On the external comparables the Union's offer is favored completely over the County's proposal.

Overall Compensation

The record (based on Union Exhibits 15-18) shows the following:

Benefit	1989 Comparables Average	1989 Vernon County
Holidays	9.8	8.5
Health Ins (Fam.)	89.1	75.0
Sick Leave		
Accumulation	108.7	102.0
Payout	all yes	no
Longevity	5 no/2 yes	no

Based upon this, it is apparent that Vernon County employees do not receive benefits in excess of the comparable counties. The Union's offer is more reasonable regarding this criterion.

Interests and Welfare of the Public

There is always competing values when considering the welfare of the "public." It certainly is not in the interest of the Vernon County taxpayer to have to pay excessively high salaries to their county workers--salaries that may be in some cases higher than what the people in the County receive (as the Employer here tries to argue). But it is also not in the interest of the folks in Vernon County to pay their county workers what might be considered by some as disgracefully low salaries. When workers do not receive a fair wage, there is unrest and loss of productivity. Unproductive and grumbling county employees who are too preoccupied with personal financial concerns to care about the people they serve (the taxpayers of the county) is not, I submit, what most of the people in Vernon County believe is in their best interest.

On this criterion, while it is certainly difficult as an outsider to determine what the interests of the Vernon Country "public" really are, it seems the Union's offer if somewhat more reasonable.

Issue Summary

On the Wages issue: 1) while the costs of implementing the new schedule should be kept separate from the cost of living, there were (are) things the County could have done (could do) to reduce their impact on the County; and 2) regarding the cost of living increase, neither offer is preferred on the Stipulation criterion, the Union's offer is found significantly more reasonable on comparisons with the Cost of Living, the Union's offer is substantially more reasonable compared to the Internal Comparables and completely favored using the External Comparables, the Union's offer is more reasonable on the Overall Compensation criteria, and relating to the Interests and Welfare of the Public the Union's offer is somewhat more reasonable.

Therefore overall, the Union's offer on the Wages issue is found considerably more reasonable than the County's offer.

Accreted Positions

To review this issue, there were four positions that were recently brought into the bargaining unit by virtue of a voluntary accretion based upon the Social Services Department becoming the Human Services Department. Placement of three of these positions on the salary schedule is in dispute. The Union thinks the Mental Health Case Manager (MHCM) position should be place in a new pay grade of its own between Class I (clerical and para-professionals) and Class J (professionals), and the County believes this position should be placed at Class E. On the Financial Clerk/Bookkeeper (FC/B) position the County wishes to place this position at Class C, while the Union thinks it ought to be at Class F. The DD Driver is placed in the first class (Class A) by the Employer and as a "Part-time Hourly" by the Union.

The County argues that it has a duty to rate Union jobs county-wide as to difficulty and responsibility and to classify wage rates accordingly. The County maintains that its solution of allowing the positions to retain their higher compensation status until the classification rate attains their salary certainly is a fair solution to the problem.

The Union submits that the County's offer will place the MHCM and the FC/B at grades well below what the positions were paid under the County non-union wage schedule--pay grade 10 ($15,894-$19,224 or $1,324-$1,602)--from which they just moved. The Union states this position is completely absurd and is based solely upon anti-union animus. Based upon submitted exhibits and supported by the testimony of the Local Union President, who is a Social Worker in the agency, the Union argues 1) the MHCM position has many more sophisticated duties and is really more comparable to a professional position than a clerical or para-professional position; and 2) the FC/B position is substantially more complex and of greater multitude than that of the current Bookkeeper where the County wants to place this position. On the DD Driver, the Union believes this position is a part-time position and should be placed, more appropriately, on the schedule at the "Part-Time Hourly" position.

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The County did not submit any specific evidence to justify its position on these positions so the only data available to analyze are that submitted by the Union. Based upon the available evidence and taking into consideration the appropriate criteria, I conclude: 1) the DD Driver should be placed on the "Part-Time Hourly" position on the schedule; 2) the FC/B appears to have more than just bookkeeping responsibilities (some including the "...development and maintenance of accounting and record keeping systems...."), is a professional position ("This is responsible, professional bookkeeping work....") [from job description, Union Exhibit 44, p. 2], and more appropriately belongs at Class F; and 3) the MHCM position appears to be closer in duties and responsibilities to a social worker (including coordinating Chapter 51 detentions and Chapter 55 guardianships) than to a clerk or deputy.

