

BEFORE THE ARBITRATOR

In the Matter of the Petition of

WISCONSIN PROFESSIONAL POLICE
ASSOCIATION/LAW ENFORCEMENT EMPLOYEE
RELATIONS DIVISION

To Initiate Arbitration Between
Said Petitioner and

SHAWANO COUNTY

Case 176
No. 66699 MIA-2769
Decision No. 32169-A

Appearances:

Mr. Richard W. Terry, RWT Strategies, LLC, 6111 River Crest Drive, McFarland, Wisconsin 53558, on behalf of the Association.

Stadler, Centofanti & Phillips, Attorneys at Law, by Mr. Andrew T. Phillips, 10140 North Port Washington Road, Mequon, Wisconsin 53092, on behalf of the Employer.

ARBITRATION AWARD

Wisconsin Professional Police Association/Law Enforcement Employee Relations Division, hereinafter referred to as the Association, and Shawano County, hereinafter referred to as the County or Employer, met on several occasions in collective bargaining in an effort to reach an accord on the terms of a new collective bargaining agreement to succeed an agreement, which by its terms was to expire on December 31, 2006. Said agreement covered all full-time deputy sheriffs, corporals, investigators and sergeants employed by Shawano County and represented by WPPA/LEER. Failing to reach such an accord, the Association on February 7, 2007, filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting the latter agency to initiate arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act, and following an investigation conducted in the matter, the WERC, after receiving the final offers from the parties on July 13, 2007, issued an Order, dated July 23,

2007, wherein it determined that the parties were an impasse in their bargaining, and wherein the WERC certified that the conditions for the initiation of arbitration had been met, and further, wherein the WERC ordered that the parties proceed to final and binding arbitration to resolve the impasse existing between them. In said regard the WERC submitted a panel of five arbitrators from which the parties were directed to select a single arbitrator. After being advised by the parties of their selection, the WERC, on August 14, 2007, issued an Order appointing the undersigned as the Arbitrator to resolve the impasse between the parties, and to issue a final and binding award, by selecting either of the total final offers proffered by the parties to the WERC during the course of its investigation.

Pursuant to arrangements previously agreed upon, the undersigned conducted a hearing in the matter on February 26, 2008, at Shawano, Wisconsin, during the course of which the parties were afforded the opportunity to present evidence and argument. The hearing was not transcribed. Initial briefs and reply briefs were filed and exchanged and the record was closed on April 16, 2008.

THE FINAL OFFERS AND STIPULATIONS OF THE PARTIES:

The Employer and Association final offers (which includes Tentative Agreements) are attached and identified as attachment "A" and "B," respectively. The final offers, however, by mutual consent were modified at the hearing. The parties resolved all outstanding issues in their final offers except for one: the Employer's proposal to change the work schedule for Investigators. The Association's final offer on the issue is to maintain status quo.

BACKGROUND:

The instant law enforcement unit is comprised of approximately 32 employees. All ranks below Lieutenant are in the bargaining unit. The unit is comprised of Patrol Deputies and Investigators.

After lengthy negotiations over a successor collective bargaining agreement to the expired 2005-2006 agreement, the parties exchanged final offers covering ten unresolved issues. The parties' final offers were certified by the WERC for arbitration. However, prior to hearing in the matter, the parties entered into a stipulation resolving all but one issue. The remaining issue, the work schedule of the Investigators, was the one submitted to arbitration.

Currently, the work schedule for the Investigators and the Investigative Sergeant is as follows: four (4) weeks of Monday through Friday, 8:00 a.m. to 4:00 p.m., followed by one week of 12:00 p.m. until 8:00 p.m. The on-call Investigator or Investigative Sergeant is available/on-call for the needs of the Department, Monday through the following Monday at 8:00 a.m.¹

At the hearing, the County and Association presented exhibits in support of their positions. The attorney for the County and the representative for the Association reviewed and explained the exhibits. Additionally, each side offered testimony in further support of its position. County witness Kris Ten Decato² testified to the contents of County Exhibits 5 and 6. She compiled the data in Exhibit 5 and explained that the information regarding the work week schedule for Investigators was extracted from comparable counties and where there was no

¹ There are three shifts of Patrol Deputies. They work a schedule of five (5) days on, then three (3) days off, with a nine (9) hour work day.

² A colleague of County Attorney Phillips.

information from the contracts, she obtained the information from Human Resources personnel from the counties. She described and explained County Exhibit 7 and how the County's proposed work schedule for Investigators of five days on, two days off and no Investigator to work ten days in succession, works.

As to County Exhibit 6, Decato explained that the County used the Wisconsin Department of Workforce Development "County Workforce Profile" to establish the appropriate external comparables to be the counties of Oconto, Langlade, Portage, Menominee, Waupaca. The current primary comparables of Marathon and Outagamie counties should now be considered to be secondary comparables because of their size and labor force.

County witnesses Chief Deputy John Gutho and Sheriff Randall Wright testified regarding the need for the schedule change to have Investigators on duty during weekends. They provide Patrol Deputies with their investigatory skills and specialized training when called to the scene. Also, the interaction between the Patrol Officers and Investigators is helpful training for the patrolmen developing their investigative skills. Both testified, relying on County Exhibit 10, that calls coming in on weekends that result in service (where a complaint is filed) is higher than on weekdays.

Association witness Gary Wisbrocker, WPPA Business Agent, testified that he ran through the proposed schedule change and concluded that it could not work because it cannot meet the requirements of the County, i.e., 5 days on, 2 days off and no more than 10 days of work in succession. He also testified that, not including overtime, Investigators would lose money under the County's proposal of eliminating call-in pay for a 75¢ increase in hourly rate.

POSITIONS OF THE PARTIES:

The parties filed comprehensive, well-reasoned post-hearing briefs including reply briefs. The following is a summary of their positions and does not purport to be a complete statement of all the arguments presented.

Association's Position

Appropriate Comparables

It is the Association's position that the parties have been operating with the following set of comparables established in 1993: Langlade County, Marathon County, Menominee County, Oconto County, Outagamie County, Portage County and Waupaca County. The County seeks to exclude Outagamie and Marathon counties. The Union argues that the existing set of comparables has worked well as a basis for the understanding of the wages and conditions of employment of other sworn law enforcement professionals performing similar services and should not be changed.

It is clear from the Employer exhibits presented that no emphatic conclusion in support of the County's final offer can be made. In Oconto County it is unclear whether Investigators work weekends or how their system works; in Langlade County Investigators work one Saturday per month a 6/1 notation which does not support the County's position; in Menominee County only Patrol Deputies are identified, not Investigators; and in Outagamie County, Law Enforcement Specialists (which is similar to Shawano County Investigators) work a five on/two off schedule.

The Association asserts that since a comparison of work schedule rotations and shifts among any set of comparables is unobliged, the Arbitrator need not reach a conclusion relative to the appropriate set of comparables.

Offer of the Employer Should be Rejected

1. The changes sought by the County were not discussed at the bargaining table.

It is clear from the evidence produced that none of the shift changes were proposed at any regular negotiating session. It was only during the investigative stage conducted under the jurisdiction of the WERC investigator did the Employer unveil its construction for new schedules and shifts. This circumvents the bargaining process. Arbitrators have with regularity stated that substantial and important matters such as this are best left to resolution at the bargaining table.

The Arbitrator should reject the County's final offer because of the County's end run around the most fundamental elements of collective bargaining.

2. The changes sought by the County are not the result of a compelling need.

Arbitrators have consistently held that when one side wishes to modify the status quo of a collective bargaining agreement the proponent of the change must justify its position by establishing and proving a persuasive need; and demonstrating that the change properly rectifies the proven problem without imposing an undue hardship on the other party; and in almost all cases provide the other party with a quid pro quo.

Here, the County has failed to demonstrate any real need. Chief Deputy Goth testified that it be of benefit "to have Investigators interact more with Patrol Deputies; that the Deputies would learn more about how to be better Investigators by observing the Investigator at work and that the public might prefer meeting with Investigators on weekends as opposed to weekdays. However, no real problem or compelling need was expressed. While both the Chief Deputy and the Sheriff testified that they liked the County's final offer, they only mildly suggested that there was a real need for this change.

