

BEFORE THE ARBITRATOR

In the Matter of the Petition of

WISCONSIN PROFESSIONAL POLICE
ASSOCIATION/LEER

For Final and Binding Arbitration
Involving Law Enforcement
Personnel in the Employ of

Case 133
No. 59498 MIA-2365
Decision No. 30175-A

CITY OF WISCONSIN RAPIDS

Appearances:

Thomas W. Bahr, Business Representative, appearing on behalf of the Association.

Ruder, Ware & Michler S.C., by Dean R. Dietrich, Attorney at Law, appearing on behalf of the Employer.

INTEREST ARBITRATION AWARD

Wisconsin Professional Police Association/Leer, (herein "Association") having filed a petition to initiate interest arbitration pursuant to Section 111.77, Stats., with the Wisconsin Employment Relations Commission (herein "WERC"), with respect to an impasse between it and City of Wisconsin Rapids, (herein referred to as the "Employer"); and the WERC having appointed the Undersigned as arbitrator to hear and decide the dispute specified below by an order dated July 27, 2001, and the Undersigned having held a hearing in Wisconsin Rapids, Wisconsin on October 18, 2001; and each party having filed post-hearing briefs, the last of which was received January 8, 2002.

ISSUES

The parties final offers provides the issues in dispute with respect to their calendar 2001-2 collective bargaining agreement. I summarize it as follows:

1. WAGES: The Association proposes a 2.0% increase on each of the following dates; January 1, 2001, July 1, 2001, January 1, 2002, and July 1, 2002. The Employer proposes to increase wages by 3.25% on each of the following dates; January 1, 2001, and January 1, 2002.
2. INSURANCE: Under current Article 18, employees have a choice of insurance plan. Both parties have proposed that employees hired after July 1, 2001, be required to elect Plan B, if they accept coverage.

POSITIONS OF THE PARTIES

The Association takes the position that only the following statutory criteria are relevant to the determination of this matter; 1. interests and welfare of the public and 2. external comparison and internal comparisons, 3. comparison of private employment and 4. consumer price index. The Association alleges that its offer is supported by the interests and welfare of the public. Namely, it argues its offer is supported by the need to maintain the morale and health of its police officers and thereby retaining the best and most qualified officers. This is particularly important when one recognizes that officers of one department work side by side with officers of another department. Thus, the Association heavily relies upon the comparison of employees' wages in benefits in this department to those of officers' in departments in comparable communities is the most relevant factor. This is magnified when one recognizes the unique circumstances under which the law enforcement officers must function. Law enforcement employees face unique issues and accordingly the maintenance of high morale is important. The morale of this unit will be seriously affected if the Employer's offer is adopted.

The Association then argues that the external comparison criteria support its position. The Association relies upon the five area police departments and the sheriff's departments. The Association agrees that the Employer's list of three area municipal police departments and the sheriff's department are comparable, but, to the extent that sheriff's departments in general are comparable to Wisconsin Rapids, the Employer only included two of six sheriff's departments that border the county containing Wisconsin Rapids. It argues that the Employer cannot support its notion that this city is an isolated environment. The Association argues it offered both Fond du Lac and Appleton, in addition to the comparable cities offered by the Employer, because they are a sampling of benefits paid in central Wisconsin. It notes that Fond du Lac is virtually identical to Wisconsin Rapids in population, staffing levels, and crime levels. The City of Appleton exceeds Wisconsin Rapids in these categories but not significantly.

The Association then argues that its offer is supported by its proposed comparables. However, it also notes that the Union's offer is still supported even with the Employer's comparisons. The Union's offer maintain its relative relationship with average wages in the comparison group as of the end of the agreement. The Employer's will erode the position of the unit as to the average wage of the comparables. For example, the minimum wage rate for a patrol officer is \$1,067 below the average. The Employer's offer will increase this to \$1,870 in 2002. It notes that the very group of people who are affected by the low wage rate, are the same who are most affected by the parties' change in the health insurance.