On the sub-issue of "red-lining" an employee whose current salary is above the appropriate step, the Employer's procedure (that of red-lining and

waiting for the schedule to catch the over-paid employee) makes a bit more sense. The whole purpose for "red-lining" employees is to bring over-paid employees onto the schedule and to hold their salary until the schedule catches up. It does not make much sense to give these employees annual percentage increases equal to the atb being applied to the schedule--the red-lined employees will always stay ahead of the schedule. No employee likes to have his/her salary frozen for years, but to apply comparable percentage increase defeats the reason for the red-lining in the first place. While no increase is probably a bit harsh, the County's position of holding the over-paid positions until the schedule catches up is more reasonable than the Union's proposal of applying the full percentage increase.

Based on these considerations, the Union's offer on all three accreted positions (including the red-lining issue), overall, is slightly more reasonable.

Retroactivity of On-Call Pay

The Union asks that on-call pay be retroactive back to January 1, 1990 like all the other wages and benefits. The County proposes that the stipulated new rates for on-call pay only be effective upon the execution of the contract.

The Union argues that the employees performing these duties have done so since January 1 and should be compensated for those duties in a manner similar to how regular duties will be compensated--with retroactive increases. The Union also sees the County's refusal to grant retro pay on this single issue as a way to punish the employees for not settling the contract at an earlier date. The Union further takes the position that the County's offer on no retro pay is the same as the Union asking for interest on their back pay--something arbitrators have refused to do while allowing retroactivity.

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Base mainly on equity concerns, in my opinion the Union's position on the retroactive on-call pay is considerably more reasonable.

Notification of Termination

The Union proposes to change the requirement of the Employer to notify employees if/when they will be terminated. Currently the Employer needs only to notify regular full-time employees, the Union proposes to change the wording to specify that all regular (including part-time) employees would receive 14 days notice. The Employer wants to maintain the status quo.

The Union argues that based upon equity and inherent reasonableness, regular part-time employees should receive the same consideration (14 days notice before termination) as do the regular full-time employees. The Union maintains that if all employees (including part-timers) are required to give 14 days notice before quitting without penalty, then the Employer should have this requirement also.

The County does not believe that part-time employees should necessarily have every contract right that full-time employees receive.

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Equity certainly favors the Union's position on treating every employee similarly regarding contractual rights. And I would tend to disagree with the County regarding contract rights being available to different employee groups or classifications. It does not seem reasonable, for instance, to only allow the full-time employees access to the grievance procedure. Rights are different than benefits: rights usually extend across the board to all employees, while benefits usually vary depending on employee definition or classification. Notice by an employer of termination I would identify as a right (even though some could view it as a benefit). If some employees (full-timers) have a right to 14 days notice before being terminated, in my opinion, all employees should have that right.

Although equity favors the Union's offer, no other evidence (from either party) is offered in order to analyze this issue on the other criteria. So, because this is a change that the Union is seeking over the status quo, I find that the Union has not met its burden of proof to convince this Arbitrator the change is needed and ought to ordered through arbitration.

The County's offer on the Notification of Termination is favored over the Union's offer.

Vacation Schedule

The County is satisfied with the current vacation schedule, but the Union proposes to adjust the current schedule of 3 weeks after 10 years to 3 weeks after 8 year and to adjust 4 weeks after 20 years to 4 weeks after 18 years.

The County believes its status quo position is certainly reasonable when compared to the vacation opportunities of the average Vernon County taxpayer. The Union maintains that its proposed increase in the vacation schedule is justified by the comparables (average of 13 comparables is 3 weeks after 6.92 years and 4 weeks after 14.77 years) and does not require a "quid pro quo" because overall compensation comparisons show Vernon County far behind the comparables.

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The Union raises a question of a "quid pro quo" regarding its offer here on the vacations. While there seems to be support for its proposal among the external comparables, this is one proposal the Union could have easily eliminated from its offer to off-set the high cost of implementation of the new salary schedule. Since again the Union proposes a change over the status quo, I am again not convinced the Union has met its burden to prove the change is needed.

The County's offer is somewhat more reasonable on the vacation issue.

SUMMARY AND CONCLUSION

The parties in this case again have chosen to "negotiate" a contract through the arbitration process. Not only is it a less efficient and more costly method of obtaining a contract, but can result, because of the nature

of last offer arbitration, in a "hodgepodge" contract. The parties need to sit down at the bargaining table and negotiate (talk and listen) through their differences, and stop relying so heavily on outsiders (like Arbitrator Yaffe and myself) to come in and decide what will be included in the contract.