Even if what the benefits claimed by the County were elevated to the status of a problem, the proposal of the County does not address the issue in a way that can be seen as a proper or even a workable solution. County Exhibit 10 was introduced and set forth data of crime on a daily basis. Exhibit 10, it is argued, is not supportive of the County's claim that crime is more prevalent on weekends or is there any way to determine how many of the incidents were major crimes and how many were simple traffic stops. The data are, therefore, ineffective in demonstrating any need for the weekend assignment of Investigators.

3. The interested and welfare of the public are best served by the Association's position.

The issue of maintaining an "on call" rotation is of significant importance. County witness Gutho and Sheriff Wright both acknowledged the fact that the County's proposal does not provide 24/7/365 Investigator coverage that the status quo language does. The County asserts that Investigators are professional and would come in when paged. The County does not want to pay Investigators (deletion of the \$30 per day) to be available 24/7, but expects them to come in when paged.

The Employer's proposal presents problems because if an off-duty Investigator has consumed alcohol and is subsequently "called-in," the Investigator would be ill-advised to respond to the page. The status quo on the other hand provides a clear time frame when Investigators can be expected to be called in. The system has worked well and should not be changed.

4. The County has not made a valid quid pro quo offer.

The Employer's offer of 75¢ per hour is not sufficient enough to be considered a quid pro quo. The Employer has offered 75¢ per hour but proposes deleting the \$30 per day for

on-call duty. But, the \$30 per day generates the equivalent of 87¢ per hour. The Employer's offer is actually a reduction in pay in exchange for mandatory weekend work and change in shifts. While, as claimed by the Employer, that by the year 2012 employees will make more as a result of the 75¢ increase versus the \$30 per day, the Employer failed to consider any negotiations that might increase the \$30 per day on-call duty pay.

Based on all of the above, the Association argues that the Employer has not met the criteria needed to change the status quo.

The County's Offer does not Work

The language proposed by the Employer is not meaningful, unambiguous and understandable. It cannot be implemented. It provides for (1) three schedules: #1 Sunday – Thursday; #2 Monday – Friday; and #3 Tuesday-Saturday, (2) five days on followed by two days off, (3) no Investigator is to be scheduled to work ten days in succession, and (4) elimination of all “on call.”

Association Exhibit 5 demonstrates the results of a #1/#2/#3 rotation; i.e. there are ten scheduled work days in a row and other anomalies exist such as 5/3 schedule.

The County offered Exhibit 7 to demonstrate how the new schedule will work. The Association attached an Appendix (A) tracking two Investigators identified in County Exhibit 7. Their schedules are transposed onto a calendar. Each employee was tracked between January and May of 2008. The results demonstrate that there are no fewer than nine situations per employee in any four-month period where the actual implementation differs from the language.

The Association points out that:

For example, **Investigator #1** (brown in the Employer's exhibit) has only one (1) day off on January 5th; on January 11,12,13,and 14 he has four (4) days off; on March 15th the Investigator again has only one (1) day off. A nearly identical situation is shown for **Investigator #2**. (See January 13; February 8, 9, 10, 11; March 8 etc.) The schedules are cyclical and the results are the same for all Investigators for the entire year. Simply put, the schedule does not work.

The Employer acknowledges that its offer is not a 5/2 schedule but rather describes it as a modified five on then two off. Its Exhibit 7 demonstrates that during one cycle, an Investigator will work a 5/1, 1 5/4 and two 5/2's.

It is the Association's position that it cannot now recant its offer by claiming that it does not represent a pure 5/2 schedule but a modified 5/2 schedule. This is not insignificant or a minor ambiguity as claimed by the County.

The Employer argues that this contract is just months away from expiration so an ambiguity can be negotiated by the parties at that time. The Association claims that it is more appropriate for the Arbitrator to deny the change and have the parties negotiate the matter more fully in the upcoming negotiations for a successor agreement.

Conclusion

In sum, the statutory factors support a finding in favor of the Association in this case and, therefore, its final offer should be selected.

Employer's Position

The Employer relies primarily on the other factors, interests and welfare of the public and external comparables criteria in support of its final offer.

A. Increased Public Safety and Improved Effectiveness and Efficiency of Criminal Investigations Constitutes a Compelling Need to Change the Investigator's Schedule

The "other factors" criterion is the most important factor in this case because there is a compelling need to change the status quo to improve public safety and promote effective and efficient crime investigation. Under this criterion, the status quo can be changed if there is a "compelling need." Arbitrators usually consider the following factors in determining if there exists compelling need: (1) is the proposal offered clear and unambiguous, (2) is there an adequate quid pro quo to achieve the change, (3) is there a need for the change, and (4) is the proposal made reasonably designed to effectively address the problem.³

1. The Employer's Final Offer is not fatally ambiguous.

The Union is correct that the Employer's proposed schedule change cannot be implemented as a "pure" 5/2 schedule. As Employer's Exhibit 7 demonstrates, during one cycle an Investigator will work a 5/1, 1 5/4 and two 5/2's. While this is not a "pure" 5/2 schedule, it is a "modified" 5/2 schedule.

The Employer contends that its proposal is only ambiguous to the extent the Employer omitted the word "modified" from the proposal. Had the proposal specifically stated: "The work schedule for Investigators shall be a schedule of a modified five (5) on, then two (2) off according to the following rotation for Investigators" the Union could not argue the proposal was ambiguous.

Further, it is argued, its offer does not state only that the Investigators will work a 5/2 schedule. The offer goes on to provide the exact schedule that Investigators will work: Sunday

³ Marathon County (Sheriff's Department), Dec. No. 22462 (Malamud, 1986).

through Thursday, Monday through Friday, and Tuesday through Saturday, provided however, that no Investigator shall be scheduled to work ten (10) days in succession. The “5/2” language that precedes the specific weekly schedule is merely a description of the schedule and should not be construed as the precise schedule that the Employer intended the Investigators to work. In other words, the Employer accepts the proposition that if its proposal said “the investigators shall work a 5/2 schedule,” and nothing else, this language would be ambiguous to the extent it does not adequately describe the investigators’ precise schedule. But in this case, the Employer’s offer specifies precisely how the 5/2 schedule will be implemented and the rotations the Investigators will work.

Even if the language is ambiguous, the parties will be back in negotiations in three months to negotiate a successor 2009-2010 agreement. Given the insignificant nature of the ambiguity and that the parties will be negotiating in the near future, the circumstances warrant adopting the Employer’s final offer.

2. The Employer has offered a sufficient quid pro quo in exchange for the schedule change and elimination of on-call pay.

The Employer has offered a 75¢ across-the-board wage increase for all Investigators in exchange for the schedule change and elimination of on-call pay. From the effective date of the Employer’s proposal, the Investigators will earn more than they would under the Union’s status quo proposal. Employer’s Exhibit 4 establishes that in 2007 Investigators on average will earn \$123.69 more and by 2009 \$247.38 per year more.

The Union argues that the Employer’s figures include overtime and without overtime they would earn less. However, the Union’s only witness, Gary Wisbrocker, testified that he had no reason to believe that the Investigators would not work overtime. Therefore, the Employer’s

cost analysis more accurately reflects the “real-life” implications of its Final Offer. The Employer’s offer is a sufficient quid pro quo and will result in Investigators earning more money to compensate for the schedule change and the elimination of on-call pay.

3. The Employer has demonstrated a compelling need for the schedule change.

A change in the Investigators’ schedule will improve criminal investigations. It will provide coverage on weekends when crime acting is greatest, Friday-Sunday. The importance of effective and efficient criminal investigation cannot be overstated. It means improved odds of capturing criminals and increasing public safety. This in turn constitutes compelling need to reach these goals.

Sheriff Randy Wright and Chief Deputy Sheriff John Gutho discussed the need to enhance public safety and improve the timeliness and quality of criminal investigations at length during the hearing. The testimony revealed what we all know to be true: crime has no respect for the day of the week or the time of day. This is especially true in a county like Shawano County where the tourists result in a transient population that is only in the area on the weekend. The Employer clearly demonstrated that, historically, the County experiences higher calls between late Friday afternoon and early Sunday morning when Investigators currently are not on duty. Criminal activity charts are reviewed several times a year and management recently concluded that, in light of higher weekend incidents, the Employer could benefit greatly from having Investigators work weekends.