The Association acknowledges that arbitrators have given weight to internal comparables in certain circumstances. However, the evidence and testimony in this proceeding does not suggest that there has been any type of uniformity of the settlements in the internal units. The city hall bargaining unit arrived at a settlement different from that of other bargaining units as did the Department of Public Works unit in 2002. Further, Employer exhibits 10 to 13 describing internal settlements shows that internal settlements differ greatly. For example, the firefighters and

Department of Public Works increased their clothing allowance, while the Engineering Technicians bargaining unit made a substantial change in its worker' compensation benefits and increased its clothing allowance. The clerical unit made changes in their funeral leave benefit. While all of these units received the same percentage wage increase in both 2002 and 2003 and agreed to the same health insurance language contained in both the Association's and Employer's final offers. However, the Association strongly believes that these internal settlements are a further indication of the notion that the comparison of like occupations is more appropriate.

It denies that the evidence offered by the Employer with respect to private sector comparisons is useful or relevant. The information provided about private employment settlements sets forth wage settlements and does not include information about benefits. The pro-offered newspaper articles about potential job cuts is undated and misleading. It should not be given any weight.

Finally, the Association argues that the consumer price index criterion supports its view in that the average increase for the first eight months of 2001 for the CPI mid-west region was 3.22%. The Association's position is supported either by direct comparison to the number or by relying upon external wage increase comparisons to demonstrate how other parties' are reacting to the change in CPI. Accordingly, the Association urges that its offer be adopted.

The Employer takes the position that its final offer should be adopted. It first argues that its pool of comparable communities should be adopted. There has never been an arbitration award with this bargaining unit and, therefore, the selection of comparables is very important. The Employer proposes to use the pool of comparable communities selected by the arbitrator in an interest arbitration with the fire department, City of Wisconsin Rapids (Firefighters), Dec. No. 19899-A (Imes, 1983). They are Marshfield, Stevens Point, and Wausau. It argues that these are communities which are closely comparable with respect to location, population, value, median income, and size of police department. The Employer also proposes to use the sheriff's departments of Portage and Wood Counties. Wisconsin Rapids is the county seat for Wood County and Portage County borders Wood County and is similar in size and value for Wood County. The Employer notes that the Association has included all, but Portage County, in its list of comparables.

The Employer disagrees with the Association's attempt to add Fond du Lac and Appleton to the list of comparables. In its view, those cities are not in the local area, have a larger population, much larger equalized value, and much larger overall revenue than the City of Wisconsin Rapids.

Those communities are in the Fox Valley. It is easier for these communities to raise overall revenue than it is for the City of Wisconsin Rapids. It notes that neither of those cities recognize Wisconsin Rapids as comparable in their labor relations process.

The Employer argues that the arbitrator should give significant weight to the fact that the Employer's final offer is consistent with the internal settlements. Consistency in internal settlements is a factor which arbitrators give heavy weight under factors 111.77(6)(d) and (h). Both parties have made the same proposal to revise Article 18, insurance. This change is the same as it has done

with the firefighters, engineering technicians, clerical staff and department of public works units.¹ Each of those units have agreed to a 3.25% wage increase for 2001. Wisconsin Rapids Water and Electric Utility agreed to a 3.0% increase for 2001 and 2002. The Association's proposal breaks this pattern.

The Employer argues that its offer places the police officers in the position they would have been vis a vis the internal comparables as they would have been if they had reached a voluntary settlement. It notes that the police unit already receives a better fringe benefit package as compared to the four other bargaining units in the city. For example, unit employees receive 95% paid health insurance while other units receive 90%.

The Employer next argues that the police unit is paid well in comparison to the external comparables and that the wage increase proposed by the Employer is comparable to the wage increases in comparable units. Specifically, the prevailing pattern for both 2001 and 2002 is between 3.2% and 3.4% among the comparables. The Employer's offer is in this range whereas the total annual wage increase proposed by the Association substantially exceeds this pattern. This is true even though several of the comparable units made revisions in their health insurance plans. It concludes that by this comparison, the Association's offer is excessive and unwarranted. It also notes that unit police officers are paid competitively. This is true even though unit employees here often work less hours per year than employees in comparable departments. Based upon the appropriate external comparisons, the Association cannot meet its burden to prove that a "catch-up" increase is warranted. Further, the total compensation of police officers in this unit is better than that of comparable departments.

