

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Contract Dispute Between

CRAWFORD COUNTY

and

CRAWFORD COUNTY SHERIFF'S
DEPARTMENT, LOCAL 1972,
WCCME, AFSCME, AFL-CIO

ARBITRATION AWARD

No. 19970 MIA-198

Case V

Decision No. 14233-A

APPEARANCES:

Axley, Brynelson, Herrick and Gehl,
Attorneys at Law, By Mr. James C.
Herrick, for the County.

Mr. Walter J. Klopp, District
Representative, for the Union.

BACKGROUND

The County of Crawford, hereinafter referred to as the County, and the Crawford County Sheriff's Department, Local 1972, WCCME, AFSCME, AFL-CIO hereinafter referred to as the Union, were unable to reach agreement on the terms and conditions of a labor contract to succeed their first labor agreement which expired December 31, 1975. The Union filed a petition with the Wisconsin Employment Relations Commission pursuant to Section 111.77(3)(b) of the Municipal Employment Relations Act, for the purpose of resolving the impasse. The undersigned was appointed as the arbitrator by the Wisconsin Employment Relations Commission on January 19, 1976, following selection thereby from a panel by the parties. A hearing was held on March 29, 1976 at the Crawford County Courthouse in Prairie du Chien, Wisconsin. The parties were afforded full opportunity to submit such evidence and offer such testimony as they deemed relevant to substantiate their respective positions. Post-hearing briefs were exchanged through the arbitrator pursuant to post hearing agreement.

The arbitrator is required to determine the dispute pursuant to 111.77(4)(b) of the Wisconsin Statutes, being the selection of final offer of either the Union or the County without modification.

FACTS

The parties have a collective bargaining relationship, starting with a contract negotiated effective July 1, 1974 through December 31, 1975. The parties attempted to negotiate a subsequent agreement to become effective January 1, 1976 but were unsuccessful. An impasse resulted and the parties, in compliance with Statute 111.77(4)(b) have submitted last and final offers for settlement of their existing dispute.

ISSUES

The arbitrator has struggled at great lengths with the dilemma of how to recite the respective final and last offer positions of the parties in this case.

Briefly stated, the Union submitted its offer on the basis of extending most of the previous 1975 contract provisions without change, except for three issues involving monetary improvements and three contractual provisions involving conditions and hours of work.

The County's final offer encompassed a sweeping revision of the entire contract which was presented in the form of a complete contract including some of the 1975 contract articles without change plus revised articles which in many instances contained a number of changes within a single article.

Due to the manner of such presentment, the differences, or issues involved in the contract language changes are difficult to determine in many instances.

The undersigned is unable to adequately paraphrase and state such differences involved without the possibility of mistating or omitting some part thereof, and for that reason the complete provisions as proposed will be set forth with respect to each changed article in the order in which they are contained in the proposed contract.

ISSUE #1

Article II - Negotiations

The Union proposes to continue Section 2.02 of the 1975 contract in effect, which provides as follows:

"2.02. The Employer agrees that time spent in the conduct of grievances, negotiations and matters concerning collective bargaining shall not be deducted from the pay of delegated employee representatives of the Union."

The County's proposed contract would delete such provision in full.

DISCUSSION - Issue #1

The effect of such proposal is to discontinue pay to employees for time spent during working hours in the conduct of grievance investigation and processing and for time spent in negotiations of a contract. Such provision is a monetary item of value to the employees, but one that is difficult to measure in amount. No comparative evidence was submitted concerning the frequency of such type provision in other areas. Standing alone, the position of neither party is unreasonable. Consideration hereof must be made as a part of the total proposal, and considered only on the basis of its being a reduction of the County's total proposal, as such.

ISSUE #2

Article III Functions of Management

The Union proposes no change in the present Section 3.01 of the 1975 contract which provided as follows:

"3.01. Except as herein otherwise provided, the Employer retains the rights as established by law, including the management of the work and the direction of the working forces, including the right to hire, promote, demote, suspend, or discharge, or otherwise discipline for proper cause, or transfer; and the right to determine the Table of Organization is retained and vested in the Employer."

The County proposes the following as such article:

"3.01. Consistently with the provisions of this Agreement, the management of the Crawford County Sheriff's Department and direction of its personnel, including the right to hire, layoff, distribute overtime, suspend or discharge for just and proper cause and the right to transfer or relieve employees from duty, because of lack of work, special circumstances, or other legitimate reasons, is vested exclusively in the Employer."