The Employer also presented evidence about how the Sheriff’s Department as a whole can benefit from weekend shifts for Investigators. While patrol deputies often deal with more mundane violations such as traffic violations, Investigators are more specially trained to handle

significant crimes, which require more intense and lengthy investigation. Investigators are also more specially trained in the areas of evidence collection, site preservation and scene security. Further, having Investigators present on the weekends gives the Patrol Deputies who may respond to an initial call easier access to Investigators such that they are readily available to answer questions about investigative techniques and evidence processing. Logic dictates that effective criminal investigators should begin in the hours immediately following a crime. This not only improves the particular investigation, but also enhances the skills of Patrol Deputies.

Additionally, if there is an absence of crimes to investigate on weekends, the testimony revealed that weekend shifts for Investigators would assist in working on the backlog of cases. On weekends, the environment is more relaxed and investigators have more uninterrupted time to wrap up loose ends and process evidence.

The Union argues that on-call Investigators currently provide sufficient coverage when needed on weekends. However, testimony shows that is not the case. Calling in Investigators on weekends only happens on rare occasions in very serious situations. Often, when an Investigator is not called in, the evidence and the case are not picked up by the Investigator until the following Monday, up to two full days after the crime.

It is clear in light of the above that there is a compelling need to alter the Investigators' schedule and provide weekend coverage during the highest crime periods.

4. The Employer's proposed schedule change is reasonably designed to effectively address the problem.

Testimony of Sheriff Wright and Chief Deputy Gutho establishes that the lack of weekend Investigator coverage creates problems with Investigator availability during peak times

for criminal activity, interviewing witnesses, collecting and processing evidence in a timely manner, thoroughly investigating a crime in a timely manner and providing instruction and direction to Patrol Deputies when assistance is needed.

Under the Employer's proposal, one Investigator will work each Saturday and Sunday. Further, the Investigators' hours on weekends will rotate between 6:00 a.m. to 2:00 p.m., 8:00 a.m. to 4:00 p.m. and 2:00 p.m. to 10:00 p.m. Therefore, an Investigator will be scheduled on the weekends, even into the evening and early morning hours, such that investigators will have the time and opportunity to investigate all crimes and collect and process evidence within 12-24 hours of the occurrence. The weekend coverage will also allow Investigators to interview witnesses that may only be available during the weekend and will further give Patrol Deputies the ability to consult with a highly-trained Investigator on matters of crime scene investigation.

The lack of Investigators working weekends is remedied by the Employer's proposal of coverage on both Saturday and Sunday with rotating hours.

B. The Employer's Final Offer will not Result in Significantly Higher Costs to the County

In this case, the cost of the Employer's quid pro quo for the schedule change is relatively close to the status quo proposed by the Union.

The cost of the Employer's Final Offer, which includes compensating the Investigators for the change in schedule and elimination of on-call pay, does not result in a significant cost to the County. Compared to the Union's status quo proposal, each year the County will incur only a minor cost. In light of the benefit to the County-improved public safety and more efficient and effective crime investigation, the Employer's proposal is a cost the County is eager to bear. Therefore, the cost analysis weighs in favor of the Employer.

C. The Proposed Secondary Comparable Counties Support the Proposed Schedule Change

The final factor in the statutory criteria at issue in this proceeding is the comparison of Investigators' schedules in comparable communities. Notably, nobody has addressed the issue of comparable communities to Shawano County in the last 15 years. Contrary to the Union's assertion that change is not needed. This proceeding provides the perfect opportunity to re-examine the pool of external comparables in light of demographic changes over the past two decades.

1. Marathon and Outagamie Counties should be considered only as secondary comparables.

These two counties should be considered secondary rather than primary comparables because they are dissimilar in size and labor force. Said factors are commonly used in determining appropriate comparables. Outagamie County is more than four times larger than Shawano and Marathon County more than three times. The other current comparables are more the size of Shawano County.

An examination of the labor forces in Marathon and Outagamie counties. Shawano County's labor force in 2006 was 22,704 with an average annual wage of \$26,083; Outagamie County's was 96,174 and \$36,296; and Marathon County was 75,581 and \$34,435.

Based on the above, Outagamie and Marathon should now be considered secondary comparables.

2. Taken together, the primary and secondary comparables support the Employer's position that its Final Offer is more reasonable.

The Employer concedes that most of the proposed primary comparable communities have Investigator schedules similar to the County's current schedule. That, however, should not be outcome determinative.

The Employer notes that while scheduling of Investigators in the primary comparable pool is not clearly addressed in their collective bargaining agreements, many have left their scheduling to the Sheriff's discretion. Here, the Sheriff has no flexibility in setting the schedules of Investigators.

Considering Marathon and Outagamie County as secondary comparables lends further support to the Employer's contention that its Final Offer is more reasonable. Marathon County Investigators work a 4/2 schedule, averaging 33.668 hours per cycle. Outagamie County Investigators work 5 on – 2 off and 5 on – 3 off, with a work day of 8.33 hours. Given these schedule configurations, Investigators in Marathon and Outagamie counties work weekend shifts.

In sum, looking to the proposed primary comparables, Langlade County includes weekend Investigators' shift while both of the proposed secondary comparables, Marathon and Outagamie, include weekend Investigators' shifts. While the Employer concedes that Investigators in the majority of the proposed primary comparable communities work Monday through Friday, based upon Langlade, Marathon and Outagamie counties, it is not outside the realm of reason that the Shawano County Investigators' schedules be changed to a modified 5/2 schedule, which would include weekend coverage.

C. The Union has Mischaracterized the Nature of the Parties' Bargaining History

The Union criticizes the timing of the Employer's schedule change proposal.

Contrary to the Union's argument, the County's management team identified a significant public safety concern and sought a way to remedy it. It is noted that Sheriff Wright was elected

in the midst of the negotiations with the deputies over a new contract. It would have been impossible for him to interject himself in the bargaining process when he had not even assumed office.

But more importantly, the parties' bargaining history is not part of the statutory criteria and should not be considered. Wisconsin law holds settlement discussions sacred. The same policy reasons exist here. There is no reason to engage in an evidentiary debate concerning the conduct of give-and-take negotiations when a deal was never reached.

Conclusion

The Employer has demonstrated a compelling need for the schedule change as the proposed change will improve crime-fighting and public safety in the County.

Further, the Employer's proposal is fair to both parties. The 75¢ quid pro quo will adequately compensate Investigators for the schedule change and elimination of on-call pay, but will not result in a significant cost to the County. Finally, both primary and secondary comparables currently employ schedules similar to the Employer's proposed schedule.

Based on the above, the Employer's final offer should be selected.

DISCUSSION:

Section 111.77, Wis. Stats., directs the Arbitrator to give weight to the following arbitral criteria in reaching a decision:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - 1. In public employment in comparable communities.
 - 2. In private employment in comparable communities.
- (e) The average consumer price for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) 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 or otherwise between the parties, in the public service or in private employment.

The Arbitrator, in applying the above criteria, must determine which offer is more reasonable based on the evidence presented.

There is only one issue before the Arbitrator. The Employer proposes a change in the work schedule of the Investigators so that there is an Investigator regularly scheduled on weekends. The Association proposes the status quo, i.e., normal Monday through Friday work schedule with coverage on weekends on an on-call basis.

In support of their respective positions, the parties rely on the following criteria: interest and welfare of the public, external comparables and other factors. The Arbitrator has considered the other statutory criteria but, like the parties, does not find them to be influential in the outcome of the issue presented.

It is the Employer who is seeking to change the status quo regarding the work schedule of the Investigators. Both parties agree that under the “other factors” criterion, changes can be made if a “compelling need” for the change can be shown. The test to determine compelling need is well established. The language of the test may vary among arbitrators, but arbitrators are in agreement that the key elements are as follows: The proponent of the change must establish a need for the change; that its proposal is a reasonable remedy or solution; and that a sufficient quid pro quo has been offered, if needed.