The Employer's indicates its offer is adequate when compared to the consumer price index. Next, the Employer argues that its offer is also more consistent with the interests and welfare and interests of the public. Stora Enso, the city's largest employer, reduced its complement of employees by several hundred. Further, the city has suffered from the national recession. The Employer also faces state aid cutbacks including reductions in shared revenue. The result will be an increase in property taxes. In short, its offer is fiscally responsible and consistent with the needs of the local community. Finally, the Employer argues that its offer is consistent with local public and private sector settlements. Stora Enso's four bargaining units all settled for a 3.0% wage increase for each of the three years, 2001-3.

DISCUSSION

The arbitrator is required to select the final offer of one party or the other, without modification. The decision is to be made on the basis of criteria specified in Section 111.77(6),

¹The D.P.W. unit received a 3.0% wage increase. That unit accepted a lower settlement to obtain a dental insurance benefit.

Stats. The weight to be applied to any one criterion is left to the discretion of the arbitrator.

The cost of the parties' proposals over the two years is very close. The Employer's costing by both total package percentage and projected total wage and benefit cost is as follows:

	2001	2002	2001	2002	total cost
Employer Offer	3.87%	5.16%	\$1,880,343	\$1,997,416	\$3,877,759
Union Offer	3.67%	5.90%	\$1,876,686	\$1,987,348	\$3,864,043

The Association uses a split increase in each year for the purpose of increasing the final year end wage rate at a cost similar to the offer of the Employer. By raising the wage rates at the end of a contract year, the increased wage rate generates costs in the following year. This makes the use of percentages difficult. The split increase method is commonly used in collective bargaining in situations when wage rates in the previous agreement have not been competitive with those elsewhere and/or when the immediate financial ability of an employer makes it difficult in the short term to meet the expenses of an appropriate wage adjustment. The proper use of the Association's proposal is itself an "other factor" recognized in Section 111.77(6)(h), Stats.

The focus of the Employer's position is that it has made a proposal for an appropriate general increase in wages. The focus of the Association's position is that employees need to have a catch-up wage rate adjustment. While I conclude that unit employees are not in a "catch-up" position, the need to maintain appropriate wage rates for the majority of unit employees outweighs the position of the Employer. Accordingly, I have adopted the final offer of the Association.

1. Comparison Cities

Section 111.77(6)(d) provides that the arbitrator use comparisons of the wages, hours and conditions of employment of employees in this unit to those in the public employment in comparable communities and in private employment in comparable communities. Both parties identified those communities which they believe are comparable and which are noted above.

The purpose of making comparisons is to give the interest arbitrator a sufficient view of how a number of similarly situated parties have handled similar issues. The factors used in selecting comparable communities are 1. The agreements of the parties, 2. The parties' history and or prior arbitration awards with respect to comparisons, 3. The location of the comparables, 4. Similarity in populations, 5. The per capita income for the community and, 6. Other factors with respect to the economy of the communities, ability to pay for services or affecting the nature of the services.

The parties submitted much information about the nature of the proposed comparison groups. Some of the data submitted is as follows:

Comparable	'00 Population ²	2000 Equalized Value (Union ex. 17)
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Wisconsin R.	18,941	\$839,948,300
Marshfield	19,980	736,067,700
Stevens Point	24,491	1,055,747,200
Wausau	38,936	1,729,959,800
Appleton	70,087	2,635,015,300
Fond du Lac	42,203	1,814,004,400

		2000 Equalized value
Wood	75,555	\$3,034,768,030
Portage	67,182	3,166,622,100

The Union also offered data with respect to the size of each proposed comparable's staff, the reported crimes and arrests. This data demonstrates that those offenses which fit the violent crimes index had remained constant in Wisconsin Rapids and that Wisconsin Rapids has more such crime than is linearly proportionate with the other communities. The other statistics indicate that Wisconsin Rapids makes a lower proportion of arrests than linearly proportionate. As noted the unusual nature of the services provided might require the establishment of a difference close comparison group or might require the use of a secondary set of comparisons. The evidence in this case is insufficient to affect the selection of the primary comparison group. The evidence is insufficient to establish that Appleton and/or Fond du Lac would be an appropriate secondary comparable group.