DISCUSSION - Issue #2

The undersigned notes no substantial difference in the scope or content of the County's proposal over that contained in the 1975 contract and no particular weight will be given to such issue one way or the other.

ISSUE #3

Article VI - Conduct of Union Business

The Union proposes to continue the 1975 contract language which provides as follows:

- "6.01 The Union agrees to conduct its business off the job as much as possible. This Article shall not operate as to prevent a steward or officer from the proper conduct of any grievance in accordance with the procedures outlined in this Agreement nor to prevent certain routine business such as the posting of Union notices and bulletins.
- 6.02 Business agents or representatives of the Union having business with the officers or individual members of the Union may confer with such Union officers or members during the course of the workday for a reasonable time, provided that permission is first obtained from the supervisor immediately in charge of such Union officers or members.
- 6.03 The Employer hereby agrees not to deduct such reasonable time from the pay of such employee"

The County proposes the following language as and for such article:

- "6.01 The Union agrees to conduct its business off the job as much as possible, but this will not prevent the investigation of a grievance by the steward during working hours providing it is necessary that such investigation be made during working hours and providing that only necessary time is utilized, nor will it prevent posting of union matters and bulletins.
- 6.02 Where the parties meet to process a grievance under Step 1 of the grievance procedure and an employee working on a scheduled shift must attend such meeting, he shall not suffer a loss of pay by reason of attendance at the grievance meeting.
- 6.03 Business agents or representatives of the Union, having first obtained permission from the Sheriff or his Chief Deputy, may for a reasonable time confer with a union member or officer during working hours."

DISCUSSION - Issue #3

It would appear that the language of 6.01 as proposed by the County is more restrictive on the stewards investigation of grievances during working hours.

It would appear that the County's proposed 6.03 is basically identical to the 1975 contract provision set forth in 6.03, except the Business agent must obtain permission from the Sheriff or Chief Deputy rather than the immediate supervisor.

While it would appear that the differences in such language are minor, it appears that under certain circumstances, employees may be denied pay for time spent in certain grievance matters under the County's language that is otherwise covered in the 1975 contractual provisions.

It also appears that the proposed language of Article VI in this case, serves to modify with respect to investigation and processing of grievances, the impact of the County's proposal to delete Article 2.02, hereinabove set forth.

The arbitrator is of the opinion that the proposal of neither party is unreasonable with respect to this issue.

ISSUE #4

Article VII - Cooperation

The Union proposes to continue the 1975 contract provision as follows:

- "7.01 The Employer and the Union agree that they will cooperate in every way possible to promote harmony and efficiency among all employees. The Employer agrees to maintain certain amenities of work (e.g. coffee breaks, wash-up time, ammunition, cleaning of guns after shooting practice, etc.), not specifically referred to in this Agreement."

The County proposes the following language for Article VII:

"7.01 The Employer and the Union agree that they will cooperate in every way possible to promote harmony and efficiency among all employees, and render best possible service to the public."

DISCUSSION - Issue #4

It would appear that the County's proposal would effectively eliminate the maintenance of standards provision with regard to the maintenance of coffee breaks, wash-up time, ammunition, cleaning of guns after shooting practice, etc. and would make the continuance or discontinuance of such matters not specifically provided by the written contract as being discretionary with the County to either continue or discontinue at any time during the contract term. For purposes of consideration in this case, such proposals can be viewed only as constituting a reduction of the County's overall proposal in this matter, and must be viewed in total perspective with the total proposal.

ISSUE #5

Article IX - Probationary and Employment Status

The Union proposes continuation of the 1975 contract language without change, whereas the County proposes two changes, one in Section 9.02 and one in Section 9.03.

In 9.02 the County would increase from 30 days to 60 days before a new employee would be entitled to take sick leave, although he would accrue sick leave from his first date of employment, the same as in the 1975 provision.

With respect to Section 9.03, the County would propose only to delete the reference to "in the Table of Organization" as stated in the 1975 contract provision which was as follows:

"9.03 A regular full-time or part-time employee is hereby defined as a person hired to fill a permanent position in the Table of Organization."

DISCUSSION - Issue #5

The undersigned is of the opinion that deletion of the phrase "in the Table of Organization" creates no change in the meaning of Section 9.03. With respect to the change proposed in 9.02, such change constitutes a minimal impact on a new employee. As such, it constitutes a minimal reduction of a benefit to a new employee that was otherwise enjoyed by the terms of the 1975 contract.