It is the County’s position that its proposal to provide Investigators on duty during weekends will improve criminal investigations which in turn improves the odds of capturing criminals and increasing public safety. The Association, on the other hand, claims no real need for change was demonstrated; only that it would be a “benefit” to have Investigators present on weekends. The Chief Deputy testified Investigators could interact with Patrol Deputies and that the Deputies would learn more observing the Investigators at work. But, according to the Association, no problem or compelling need was established.

The County’s case for compelling need is based on the fact that historically the County experiences a higher number of incidents or calls between late Friday and early Sunday when Investigators are not on duty. The Incident Analysis for calendar years 2006 and 2007 is as follows:

	<u>2006</u>	<u>2007</u>
Monday	2120	2222
Tuesday	1926	2006
Wednesday	2019	2110
Thursday	2046	2225
Friday	2438	2593
Saturday	2307	2388
Sunday	2163	2140

Based on the evidence presented at the hearing, the reasonableness of the County's offer to change the Investigators' schedule is more problematic with the solution proposed than the change itself. In this regard, the numbers speak for themselves. As argued by the County, the activity between late Friday and early Sunday is at the highest level for the week. Saturday was the busiest day in both 2006 and 2007. (There is no reason to believe that the statistics with respect to the days on which incidents occur will change significantly in the future.)

Viewed strictly from a law enforcement perspective, there would be no reason not to schedule Investigators all seven days of the week. The two days with the fewest incidents are Tuesday and Wednesday; not the weekend. Also, the most activity is between late Friday and early Sunday. In 2006, the number of incidents between midnight and 5:00 a.m. on Monday through Sunday were 162, 152, 168, 156, 217, 379 and 447, respectively. For the same time period in 2007, it was 203, 155, 190, 189, 214, 380 and 394, respectively. The Association argues that the County failed to prove that more crimes occurred during weekends. The Arbitrator, however, finds it reasonable to assume that the more incidents there are, the more crimes there are. Further, both Sheriff Wright and Chief Deputy Gutho testified that more calls come in on weekends than weekdays that result in service, i. e., where a complaint is filed.

Given the statistics regarding the occurrence of incidents, there is as much need for weekend coverage as there is for weekdays. The Investigators' desire to continue the traditional Monday – Friday schedule is certainly understandable. Also, it is clear that the County could continue its operation with the current schedule. But, what is really at stake here is the level of service the County wishes to provide to the public. It is hard to conclude that the interests and welfare of the public is not best served with an expansion of coverage to include all days of the week. The Employer's proposal does improve criminal investigation and improves the

timeliness and quality of criminal investigation. The Association argues otherwise claiming that under the Union's status quo, there is on-call coverage 24/7/365 while under the County's offer there is no longer on-call coverage on weekends outside of the weekend shift schedules. The County argues that the Investigators are dedicated professionals and will respond if needed. The Association makes a good argument and, for reasons discussed later, said issue can be addressed in future negotiations of the County's proposal.

Both parties cite the external comparables and rely on them in support of their position. First, the Employer argues that the established appropriate comparables comprised of Langlade County, Marathon County, Menomonee County, Oconto County, Outagamie County, Portage County and Waupaca County should be changed by considering Marathon County and Outagamie County to be secondary comparables rather than primary comparables. This is based on the size, labor force and average income of the two counties compared to the other counties in the pool.

The Employer is correct that Marathon County and Outagamie County are larger and have a higher average annual wage. However, another important criterion in determining appropriate comparables is the proximity of the counties and whether the counties are in the same labor pool. The Arbitrator notes that when the current appropriate comparables were established in 1993 by Arbitrator Slavney⁴ it was the County who argued that Marathon and Outagamie Counties should be included contrary to the Association's position that said counties should be excluded from the comparable pool because of the size of their populations. The County argued that the geographic proximity is relevant in that each of the counties are

⁴ Wisconsin Professional Police Association/LEER Division and Shawano County (Sheriff's Department), Decision No. 27622-A (10/93).

contiguous to Shawano County, and that said counties compete in the same labor pool of employees seeking positions in the same general area. The undersigned agrees. Based on the evidence presented on this issue, the Arbitrator concludes that the existing established comparables remain without change.

Overall, the comparables favor the Association, but it appears that the counties of Langlade, Marathon and Outagamie include some weekend Investigators' shifts.

In the final analysis, the statutory factor "interests and welfare of the public" which favors the County outweighs the "external comparable" factor which favors the Association.

However, the County's final offer is flawed because the solution proposed does not work as set forth in the final offer. The Employer proposes:

The work schedule for Investigators shall be a schedule of five (5) on, then two (2) off according to the following rotation for Investigators: Sunday through Thursday, Monday through Friday, and Tuesday through Saturday, provided, however, that no Investigator shall be scheduled to work ten (10) days in succession. Shifts are rotated among all Investigators. Shift hours for Investigators shall be: 6 A.M. to 2 P.M., 8 A.M. to 4 P.M. and 2 P.M. to 10 P.M.

The work schedule proposed cannot work. It states the schedule ". . . shall be a schedule of five (5) on, then two (2) off . . ." This cannot be accomplished with the rotating schedule set forth. The Employer's example of how the work schedule works for the year (Employer Exhibit 7) and the Association's example of same (Appendix A attached to initial brief) differ, but under both a 5/2 schedule cannot be implemented. The Employer concedes this point and argues that while the schedule it has proposed is not a "pure" 5/2 schedule, it is a "modified" 5/2 schedule. If the Arbitrator were to select the Employer's final offer, it would present serious potential problems of contract interpretation and application. The Arbitrator is mandated to

select the final offer of one of the parties and incorporate that offer “without modification.”⁵ While it may be argued that arbitrators can interpret final offers, they cannot modify final offers.⁶ The Arbitrator does not find it reasonable to put the parties in a position of arguing whether the Undersigned would be modifying the Employer's final offer by interpreting its final offer as it was explained by the Employer at the arbitration hearing.

Given that the parties will be entering into negotiations for a successor agreement in about six weeks, the Arbitrator finds it reasonable that the proponent of the conflicting language change wait until negotiations to clarify its language and fully discuss its proposed schedule.⁷

The Arbitrator reaches the same conclusion regarding the Employer’s offer of a quid pro quo in exchange for the schedule change and elimination of on-call pay. The Employer’s offer of a 75¢ across-the-board wage increase for all Investigators is not on its face unreasonable. The Union contends the quid pro quo for \$30 per day equates to 87¢ per hour, not 75¢. Also, in dispute is how overtime hours impact the sufficiency of 75¢ quid pro quo. These issues can be discussed in negotiations of the next agreement.

Conclusion

Having considered the statutory criteria, the evidence and arguments presented by the parties, the Arbitrator, based on the above and foregoing, concludes that the offer of the Association is more reasonable than the Employer’s, and in that regard, the Arbitrator makes and issues the following

⁵ Section 111.77(4)(b).

⁶ See LaCrosse Professional Police Association v. City of LaCrosse, 212 Wis.2d. 90.

⁷ Apparently, the first schedule of rotating shifts was presented to the Association at the hearing.

AWARD

The Association's final offer is to be incorporated in the 2007-2008 collective bargaining agreement between the parties, along with those provisions agreed upon during negotiations, as well as those provisions in their expired agreement that they agreed were to remain unchanged.

Dated at Madison, Wisconsin, this 17th day of June, 2008.

Herman Torosian, Arbitrator

APPENDIX "A"

**FINAL OFFER OF
SHAWANO COUNTY**

TO

**The Shawano County Deputy Sheriff's Association
(Wisconsin Professional Police Association)**

FOR MODIFICATION TO THE 2005-2006 CONTRACT

The parties modified their final offers at the arbitration hearing. They reached agreement on all issues except one remaining issue: the Employer's proposed schedule change for Investigators.

RECEIVED

JUN 28 2007

**WISCONSIN EMPLOYMENT
RELATIONS COMMISSION**

Shawano County reserves the right to amend, modify, or withdraw this proposal until such time the final offers are certified.

1. All items stipulated by the parties to be included in the successor agreement as set forth in the attached.

2. Revise Article 10 to read as follows:

Pay day shall be every other Wednesday and all payments shall be made by direct deposit ~~unless designated otherwise by the employee~~. All employees hired after January 1, 1999, will be required to participate in the direct deposit program. There will be no charge for this service.