The parties have agreed that Marshfield, Stevens Point and Wausau are comparable cities. All are in the same immediate area. All but Wausau are the same approximate size. They tend to share many of the same local economic conditions, including a substantial paper making industry. Wisconsin Rapids' economy is heavily dependent on the paper making industry. Stora Enso is by far its largest employer (formerly Consolidated Paper). All but Wausau share a substantial similarity in tax base and have similar sized police departments. Wausau, although larger, shares a substantially similar local economy. The primary products produced in Wausau are wood and paper products. Agriculture is important to all of these communities. In an award between the Employer and its firefighters, Arbitrator Imes, heavily relied upon these cities as comparables.³ These cities are comparable.

The Association has included both Appleton and Fond du Lac in its comparison group. Neither are closely comparable. Both are in the Fox Valley industrial area and neither community is close. The Fox Valley has a more diversified economy and larger industrial base. Both are more than twice as large. Appleton has a police department twice as large as that of Wisconsin Rapids. Neither is closely comparable.

Both parties have agreed that Wood County is comparable, the Association with some reluctance. The Employer also proposes to use Portage County. There are often considerable differences between the operations of county law enforcement agencies from those in cities, including Constitutional functions of the sheriff, court duties, jail operations and larger patrol areas. Further, counties have a larger tax base and may operate under different public financing constraints

than cities. Nonetheless, counties tend to share the same economic conditions as their municipalities. They often compete in the same labor market for qualified law enforcement employees. In this case, there are few closely comparable communities and Wood clearly is an appropriate comparable. Portage and Wood Counties are of similar size and economic characteristics. Wisconsin Rapids is close to Portage County and there is significant commuting between the two counties. Portage County, therefore, has a substantial degree of comparability and I have included it in the comparables I have used. I note that using Portage County as a comparable does not affect the result in this case. I reserve for further evidence and determination whether Portage should be permanently retained and/or other bordering counties. used.

2. External Wage Rate and General Increase Comparison

The best method of determining the appropriate wage rates to be paid police officers is to compare parties' wage rates with those of police officers in closely comparable communities. There are no close comparisons in the private sector. The main positions in this unit are patrol officer, detective, patrol sergeant and detective sergeant. The unit is composed of 32 positions, of which 23 are patrol officer (including senior patrol officers). There are 3 detectives, 4 patrol sergeants, 1 safety officer and 1 detective sergeant. The data supplied indicates that the most senior patrol officers here are paid above the average of comparable communities. However, the maximum rate here is achieved only after 15 years. This is longer than all other comparables. There are three senior patrol officers in the unit. The following comparisons to the year-end wage rates demonstrate that conclusion:

Maximum Rate for Patrol Officers

	2000	2001	2002	years to maximum
Marshfield	\$38,485	\$40,592	\$41,911*	3 years
Stevens Point	\$39,594	\$40,940	\$42,332	1 year
Wausau	\$40,332	\$41,628	\$43,308	12 years (eff. 1/2001)
Portage County	\$40,528	\$42,157	\$43,848	12 years
Wood County	\$39,347	\$40,606	\$41,906	30 months
average	\$39,488	\$41,077	\$42,688	
Wisconsin Rapids	\$39,895	\$41,192 (Er.)	\$42,530	
difference from average	+\$407	+\$115		
		\$41,507 (Un.)	\$43,184	
difference from average		+\$430		

*Marshfield has not settled. For the purposes of this comparison, I have assumed a 3.25% increase

for Marshfield.

The Employer's offer substantially erodes this difference, even though Wisconsin Rapids maintains its relative rank. The Association's offer maintains the same relative difference from the average as to year end wage rate.