This Arbitration, as is not uncommon, has been an exercise in trying to determine the lessor of two unreasonable offers. The Union seems to be oblivious to the extremely high cost of its offer to the County (18.65% over 2 years) as it demands an across-the-board increase higher than the local inflation rate, while proposing to increase the vacation schedule and insisting on retroactive pay as well as pushing for another language change. Meanwhile, the County complains bitterly about the high cost of the Union's wage schedule and proposed atb increases, but offers no alternative solutions and merely submits a wage proposal which would further erode the salary schedule which it finally accepts. Neither complete offer on its own is preferred, but one must be selected.

In this Arbitration Opinion and Award I have discussed each of the issues that were presented to me by the parties in their final offers, exhibits, briefs, and reply briefs. In my deliberations and analysis I have considered all the relevant statutory criteria and all pertinent evidence and argument present in the record of this case. Base upon these deliberations and analyses as presented in the discussion herein, I conclude the following:

- Counties comparable to Vernon for this arbitration are determined to be: Crawford, Iowa, Jackson, Juneau, Monroe, Richland, and Trempealeau.

- The Wages issue should be considered in two parts: costs related to the implementation of the new schedule and the cost associated with the cost of living. By not presenting an offer which addressed its concerns regarding the salary schedule and subsequent implementation, the County thereby must accept the costs of implementing the schedule.

- The County's across-the-board wage proposal would seriously erode the already comparatively low wages even allowing that Vernon County is poorer than its comparables, thus the Union's wage proposal is more reasonable.

- The County's proposals on Vacations and Notification of Termination, because the Union primarily failed to meet its burden of proof the changes were needed, are found to be more reasonable.

- The Union's proposals on the Accreted Positions and Retroactivity of On-Call Pay are found to be more reasonable.

Therefore, overall, taking into consideration the relative weights given to the criteria and the issues, the Union's final offer is found to be less unreasonable than the County's final offer.

Based upon this, I find the Union's offer is preferred over the County's offer and make the following:

AWARD

The final offer of Vernon County Courthouse and Social Services, Local 2918, AFSCME, AFL-CIO, along with agreed upon stipulations, shall be incorporated into the 1990-91 collective bargaining agreement between the parties.

Dated this 9th day of September, 1990 at Stevens Point, Wisconsin.

John W. Friess
Arbitrator

APPENDIX "A"

STATUTORY CRITERIA

The criteria to be utilized by the Arbitrator in rendering an award under Section 111.70(4)(cm) 7 of the Wisconsin Statutes are as follows:

"(7) 'Factors Considered.' *In making any decision under the arbitration* procedures authorized by this paragraph, the arbitrator shall give weight to the following factors:

(a) The lawful authority of the municipal employer.

(b) Stipulations of the parties.

(c) The interests and welfare of the public and financial ability of the unit of government to meet the costs of any proposed settlement.

(d) Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.

(e) Comparison of wages, hours and conditions of employment of the *municipal employees involved in the arbitration proceedings with* the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.

(f) Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment in the same community and in comparable communities.

(g) The average consumer prices for goods and services, commonly known as the cost of living.

(h) The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pension, medical and hospitalization benefits, the continuity and stability of *employment, and all other benefits received.*

(i) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(j) Such other factors not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration and otherwise between the parties in the public service or in private employment."

APPENDIX "B" Jt #2

VERNON COUNTY AND VERNON COUNTY COURTHOUSE & SOCIAL SERVICES, LOCAL 2918 AFSCME, AFL-CIO

STIPULATIONS OF THE PARTIES

1) Section 1.02, Subsection 2 - Change "Effective upon ratification" to "Effective 1/20/89". (Union 7)

2) Modify 18.02 to read as follows:

"All eligible employees wishing to participate in the present group life insurance and weekly income protection plan must do so within 90 days of employment, or show proof of insurability thereafter.

The employer shall carry a $3,000.00 group life insurance policy and shall carry a $100.00 weekly income protection plan on each employee electing coverage by such insurance within 90 days of employment, with the employer and the employee each sharing fifty (50%) percent of the total premium cost for said policy. This becomes effective on the first day following completion of the probationary period.