3. Revise Article 18 to read as follows:

A. Schedule: The work schedule for the duration of this Agreement shall be a schedule of five (5) days on, then three (3) days off, with a nine (9) hour work day. Starting time of the shift hours may, on an annual basis and by mutual agreement between the parties, be changed by one hour. Shift hours shall be 8:00 A.M. to 5:00 P.M., 4:00 P.M. to 1:00 A.M., and 11:00 P.M. to 8:00 A.M., 7:00 A.M. to 4:00 P.M. and 6:00 P.M. to 3:00 A.M.

The work schedule for the Investigators and the Investigative Sergeant shall be a schedule of five (5) days on, then two (2) days off according to the following rotation for Investigators: Sunday through Thursday; Monday through Friday; and Tuesday through Saturday provided, however, that no Investigator shall be scheduled to work ten (10) days in succession. Shifts are rotated among all Investigators. Shift hours for Investigators shall be: 6 A.M. to 2 P.M., 8 A.M. to 4 P.M., and 2 P.M. to 10 P.M. The shift schedule for the Investigative Sergeant shall be a schedule of five (5) days on, then two (2) days off Monday through Friday, 8 A.M. to 4 P.M. four (4) weeks of Monday through Friday, 8:00 A.M. to 4:00 P.M., followed by one week of 12:00 P.M. until 8:00 P.M. The on-call Investigator or Investigative Sergeant shall be available/on-call for the needs of the Department, Monday through the following Monday at 8:00 A.M. Posting for shift preferences will be made on September 1st, with preferences to be made by September 15th, with employees to be notified of their shift by October 1st, to be effective January 1st. Shifts will be awarded based on seniority within position. Corporals Patrol Sergeants have their choice of shift by seniority. No provision in this section shall create a presumption contrary to the five-three schedule for Patrol Deputies. The work schedule for the School/Community Liason Deputies shall be a schedule of Monday through Friday, 8:00 a.m. to 4:00 p.m. The hours may vary by mutual consent of the employee and administration.

B. Overtime: Overtime shall be paid at the rate of one and one-half (1-1/2) times the employee's regular rate of pay for all hours worked over nine (9) in one (1) shift day, or normally scheduled hours in one (1) shift week, whichever is

greater, but not for both. The normally scheduled shift week for Investigators is based upon the rotation above. Hours worked by Investigators consistent with the schedule rotation shall not be considered overtime. Overtime and premium time, if any, shall not be pyramided. ~~Overtime is to be paid to the Investigators, Investigative Sergeant, and the 7-3 shift Sergeant at the rate of one and one-half (1-1/2) times their rate of pay.~~ For the School Resource Officers, overtime shall be paid at the rate of one and one-half (1-1/2) times the School/Community Liaison rate of pay for all hours worked over the normal work schedule. Compensatory time may be taken in lieu of overtime by consent of the employee and administration.

4. Revise Article 19 to read as follows:

B. Call-in Pay: Employees shall be paid a minimum of two (2) hours at their overtime (time and one-half) rate, or at a rate of time and one-half (1-1/2) for actual hours worked, whichever is greater, for court appearances and for being called outside their normal shift work day. Investigators and Investigative Sergeants shall not be on-call. ~~Investigators and Investigative Sergeants who are on call shall be paid twenty-seven dollars and fifty cents (\$27.50) effective January 1, 2005, and thirty dollars (\$30.00) effective January 1, 2006 on call pay while on call which is outside of their normal work day. In addition to the twenty-seven dollars and fifty cents (\$27.50) or thirty dollars (\$30.00) on call pay, Investigators and Investigative Sergeants shall be paid the call out rate of pay, a minimum of two (2) hours at their overtime (time and one-half) rate of pay or at a rate of time and one-half (1-1/2) for actual hours worked, whichever is greater. Investigators and Investigative Sergeants who are on call and cannot be reached shall not be eligible for the twenty-seven dollars and fifty cents (\$27.50) or thirty dollars (\$30.00) on call pay for that day.~~

5. Revise Article 23 to read as follows:

Upon initial hire the Employer shall provide all required articles of clothing and employment for employees necessary to maintain a safe and efficient law enforcement department. This shall include uniforms, hats, weapons, ammunitions, riot gear, bullet proof vests and replacement ammunition. Bullet proof vests shall be replaced every five (5) years. These above items shall not be charged against the yearly uniform voucher credit. At the beginning of 2007 each year, uniformed deputies shall receive an annual clothing allowance check voucher credit of Four Hundred Dollars (\$400.00) toward the purchase of clothing and footwear. At the beginning of 2008, uniformed deputies shall receive an annual clothing allowance check of Four Hundred Fifty Dollars (\$450.00) toward the purchase of clothing and footwear.

6. Revise Article 25 to read as follows:

A. Health Insurance: The Employer agrees to pay ninety percent (90%) of the family plan health coverage, ninety percent (90%) of the limited family plan health coverage, and ninety (90%) of the single plan health coverage for employees who have completed six (6) months of employment. Upon ratification of this Agreement by the parties, the Employer shall modify the current Group Health Trust Insurance coverage to allow for the following items: a deductible of \$300 for individual coverage, \$600 for employee + 1 coverage, and \$900 for family coverage, \$20 office co-pay (includes chiropractic care), \$50 Emergency Room co-pay (waived if admitted or medically necessary), Wellness Plan covered at 100% up to a maximum of \$500 per person, twenty percent (20%) employee co-pay for Gastric Bypass Surgery, subject to "medical necessity", the definition of which is consistent with GHT policy, and prescription drug coverage co-pays of \$10/\$15/\$30~~20~~ for a 34 day supply and \$20/\$30/\$60~~40~~ for a 90 day supply, with a maximum co-pay of \$250 individual/\$500 family for generic and formulary with no maximum co-pay for name brand, and if no generic substitute is available, the formulary co-payment will apply. See Appendix B [See Exhibit A to this Final Offer]. The Employer may from time to time change the insurance carrier, and/or self fund its health care program if it elects to do so, so long as the benefits remain equal to or better than the current benefits, and a thirty (30) day notice of the change is given. No employee may make any claim against the Employer for additional compensation in lieu of, or in addition to, his cost of coverage because he does not qualify for the family plan. Employees will be able to participate in Shawano County's Section 125 Plan. Effective 1-1-08, the deductible shall be \$750 for individual coverage, \$1,500 for employee + 1 coverage, and \$2,250 for family coverage. A Health Reimbursement Account (HRA) will be adopted effective 1-1-08. The deductible contribution on 1-1-08 will be \$450/year for the single plan, \$900/year for limited family plan and \$1,350/year for family plan. [See Exhibit B to this Final Offer]

B. Life Insurance: The Employer agrees to continue all existing life insurance policies now carried on the lives of the employees covered by this Agreement, and to pay eighty seven percent (80 70%) of the premium cost.

7. The County proposes a wage increase as follows:

To account for schedule change, the following classifications shall receive a one-time increase, as noted adjacent to the classification, in their hourly wage:

Investigator – \$0.75/hour

The County proposes the following across-the-board increases for 2007 and 2008:

Effective January 1, 2007 – 2.75%

Effective January 1, 2008 – 3%

8. Status quo on the balance of the contract.

The County reserves the right to add to, delete or modify this offer until such time as final offers are certified.

Dated this 28th day of June, 2007.