Six of the patrol officers in this unit have one year or less of service in 2000. Thirteen others have five or less years. Beginning patrol officers here are somewhat behind the average of these comparables. Both offers will ultimately further erode the beginning salary. The Association's offer is closer to maintaining that difference.

Year- end starting rate for Patrol Officer

	2000	2001	2002
average	\$33,615	\$34,317	\$36,568
Wisconsin Rapids	\$32,548	\$33,606 (Er.)	\$34,698
difference	-\$1,067	-\$711	-\$1,870
		\$33,863 (Un.)	\$35,231
		-\$454	-\$1,337

Portage County has the lowest starting salary by far (\$31,717).

Viewing salaries from a career earning standpoint, employees continue to receive below average salaries well into their career, although the disparity narrows substantially at times. The external wage rate comparisons favor the Association's view under the circumstances of this case.

The following is a comparison of the general increases which the comparable public employers have granted to their police units:

	2001	2002
Marshfield	Jan. 1 2.0%	not settled
	Jan. 1 \$541	
	July 1 2.0%	
Stevens Point	3.4%	3.4%
Wausau	3.2%	Jan. 1 1.0%
		Jul. 1 3.0%
Portage County	Jan. 1 3.2%	3.2% +\$.16/hr.
	Jul 1 \$.16/hr.	

(A \$.16/hr. increase is about .7% wage increase.) The year-end increase proposed by the Association is closer to the average year-end increase granted by the comparables. The Employer

has noted that Marshfield, Stevens Point, Wausau and Portage County have made changes in their health insurance plan. Of these, the changes in Marshfield and Portage County appear to be significant. The Employer's position is that these increases should not be considered because they are part of a quid pro quo for health insurance changes.

3. Internal Comparisons

Arbitrators have long recognized the importance of consistency of general wage and benefits increases among bargaining units of a multi-bargaining unit public employer. This is a factor implicit in Sec. 111.77(6)(d), Stats. There are four units in the city and a residual non-union clerical group. The Employer's offer of 3.25% in each year is generally consistent with its settlement in DPW, Fire, and Engineering Technicians units. It is also consistent with its adjustment to the clerical group. Each of these has received a 3.25% wage adjustment in each year, 2001-3, except the DPW received a 3.0% increase in 2002, in exchange for obtaining a dental insurance benefit already enjoyed in this unit. Thus, there has been some quid pro quo bargaining. There have been other minor variations in wage increases between bargaining units. For instance, in 2000, the Employer applied a cent-per-hour increase to the clerical group instead of the same 3.0% percentage applied to other units. There is a history of variations of benefits between groups. The police and fire units receive 95% of their health insurance premiums paid, while all others receive 90%. The police have a 95% paid dental benefit. Fire receives a 75% paid benefit, others receive either 60% or 50%. The evidence indicates that parties in Wisconsin Rapids have made variations in their settlements when there have been good reasons to do so or as a part of quid pro quo bargaining. The better view of this evidence is that the factor of internal consistency tends to favor the Employer's position.

4. Total Compensation

Sec. 111.77(6)(f), Stats., requires the consideration of the total compensation of employees. Arbitrators prefer to compare the totality of the wages and benefits of employees to those of comparable employers because some parties may prefer to emphasize benefits over wages. The Employer pays 95% of the health insurance premium and also the premium for the parties' dental plan. No other comparable employer contributes to a dental plan, except Wausau. Wausau contributes 50% of the dental plan premium. All comparable employers contribute to their health insurance plans. Marshfield contributes 85% of the family and single premium. All other comparable employers contribute at least 93% of the family premium. The following is a comparison of the full monthly premium among the comparable employers:

2001 Family Premium

Comparable	full rate
Marshfield	\$838.52, reduced rate effective 6/1/2001
Stevens Point	\$879.38
Wausau	\$748.00
Portage County	\$890.98

Wood County \$671.00

Wisconsin Rapids \$985.00 traditional, \$710 P.P.O.