ISSUE #6

Article X - Seniority

The Union proposes to continue the provisions of the 1975 contract in total, including Section 10.04 which provides as follows:

"10.04 Whenever it becomes necessary to employ additional personnel, either in vacancies or in new positions, subject to the provisions of the 'Job Posting' clause in this Agreement, former employees of an Employer who have been laid off, within two (2) years prior thereto, shall be entitled to be reemployed in such vacancies or new positions in preference to all other persons, provided the employee has the ability to do the available work."

The County proposes the following to be 10.04 of the new agreement:

"10.04 Whenever it becomes necessary to employ additional personnel, either in vacancies or in new positions, subject to the provisions of the 'Job Posting' clause in this Agreement, former employees of an Employer who have been laid off within two (2) years prior thereto, shall be entitled to be re-employed in

such vacancies or new positions in preference to all other less senior employees or others from outside, provided the employee has the ability to do the available work."

DISCUSSION - Issue #6

The only difference in the two proposals would appear to be a reference to the fact that such laid off employee would have preference over all other less senior employees or others from outside, as compared to the County's proposed language of referring only to all other persons. It is possibly the intent of the County that their proposed language means the same as the old language of Section 10.04, although it appears that the deletion of reference to less senior employees may be meaningful.

Under the 1975 contract language, it would be clear that a laid off employee with greater seniority would be entitled to re-employment in place of a then presently employed employee who possessed less seniority, whereas under the County's language, that right could be disputable. The undersigned is not inclined to attempt to fully interpret the various clauses as to possible fact circumstances that might arise, and for that reason no conclusions are made with respect to this issue one way or the other, favorable or unfavorable to either party.

ISSUE #7

Article XI - Discipline

The Union proposes to continue the present 1975 contract article in full which is as follows:

- "11.01 The following disciplinary procedure is intended as a legitimate management device to inform employees of work habits, etc., which are not consistent with the aims of the Employer's public function, and thereby to correct these deficiencies.
- 11.02 Any employee may be demoted, suspended, or discharged or otherwise disciplined for just cause. The sequence of disciplinary action shall be oral reprimands, written reprimands, suspension, demotion, and discharge. A written reprimand or other disciplinary action sustained in the grievance procedure or not contested shall be considered a valid warning. No valid warning shall be considered effective for longer than a nine (9) month period.
- 11.03 The above sequence of disciplinary action shall not apply in cases which are cause for immediate suspension or suspension pending discharge. Theft of personal or public property, drinking on the job, or being drunk on the job are hereby defined as cause for immediate suspension pending discharge.
- 11.04 Any suspended or suspension pending discharge employee may appeal such action through the grievance procedure and shall initiate grievance action by immediate recourse to the Law Enforcement Committee in accordance with Step One within ten (10) days of notice of suspension or suspension pending discharge.
- 11.05 Suspensions shall not be for less than two (2) days, but for serious offense or repeated violations suspension may be more severe. No suspension shall exceed thirty (30) calendar days.
- 11.06 Notice of discharge or suspension shall be in writing and a copy shall be provided the employee and the Union at the time action is taken."

The County proposes the following as and for Article XI of the contract:

- "11.01. Any employee may be disciplined, suspended or discharged for just cause. Any employee disciplined, suspended or discharged shall have recourse to the grievance and arbitration procedure, providing that such grievance is filed within five (5) days of the time that the employee and the Union are notified in writing of the action taken by the Employer.

- 11.02 Notice of discharge or suspension shall be in writing and a copy shall be provided the employee and the Union at the time the action is taken."

DISCUSSION - Issue #7

It would appear that the major changes of the County's proposal would be to reduce the time for filing of a grievance from ten days to five days, and the removal of the provision of 11.02 which provides that no valid warning shall be considered effective for longer than a nine month period. Again, the undersigned cannot conclude that the proposal of either party is unreasonable. There is no question, however, that the County's proposed revisions delete and reduce matters regarded as desirable and more beneficial to the Union. Such issue will be weighed and considered in conjunction with the total proposal of each.