/s/ _____

For the County

EXHIBIT A

APPENDIX B

**SHAWANO COUNTY
MEDICAL BENEFIT OVERVIEW & PROPOSALS**

BENEFIT	CURRENT		PROPOSED PLAN - 1/01/07	
	PPO	NON-PPO	PPO	NON-PPO
Deductible	Individual: \$200 Emp+1: \$400 Family: \$600	Individual: \$200 Emp+1: \$400 Family: \$600	2007 Individual: \$300 Emp+1: \$600 Family: \$900 2008 Individual: \$750 Emp+1: \$1,500 Family: \$2,250	2007 Individual: \$300 Emp+1: \$600 Family: \$900 2008 Individual: \$750 Emp+1: \$1,500 Family: \$2,250
Coinsurance	90%/10% (Applies to first \$2,000)	80%/20%(Applies to first \$2,000)	90%/10% (Applies to first \$2,000)	80%/20%(Applies to first \$2,000)
Out-of-Pocket Limit	Individual: \$400 Emp+1: \$800 Family: \$1,200	Individual: \$600 Emp+1: \$1,200 Family: \$1,800	2007 Individual: \$500 Emp+1: \$1,000 Family: \$1,500 2008 Individual: \$950 Emp+1: \$1,900 Family: \$2,850	2007 Individual: \$700 Emp+1: \$1,400 Family: \$2,100 2008 Individual: \$1,150 Emp+1: \$2,300 Family: \$3,450
Inpatient & Outpatient Hospital	Deductible, then 90%	Deductible, then 80%	Deductible, then 90%	Deductible, then 80%
Gastric Bypass Surgery	Deductible, then 90% (Subj. to Medical Necessity)	Deductible, then 80% (Subj. to Medical Necessity)	20% Copay (Subj. to Medical Necessity)	20% Copay (Subj. to Medical Necessity)
Qualified Practitioner	\$20 – Office Copay* Thereafter subj. to ded. & coinsurance for other services rendered	\$20 – Office Copay* Thereafter subj. to ded. & coinsurance for other services rendered	\$20 – Office Copay* Thereafter subj. to ded. & coinsurance for other services rendered	\$20 – Office Copay* Thereafter subj. to ded. & coinsurance for other services rendered
Emergency Room	\$50 – Copay**; Waived if admitted	\$50 – Copay**; Waived if admitted	\$50 – Copay**; Waived if admitted	\$50 – Copay**; Waived if admitted
Urgent Care	\$20 – Copay Thereafter subj. to ded. & coinsurance for other services rendered	\$20 – Copay Thereafter subj. to ded. & coinsurance for other services rendered	\$20 – Copay Thereafter subj. to ded. & coinsurance for other services rendered	\$20 – Copay Thereafter subj. to ded. & coinsurance for other services rendered
Oral Surgery	Deductible, then 90%	Deductible, then 80%	Deductible, then 90%	Deductible, then 80%
Wellness	100%, Deductible Waived to Maximum of \$500; Thereafter subj. to ded. & coinsurance (Pap, Prostate, Mammograms, Related Lab & X-Ray)	100%, Deductible Waived to Maximum of \$500; Thereafter subj. to ded. & coinsurance (Pap, Prostate, Mammograms, Related Lab & X-Ray)	100%, Deductible Waived to Maximum of \$500; Thereafter subj. to ded. & coinsurance (Pap, Prostate, Mammograms, Related Lab & X-Ray)	100%, Deductible Waived to Maximum of \$500; Thereafter subj. to ded. & coinsurance (Pap, Prostate, Mammograms, Related Lab & X-Ray)
Endoscopic Surgery	Deductible, then 90% Routine: limited to persons age 50 & over, 1/cal. yr. Family History (non-routine): not subject to above age & frequency limits	Deductible, then 80% Routine: limited to persons age 50 & over, 1/cal. yr. Family History (non-routine): not subject to above age & frequency limits	Deductible, then 90% Routine: limited to persons age 50 & over, 1/cal. yr. Family History (non-routine): not subject to above age & frequency limits	Deductible, then 80% Routine: limited to persons age 50 & over, 1/cal. yr. Family History (non-routine): not subject to above age & frequency limits
Well Child Care	Deductible, then 90% (up to age 2; immunizations to age 6)	Deductible, then 80% (up to age 2; immunizations to age 6)	Deductible, then 90% (up to age 2; immunizations to age 6)	Deductible, then 80% (up to age 2; immunizations to age 6)

BENEFIT	CURRENT		PROPOSED PLAN - 1/01/07	
	PPO	NON-PPO	PPO	NON-PPO
Prescription Drugs	Retail: (34-Day Supply) \$10 Copay - Generic \$15 Copay - Formulary \$20 Copay - Brand (90-Day Supply) \$20 Copay - Generic \$30 Copay - Formulary \$40 Copay - Brand <i>(If no generic substitute available, the formulary copayment will apply. Rx Copay Maximum: \$250 Single/\$500 Family)</i>		Retail: (34 Day Supply) \$10.00 Copay - Generic \$15.00 Copay - Formulary \$30.00 Copay - Brand (90 Day Supply) \$20.00 Copay - Generic \$30.00 Copay - Formulary \$60.00 Copay - Brand <i>(If no generic substitute available, the formulary copayment will apply) Rx Copay Maximum: \$250 Single/\$500 Family for Generic and Formulary. There is no Rx Copay Maximum for Brand.</i>	
X-ray & Lab (non-routine)	Deductible, then 90%	Deductible, then 80%	Deductible, then 90%	Deductible, then 80%
Ambulance	Deductible, then 90% to PPO coinsurance limit		Deductible, then 90% to PPO coinsurance limit	
Home Health Care	Deductible, then 90% (limited to 40 visits per cal. yr.; add'l. 40 visits if terminally ill)	Deductible, then 80% (limited to 40 visits per cal. yr.; add'l. 40 visits if terminally ill)	Deductible, then 90% (limited to 40 visits per cal. yr.; add'l. 40 visits if terminally ill)	Deductible, then 80% (limited to 40 visits per cal. yr.; add'l. 40 visits if terminally ill)
Convalescent Nursing Home	Deductible, then 90% (limited to 90 days per confinement)	Deductible, then 80% (limited to 90 days per confinement)	Deductible, then 90% (limited to 90 days per confinement)	Deductible, then 80% (limited to 90 days per confinement)
Hospice Care	Deductible, then 90%	Deductible, then 80%	Deductible, then 90%	Deductible, then 80%
Transplants	Deductible, then 90%; Limited to \$750,000 per covered transplant, per lifetime (Services must be provided through transplant network)	Deductible, then 80%; Limited to \$750,000 per covered transplant, per lifetime (Services must be provided through transplant network)	Deductible, then 90%; Limited to \$750,000 per covered transplant, per lifetime (Services must be provided through transplant network)	Deductible, then 80%; Limited to \$750,000 per covered transplant, per lifetime (Services must be provided through transplant network)
Psychological Disorders, Chemical Dependence & Alcoholism Benefit	Inpatient: Deductible, then 100% Transitional: Deductible; then 90% to coinsurance limit, then 100% for rest of cal. yr. Outpatient: 100% for first \$500 per cal. yr (deductible waived); then subject to deductible, then 90% to coinsurance limit, then 100% for rest of cal. yr.		Inpatient: Deductible, then 100% Transitional: Deductible; then 90% to coinsurance limit, then 100% for rest of cal. yr. Outpatient: 100% for first \$500 per cal. yr (deductible waived); then subject to deductible, then 90% to coinsurance limit, then 100% for rest of cal. yr.	
Chiropractic Care	\$20 - Office Copay Thereafter subj. to ded. & coinsurance for other services rendered	\$20 - Office Copay Thereafter subj. to ded. & coinsurance for other services rendered	\$20 - Office Copay Thereafter subj. to ded. & coinsurance for other services rendered	\$20 - Office Copay Thereafter subj. to ded. & coinsurance for other services rendered
Physical, Speech, Occupational & Respiratory Therapy	Deductible, then 90%	Deductible, then 80%	Deductible, then 90%	Deductible, then 80%
Routine Vision Exams	Not covered		Not covered	
Routine Hearing Tests	Not covered		Not covered	
Other Covered Expenses	Deductible, then 90%	Deductible, then 80%	Deductible, then 90%	Deductible, then 80%

- **Office Copay** - This copay does not apply to wellness, well child care, routine vision exams, pregnancy, visits for psychological disorders, chemical dependence or alcoholism, physical/speech/occupational/respiratory therapy, outpatient cardiac rehab, allergy injections, immunizations, and dialysis or chemotherapy and radiation.
- **Emergency Room Copay** - This copay is waived if you are admitted to the Hospital within 24 hours after the Emergency Room visit or if there is proof that a Qualified Practitioner referred you or confirmed your emergency visit was "Medically necessary".