Provided, however, that if in the Vernon County negotiations with all of its unionized contracts a county-wide insurance policy change is negotiated from $3,000.00 to $5,000.00 and effective only when and if such policy is placed in effect, the policy shall be for $5,000.00". (Union 7 & County 5)

3) Modify 19.01 to change words "Regular Employee" to "Regular Full-Time Employee". (Union 10 & County 1)

4) Replace 19.04 with the following:

"On Call Employees are those who are called as needed and available when work is such that it cannot be scheduled on any sort of a regular basis. On Call Employees shall receive .75 per hour effective 1/1/90 and .85 per hour effective 1/1/91 regardless if served on weekdays, weekends, and holidays." (Union 5 & County 4) (Retroactivity remains an issue)

5) Duration 1/1/90 - 12/31/91. (Union ~~8~~ 6)

6) Kim Tainter - Class B. (Union 2b & County 7)

7) Change all contract references to "Social Services" to "Human Services". (Union 10 & County 2) Change "Income Maintenance Asst." To "Economic Support Specialist I" and "Income Maintenance Worker" To "Economic Support Specialist"

1/10 P

VERNON COUNTY

LOCAL 2918

David R Gjip

VERNON COUNTY FINAL OFFER

March 1, 1990

1. Modify 19.01 to change words "Regular Employee" to "Regular Full-Time Employee".

2. Change all contract references to "Social Services" to "Human Services".

3. Increase Appendix A and Appendix B by 1½% effective 1/1/90 and an additional 1½% effective 1/1/91.

4. Replace 19.04 with the following:

"On Call Employees are those who are called as needed and available when work is such that it cannot be scheduled on any sort of a regular basis. On Call Employees shall receive .75 per hour effective 1/1/90 and .85 per hour effective 1/1/91 regardless if served on weekdays, weekends, and holidays."

5. Modify 18.02 to read as follows:

"All eligible employees wishing to participate in the present group life insurance and weekly income protection plan must do so within 90 days of employment, or show proof of insurability thereafter.

The employer shall carry a $3,000.00 group life insurance policy and shall carry a $100.00 weekly income protection plan on each employee electing coverage by such insurance within 90 days of employment, with the employer and the employee each sharing fifty (50%) percent of the total premium cost for said policy. This becomes effective on the first day following completion of the probationary period.

Provided, however, that if in the Vernon County negotiations with all of its unionized contracts a county-wide insurance policy change is negotiated from $3,000.00 to $5,000.00 and effective only when and if such policy is placed in effect, the policy shall be for $5,000.00.

6. Items 1, 2, and 3 are retroactive to 1/1/90; Item 4 shall not be effective until new contract is executed; the new language in Item 5 is effective within its terms.

7. Include Mental Health Worker James Lee in Appendix A and B as Class E; Administrative Clerk Kim Tainter in Appendix A and B as Class B; Financial Clerk/Bookkeeper Judith Craig in Appendix A and B as Class C; and Driver for Disabilities (Position Vacant) in Appendix A and B as Class A.
TO THE EXTENT any of the above receive a higher salary as of 1990 rate,

then such individual will continue to receive that "red-lined" salary until the classification catches up to the salary.

VERNON COUNTY

By_____
Jerome Klos
Special Labor Attorney

NOTE: References to Class A, B, C, and E above reflect Exhibit 1 attached.

APPENDIX "D"

Vernon Co. Courthouse and Human Services Employees, Local 2918, AFSCME, AFL-CIO.

Union's Final Offer

① Wages: Effective 1/1/90 - An increase of 4.5% ATB

Effective 1/1/91 - An increase of 5% based on the 1990 average wage. The increase are to be applied to the wage schedule and to individuals employees off of the wage schedule.

② Accreted positions:

ⓐ Position held by James Lee - Mental Health Case Manager -

1989 rate 1317.38 - 1370.08 - 1424.88 - 1481.88 - 1541.16 - 1602.81

ⓑ Position held by Kim Tainter - Clerk II

ⓒ Position held by Judy Craig - Clerk IV

ⓓ DD Driver - Part-time hourly rate.

Current Employees in these positions will be placed on the schedule at the closest, but not less than their 1990 salary level. If present (1990) salary is more than the highest step, then they will be placed off the ~~[illegible]~~ schedule and red-circled, but will be entitled to the 1991 wage increase.

(3) Section 6.04 - Change "Any regular full-time employee" to "Any regular employee".

(4) Section 11.01 - Vacation schedule to be
1 week after 1 year
2 weeks after 2 years.
3 weeks after 8 years
4 weeks after 18 years.

(5) Section 19.04 - Change to 75¢/hour effective 1/1/90 and 85¢/hr. effective 1/1/91

(6) Duration 1/1/90 - 12/31/91

(7) Stipulations as per Union's Preliminary Final offer.

(8) Retroactive to 1/1/90.

(9) All items not addressed in the Union's Final offer to remain as in the 1988-1989 agreement between the Parties

March 1, 1990

On Behalf of Local 2918:

David R Bfay

(10) Chg references from "Social Service" to "Human Service" & Change Income "Maintenance Asst + Worker" to "Economic Support Specialist I + II