ISSUE #8

Article XII - Grievance Procedure

The Union proposed to continue the 1975 contract provision which provides as follows:

- "12.01 The parties agree that the prompt and just settlement of grievances is of mutual interest and concern. Should a grievance arise whether in reference to a question of interpretation of the Agreement or to a question relating to safety and/or other matters, the grieving employee shall first bring the complaint to the steward or Grievance Committee of the Union. If it is determined after investigation by the Union that a grievance does exist, it shall be processed in the manner described below:
- 12.02 Step One. The Grievance Committee shall attempt to resolve the matter with the Sheriff. If the grievance is not resolved within five (5) working days, the grievance shall be reduced to writing and submitted to the Law Enforcement Committee. The parties shall meet within one (1) calendar week of receipt of the written appeal to hear the grievance. Within one (1) calendar week of the hearing, the Law Enforcement Committee shall give its response in writing.
- 12.03 Step Two. Arbitration. If the grievance is not resolved through Step One, either party may appeal the grievance to arbitration by giving written notice to the other. Within five (5) days of such notice, the Employer and the Union shall attempt mutually to select an arbitrator, and should they be unable to agree within the above five (5) days to select an arbitrator, they may jointly or either individually, request the Wisconsin Employment Relations Commission to provide an impartial arbitrator.
- 12.04 The arbitrator, after hearing both sides of the controversy, shall hand down his decision in writing to the parties within ten (10) days of the last meeting and such decision shall be final and binding on both parties to this Agreement.
- 12.05 Time limits as set forth above may be extended by mutual agreement.
- 12.06 Expenses, if any, arising from the arbitration proceedings, will be shared equally by the parties.
- 12.07 Any employee shall have the right of the presence of a steward when his work performance or conduct or other matter affecting his status as an employee are subject to discussion for the record.
- 12.08 The Union shall determine the composition of the Grievance Committee."

The County proposes the following as and for Article XII of the contract:

- "12.01 The parties agree that the prompt and just settlement of grievances is of mutual interest and concern. Should a grievance arise whether in reference to a question of interpretation of the Agreement or to a question relating to safety and/or other matters, the grieving employee shall first bring the complaint to the steward or Grievance Committee of the Union. If it is determined after investigation by the Union that a grievance does exist, it shall be processed in the manner described below:
- 12.02 Step One. The Grievance Committee shall attempt to resolve the matter with the Sheriff. If the grievance is not resolved within five (5) working days, the grievance shall be reduced to writing and submitted to the Law Enforcement Committee. The parties shall meet within one (1) calendar week of receipt of the written appeal to hear the grievance. Within one (1) calendar week of the hearing, the Law Enforcement Committee shall give its response in writing. If the matter is not resolved, either party may request and have, if desired, one meeting before a mediator on the staff and appointed by the Wisconsin Employment Relations Commission.
- 12.03 Step Two. Arbitration. If the grievance is not resolved through Step One, and if, but only if, the grievance involves questions or disputes as to the interpretation, application or performance of this Agreement, either party may appeal the grievance to arbitration by giving written notice to the other. Within five (5) days of such notice, the Employer and the Union shall attempt mutually to select an arbitrator, and should they be unable to agree within the above five (5) days to select an arbitrator, they may jointly or either individually, request the Wisconsin Employment Relations Commission to provide an impartial arbitrator.
- 12.04 The arbitrator, after hearing both sides of the controversy, shall be requested to hand down his decision in writing to the parties within ten (10) days of the last meeting.
- 12.05 Time limits as set forth above may be extended by mutual agreement.
- 12.06 The award of the arbitrator within the terms of the authority conferred upon him by this Agreement shall be final and binding upon both parties. Any question of excess of authority, fraud or arbitrary or capricious action shall be subject to the usual legal remedies.
- A. Such arbitrator shall have no power or jurisdiction to change, add to or subtract from the terms of this Agreement. Such arbitrator shall have no power to modify or nullify any of the provisions of this Agreement for the purpose of a particular case.
- B. No arbitration shall be had in case of any grievance in which no arbitrator is agreed upon and no application is made to the Wisconsin Employment Relations Commission for appointment of an arbitrator within twenty (20) days of the last meeting of the parties for the purpose of settling such grievance.
- C. No arbitrator's award shall have any standing as a precedent in the arbitration of any other grievance under this Agreement.
- 12.07 All miscellaneous costs of all arbitrations shall be borne equally by the Employer and the Union, except that each party will pay for the costs of their own witnesses and except that the cost of a reporter and one original transcript of any proceeding before the arbitrator for which either party shall request a reporter, shall be paid by the party making the request. Such original transcript shall be for the use of the arbitrator and copies shall be supplied to either party upon request and payment of the cost thereof.
- 12.08 The limitations upon arbitration herein contained shall not prevent the raising and disposition of grievances excluded from arbitration through all other steps of the grievance procedure herein provided.
- 12.09 The Employer may initiate a grievance by filing it in writing with the Grievance Committee."