EXHIBIT B

SHAWANO COUNTY HEALTH REIMBURSEMENT ACCOUNT (HRA)

1. Shawano County will implement a Health Reimbursement Account (HRA) plan effective 1/1/08.
2. HRA monies will be allotted for each employee participating in the health insurance plan at Shawano County annually for the term of union contracts as follows:
 - 2008 - \$450 - single plan; \$900 – limited family plan; and \$1,350 – family plan
3. HRA monies can be used to pay for deductibles incurred above \$300 – single plan; \$600 – limited family plan; and \$900 – family plan. HRA monies can also be used to pay for co-insurance costs.
4. HRA monies will roll over to the new contract year with no maximum cap.
5. Upon separation of employment from Shawano County, there will be no HRA monies deposited into the employee's account in subsequent years and there will be no cash payout of accumulated HRA monies. Employees with three or more years of consecutive employment with Shawano County at the time employment separation occurs will be eligible to utilize the post employment benefit portion of the HRA plan under the following scenarios:
 - a. Employee termination/resignation
The former employee, spouse, and dependents can only use for eligible Section 213 medical claims and individual health insurance premiums, or Shawano County health insurance premium under COBRA upon termination/ resignation. Any administrative fees of the HRA program would be the responsibility of the former employee upon termination/resignation.
 - b. Employee retirement
Retiree can use for eligible Section 213 medical claims and individual health insurance premiums upon retirement. Any administrative fees of the HRA program would be the responsibility of the retiree upon retirement.
 - c. Death of employee
HRA monies can be used to pay for the deceased employee's medical bills, eligible spouse and dependent eligible Section 213 medical claims and individual health insurance premiums, or Shawano County health insurance premiums under COBRA. Any administrative fees of the HRA program would be the responsibility of family upon the employee's death.
 - d. Death of single employee with no dependents
HRA monies can be used by the estate to pay for the deceased employee's medical bills incurred before the death.

**Stipulated Agreement between Shawano County and the Shawano
County Deputy Sheriff's Association (Wisconsin Professional Police
Association) for the 2007-2008 Collective Bargaining Agreement**

THE PARTIES HEREBY AGREE as follows:

1. Revise Article 9, Section E, Subsection 4 to read as follows:
 - a. Oral Reprimand: This involves a face-to-face meeting between the Lieutenants and the employee to discuss the unsatisfactory areas of their work performance or conduct and suggestions for improvements. The employee should be warned of future disciplinary action if the situation is not corrected. The occurrence of such discussion shall ~~should~~ be documented by the Department and , ~~but it need not be~~ forwarded to the Administrative Office for placement in the employee's permanent record.

2. Revise Article 18 as follows:
 - E. Canine Deputies: Consistent with the FLSA, the parties agree that the Canine Deputy shall be compensated for their time spent caring for the canine, i.e., grooming, exercising feeding, etc., while at home or off shift as follows:
 1. Every day the canine is not kenneled out, the Canine Deputy will be paid for one half (1/2) hour of pay at the Deputy's regular hourly wage rate for the care of the canine.
 2. All call-in and overtime premiums shall apply to call-ins for service when the Canine Deputy is assigned or called in for canine use during hours that the Canine Deputy is normally scheduled off.
 3. ~~2-~~The times outlined above, in addition to all other time worked, shall be indicated on the deputy's time sheet.
 4. The Canine Deputy's regular work schedule shall be 4:00 p.m. to 1:00 a.m.

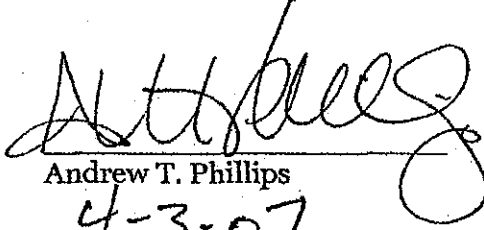
3. Revise Article 18 as follows:
 - E. School Resource Officer: From June 1 to September 1, the School Resource Officers will be assigned to the patrol division and will work the patrol division shift schedule as set forth herein. One (1) School Resource Officer will work the day shift and one (1) School Resource Officer will work the evening shift. Shift preferences for

School Resource Officers from June 1 to September 1 shall be based on seniority. From September 2 to May 31, the School Resource Officers will work a schedule of 5 days on, then 2 days off, Monday through Friday, 8 A.M. to 4 P.M.

4. Revise Article 30 to read as follows:

A. Meal Allowance: If an employee is outside the County on business, necessary meals will be reimbursed by the County. Receipts for the expenses will be required for reimbursement and shall be attached to a County voucher for submission. Meals will be reimbursed based on at the rate of six dollars (~~\$6.00~~) breakfast, eight dollars (~~\$8.00~~) noon lunch, fifteen dollars (~~\$15.00~~) evening dinner, or County Board policy, whichever is greater.

On behalf of Shawano County:



Andrew T. Phillips

4-3-07

Date

On behalf of Shawano County Deputy Sheriff's Assoc.



Gary Wisbrocker

04/05/07

Date

APPENDIX "B"

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of a Negotiation Dispute

Between the

County of Shawano

And the

Shawano County Deputy Sheriff's Association Local

Of the WPPA/LEER Division

Case 176 No. 66699 MIA-2769

RECEIVED

MAY 18 2007

**WISCONSIN EMPLOYMENT
RELATIONS COMMISSION**

FINAL OFFER OF THE ASSOCIATION

The Association hereby presents its Final Offer on all issues in dispute for a successor Agreement to commence on January 1, 2007 and remain in full force and effect through December 31, 2008.

1. All provisions of the 2005-2006 Agreement between the parties not modified by way of any previous tentative agreements, and/or by this Final Offer shall be included in the successor Agreement between the parties for the term of said Agreement.
2. The term of the Agreement shall be for the period of January 1, 2007 through December 31, 2008. All dates relating to term shall be modified to reflect said term.
3. The signed Stipulated Agreements between the parties shall be included in the successor Agreement.
4. Modify, as follows: ARTICLE 22 – SICK LEAVE, A. Accumulation: All full-time employees shall earn and be granted sick leave at a rate of ~~one (1) day~~ nine (9) hours per month for deputies assigned to patrol duties or eight (8) hours for per month for deputies assigned to School/Community Liaison duties, accumulated to ~~one-hundred twenty (120) days~~ one thousand eighty (1080) hours. While an employee is on paid sick leave, the accrual of sick leave, and vacation leave, benefits shall continue during the period of convalescence.
5. Incorporate LETTER OF AGREEMENT dated April 28, 2005, and modify as follows: ARTICLE 23 – CLOTHING ALLOWANCE AND MAINTENANCE: Upon initial hire the Employer shall provide, at no cost to the employee, all required articles of clothing and employment for employees necessary to maintain a safe and efficient law enforcement department. This shall include uniforms, hats, weapons, ammunition, riot gear, and bullet proof vests. Bullet proof vests shall be replaced every five (5) years at no cost to the employee. All deputies shall be responsible for maintaining their uniforms in a clean, neat, and

presentable condition.

Uniform Deputies, Police School Liaison Officers, Investigative Sergeant and Investigators shall receive an annual clothing allowance of ~~Four Hundred Dollars (\$400.00)~~; four hundred fifty dollars (\$450.00) in 2007 and four hundred seventy-five dollars (\$475.00) in 2008, to be paid on a separate payroll check as taxable income on the second pay period of every January. There shall be no exchange of uniforms.

Deputies who are assigned to undercover duties on a full-time basis shall receive a clothing allowance of ~~Four Hundred Dollars (\$400.00)~~; four hundred fifty dollars (\$450.00) in 2007 and four hundred seventy-five dollars (\$475.00) in 2008, to be paid on a separate payroll check as taxable income on the second pay period of every January. Such undercover officers must however, keep up a uniform at the officer's own expense.

Deputies who have been paid the year's annual clothing allowance of ~~Four Hundred Dollars~~ as listed above and who leave employment of the County prior to July 1st of said year will be required to reimburse the County one half (1/2) of the clothing allowance amount. ~~Two Hundred Dollars (\$200.00)~~. No reimbursement will be required if separation from employment is on or after July 1st of said year.

If at any time while in the performance of his/her duties an employee so damages, destroys, or loses any personal property or department issued uniform items, the Employer will pay the total cost of such replacement or repair, provided however, any damage, destruction, or loss was not caused by negligence of the employee. Any restitution for said damage to the deputy's uniform or equipment received from the person responsible for such damage shall be paid to the County if the County has replaced the uniform item(s) or equipment.