Wisconsin Rapids has a better level of benefits (employer share of health and dental) than comparable employers. Wisconsin Rapids pays about \$100 more per month than any of the comparable employers for traditional health insurance. However, Wisconsin Rapids pays about \$100 less per month than average for its PPO health insurance plan. The parties have agreed to take advantage of that cost savings by requiring new employees who elect health coverage to elect the PPO plan. Thus, the Employer's higher cost factor for health insurance will be eliminated over the years as new employees replace other who leave.

It is unclear why the parties' fee for service plan has a higher monthly premium than the insurance plans of comparable employers. It is unclear whether the difference in cost is the result of greater health expenditures in Wisconsin Rapids than elsewhere or the result of differences between benefits or other policy aspects. It is, therefore, not possible to say whether this unit alone could affect the premium cost of the fee-for-service plan.

5. Other Local Public and Private Sector Factors and Settlements

Section 111.77(6)(d), Stats. permits the consideration of comparisons to "other employees generally" in the public and private sectors. That factor includes the size of general wage increases given in the same or nearby communities in both the public and private sectors. The comparison to other public employers' increases for employees other than police is clearly outweighed by the comparisons discussed above. The evidence offered by the Employer of increases in the private sector in and around Wisconsin Rapids is appropriate to consider. However, the weight given any such comparison must be tempered by consideration of whether there has been a history of the parties here having followed the private sector pattern, whether differences between the total package of wages and benefits offered in public employment might affect the comparison⁴ and the important public interest in the stability of public safety employment.⁵ Both Stora Enso and Georgia-Pacific have granted their employees 3% increases in 2001 and again in 2002. Stora Enso, also granted increases of 3% in 2003. This factor supports the Employer's position as to the correct size of a general increase.

Section 111.77(6)(h), Stats., allows the consideration of "other factors." The Employer has offered evidence concerning the restructuring and reduction of jobs at Stora Enso. As of February, 2001, Stora Enso had nearly completed its elimination of 12% of its work force at Wisconsin Rapids, Niagara, Kimberly, and Duluth, of nearly 750 job. The Employer must consider the impact of those changes upon the ability of tax payers to fund changes, any potential impact which those changes might have on increasing or decreasing public services and the impact those changes have upon what the community would consider a "fair" wage adjustment for public employees.

The Employer must also consider its budget issues, including its revenue from the state.

Newspaper articles submitted by the Employer indicate that the Employer is uncertain as to the amount of state funding it will have. This coupled with the above changes have resulted in the Employer being reasonably concerned about holding its costs to a reasonable amount. As noted above, the costs of the parties' proposals are relatively close during the term of this agreement. The additional cost impact of the Association's offer occurs as the result of the higher wage level it attains at the end of the collective bargaining agreement. For that reason, the local economic situation and the uncertain budget factors slightly favor the Employer's offer when the considering the appropriate size of the general increase alone.

6. Conclusion

As noted above, the weight to be assigned to factors is a matter left to the arbitrator. I am satisfied that the most weight should be assigned to preserving the wage rate of the large segment of the unit which would end this agreement receiving a substantially lower wage than that of the comparable police departments, under either party's offer.. I make this judgment recognizing that the Employer has greater health insurance costs here for the fee-for-service plan than comparable communities. I also recognize that some part of the wage increases granted by comparable employers may have been a quid pro quo for changes in health insurance. It is not clear what those changes have been. These facts may have to be considered by a subsequent arbitrator of any dispute involving a health insurance issue in this unit. The local economic conditions and uncertain revenue sources are important considerations. The cost of the parties' offers is relatively close. The impact of the Association's offer occurs largely at the end of the agreement when its offer results in wage levels which are higher than the Employer's. The Association's offer adequately balances those considerations with the need to maintain an appropriate wage rate. Accordingly, I conclude that the Association's offer overall is closer to the correct balance between an appropriate general increase and the public's interest in maintaining appropriate wage levels. Accordingly, the Association's offer is adopted.

AWARD

That the parties' agreement include the final offer of the Association.

Dated at Milwaukee, Wisconsin, this 25st day of February, 2002.

Stanley H. Michelstetter II
Arbitrator