6. SCHEDULE A

A.A All 2006 rates of pay set forth in Schedule A of the 2005-2006 Agreement for each classification be increased by the following rate:

Effective January 1, 2007: 3.00%

A.B All 2007 rates of pay for each classification shall be increased by 0.25% effective upon the implementation of the health insurance changes as referenced in items 7 and 8 below.

A.C All December 31, 2007 rates of pay for each classification be increased by the following rate: Effective January 1, 2008: 3.25%

7. Effective as soon as possible, replaces APPENDIX B – SHAWANO COUNTY MEDICAL BENEFIT OVERVIEW & PROPOSALS with APPENDIX B – SHAWANO COUNTY MEDICAL BENEFIT OVERVIEW per attached document.

8. Effective as soon as possible and in conjunction with item number 7 listed above, add APPENDIX C – SHAWANO COUNTY HEALTH REIMBURSEMENT ACCOUNT (HRA) per attached document.

Dated this 18th day of May, 2007.

/s/ Gary Wisbrocker

For the Association

APPENDIX B

**SHAWANO COUNTY
MEDICAL BENEFIT OVERVIEW**

BENEFIT	PPO		NON-PPO
	Deductible	Individual: \$750 Emp+1: \$1500 Family: \$2250	Individual: \$750 Emp+1: \$1500 Family: \$2250
Coinsurance	90%/10% (Applies to first \$2,000)		80%/20%(Applies to first \$2,000)
Out-of-Pocket Limit	Individual: \$950 Emp+1: \$1900 Family: \$2850	Individual: \$1150 Emp+1: \$2300 Family: \$3450	Individual: \$1150 Emp+1: \$2300 Family: \$3450
Inpatient & Outpatient Hospital	Deductible, then 90%		Deductible, then 80%
Gastric Bypass Surgery	Deductible, then 80% (Subj. to Medical Necessity)		Deductible, then 80% (Subj. to Medical Necessity)
Qualified Practitioner	\$20 – Office Co-pay* Thereafter subj. to ded. & coinsurance for other services rendered		\$20 – Office Co-pay* Thereafter subj. to ded. & coinsurance for other services rendered
Emergency Room	\$50 – Co-pay**; Waived if admitted		\$50 – Co-pay**; Waived if admitted
Urgent Care	\$20 – Co-pay Thereafter subj. to ded. & coinsurance for other services rendered		\$20 – Co-pay Thereafter subj. to ded. & coinsurance for other services rendered
Oral Surgery	Deductible, then 90%		Deductible, then 80%
Wellness	100%, Deductible Waived to Maximum of \$500; Thereafter subj. to ded. & coinsurance (Pap, Prostate, Mammograms, Related Lab & X-Ray)		100%, Deductible Waived to Maximum of \$500; Thereafter subj. to ded. & coinsurance (Pap, Prostate, Mammograms, Related Lab & X-Ray)
Endoscopic Surgery	Deductible, then 90% Routine: limited to persons age 50 & over, 1/cal. yr. Family History (non-routine): not subject to above age & frequency limits		Deductible, then 80% Routine: limited to persons age 50 & over, 1/cal. yr. Family History (non-routine): not subject to above age & frequency limits
Well Child Care	Deductible, then 90% (up to age 2; immunizations to age 6)		Deductible, then 80% (up to age 2; immunizations to age 6)
Prescription Drugs	(34 Day Supply) \$10.00 Co-pay – Generic \$15.00 Co-pay – Formulary \$30.00 Co-pay – Brand	(90 Day Supply) \$20.00 Co-pay – Generic \$30.00 Co-pay – Formulary \$60.00 Co-pay – Brand	Co-pay Maximum \$250 Individual \$500 Family
	<i>(If no generic substitute available, the formulary co-payment will apply.) (Co-pay maximum only applies to Generic and Formulary co-pay expenditures.)</i>		
X-ray & Lab (non-routine)	Deductible, then 90%		Deductible, then 80%
Ambulance	Deductible, then 90% to PPO coinsurance limit		
Home Health Care	Deductible, then 90% (limited to 40 visits per cal. yr.; add'l. 40 visits if terminally ill)	Deductible, then 80% (limited to 40 visits per cal. yr.; add'l. 40 visits if terminally ill)	

BENEFIT	PPO		NON-PPO	
	Convalescent Nursing Home	Deductible, then 90% (limited to 90 days per confinement)		Deductible, then 80% (limited to 90 days per confinement)
Hospice Care	Deductible, then 90%		Deductible, then 80%	
Transplants	Deductible, then 90%; Limited to \$750,000 per covered transplant, per lifetime (Services must be provided through transplant network)		Deductible, then 80%; Limited to \$750,000 per covered transplant, per lifetime (Services must be provided through transplant network)	
Psychological Disorders, Chemical Dependence & Alcoholism Benefit	<u>Inpatient:</u> Deductible, then 100% <u>Transitional:</u> Deductible; then 90% to coinsurance limit, then 100% for rest of cal. yr. <u>Outpatient:</u> 100% for first \$500 per cal. yr (deductible waived); then subject to deductible, then 90% to coinsurance limit, then 100% for rest of cal. yr.			
Chiropractic Care	\$20 – Office Co-pay Thereafter subj. to ded. & coinsurance for other services rendered		\$20 – Office Co-pay Thereafter subj. to ded. & coinsurance for other services rendered	
Physical, Speech, Occupational & Respiratory Therapy	Deductible, then 90%		Deductible, then 80%	
Routine Vision Exams	Not covered			
Routine Hearing Tests	Not covered			
Other Covered Expenses	Deductible, then 90%		Deductible, then 80%	

- **Office Co-pay** - This co-pay does not apply to wellness, well child care, routine vision exams, pregnancy, visits for psychological disorders, chemical dependence or alcoholism, physical/speech/occupational/respiratory therapy, outpatient cardiac rehab, allergy injections, immunizations, and dialysis or chemotherapy and radiation.
- **Emergency Room Co-pay** - This co-pay is waived if you are admitted to the Hospital within 24 hours after the Emergency Room visit or if there is proof that a Qualified Practitioner referred you or confirmed your emergency visit was "Medically necessary".

APPENDIX C

SHAWANO COUNTY HEALTH REIMBURSEMENT ACCOUNT (HRA)

1. Shawano County will implement a Health Reimbursement Account (HRA) plan effective as soon as possible and in conjunction with APPENDIX B – SHAWANO COUNTY MEDICAL BENEFIT OVERVIEW.
2. HRA monies will be allotted for each employee participating in the health insurance plan at Shawano County annually for the term of union contracts as follows:
 - \$450 - single plan; \$900 – limited family plan; and \$1,350 – family plan
2. HRA monies can be used to pay for deductibles incurred above \$300 – single plan; \$600 – limited family plan; and \$900 – family plan. HRA monies can also be used to pay for co-insurance costs.
3. HRA monies will roll over to the new contract year with no maximum cap.
4. Upon separation of employment from Shawano County, there will be no HRA monies deposited into the employee's account in subsequent years and there will be no cash payout of accumulated HRA monies. Employees with three or more years of consecutive employment with Shawano County at the time employment separation occurs will be eligible to utilize the post employment benefit portion of the HRA plan under the following scenarios:
 - a. Employee termination/resignation:

The former employee, spouse, and dependents can only use for eligible Section 213 medical claims and Shawano County health insurance premium under COBRA upon termination/ resignation. Any administrative fees of the HRA program would be the responsibility of the former employee upon termination/resignation.
 - b. Employee retirement:

Retiree can use for eligible Section 213 medical claims and individual health insurance premiums upon retirement. Any administrative fees of the HRA program would be the responsibility of the retiree upon retirement.
 - c. Death of employee:

HRA monies can be used to pay for the deceased employee's medical bills, eligible spouse and dependent eligible Section 213 medical claims, and individual health insurance premiums, or Shawano County health insurance premiums under COBRA. Any administrative fees of the HRA program would be the responsibility of family upon the employee's death
 - d. Death of single employee with no dependents:

HRA monies can be used by the estate to pay for the deceased employee's medical bills incurred before the death.