DISCUSSION - Issue #8

The major changes that appear in the County's proposal involve the inclusion of an additional step in the grievance procedure of mediation at the request of either party prior to moving the matter into arbitration. The second major change which appears to be embodied in the County's proposal concerns language limiting the matters which may be submitted to arbitration only to those questions or disputes involving the interpretation, application or performance of the agreement. Under the 1975 language, it appears that the subject matters that may be submitted to arbitration are greater and are not limited specifically to those proposed by the County. The County's proposal further deletes Section 12.07 of the 1975 contract which specifically provides that "an employee shall have the right of the presence of a steward when his work performance or conduct or other matter affecting his status as an employee are subject of discussion for the record. Additionally, the County's proposal limits the jurisdiction of the arbitration by use of conventional language terms that are commonly found in labor contracts.

The changes presumably of the greatest concern to the Union involves the deletion of the provision permitting an employee to have a steward present as specified in 12.07 and the change in language which limits the type of grievance matter that can be submitted into arbitration.

While the arbitrator recognizes the concern of the Union of the fact that certain elements of such article deemed favorable by the Union are proposed to be eliminated by the County's proposal, the arbitrator cannot say that the position of either party is unreasonable with respect to their respective proposals. Consideration of this issue must be weighed and balanced in conjunction with the total proposal.

ISSUE #9

Article XIII - Job Posting and Transfers

The Union proposed no change in the 1975 contract provisions, Section 13.03 thereof, which provided as follows:

"13.03 Employees desiring to apply for such vacancies shall sign the posted notice. Only those applicants who meet the prerequisites for the position shall be considered. The qualified applicant with the longest service record shall be given the first opportunity to qualify for the vacancy. Said employee shall demonstrate his ability to perform the job during a sixty (60) calendar day training period; and if he is deemed qualified by the Employer after said training and trial, he shall be assigned to fill the vacancy and shall receive the rate of pay of the classification. Should such employee not qualify or should he himself desire to return to his former position, he shall be reassigned to his former position without loss of seniority. In this event, the applicant next in line of seniority shall be given opportunity to qualify and this procedure shall continue until the vacancy is filled."

The County proposed the following as and for Section 13.03 of such article:

"13.03 Employees desiring to apply for such vacancies shall sign the posted notice. Only those applicants who meet the prerequisites for the position shall be considered. The qualified applicant with the longest service record shall be given the first opportunity to qualify for the vacancy. Said employee shall demonstrate his ability to perform the job during a sixty (60) calendar day training period; and if he is deemed qualified by the Employer after said training and trial, he shall be assigned to fill the vacancy and shall receive the rate of pay of the classification. Should such employee not qualify or should he himself desire to return to his former position, he shall be re-assigned to his former position without loss of seniority and the Employer will fill the position."

DISCUSSION - Issue #9

The sole change embodied in the County's proposal would be to permit the County to fill a position without regard to seniority or the posting procedures in the event that a successful bidder to a posted job failed to qualify or decided to return to his previous position. The 1975 contract provision would require that the position be filled following this qualification of the initial applicant awarded the job or upon his return to his former position by the same procedure used to initially fill such position.

The undersigned is of the judgment that the Union's position is the most reasonable and consistent with the intent utilized in filling the position in the first place. Again, the merits of this issue must be weighed in conjunction with the total proposal of each party.

ISSUE #10

Article XIV - Work Day and Work Week - Overtime

The Union proposes to continue the present provisions of Article XIV in full plus include additional provisions specifying the work schedule for the secretary as being a work week of five days on and two days off, with the five days on being Monday through Friday and with the addition of the inclusion of a work schedule for the investigator of five days on and two days off, Monday through Friday being the five days on. The 1975 contract provision of Article XIV is as follows:

"14.01 The work schedule in effect shall be six (6) days on and three (3) days off. The Employer agrees to retain sufficient personnel to maintain full coverage of shifts, including vacation and other leave periods.

14.02 Standard shift schedules are: 7 a.m. - 3 p.m.; 3 p.m. - 11 p.m.; and 11 p.m. - 7 a.m. Traffic Schedule: 8 a.m. - 5 p.m.; 5 p.m. - 1 a.m.; and 7 p.m. - 3 a.m. In case of illness, vacation or other circumstance when there is a shortage of men to fill the schedule, sergeants shall have the discretion of calling whatever men are available to fill the shift.

14.03 Work schedules shall be posted for six (6) weeks in advance. Officers may, upon request, check the work schedules further in advance.

14.04 Overtime. Overtime shall be paid for all time worked outside of the work schedule as required by the Sheriff at the rate of one and one-half time for actual time worked.

14.05 No part-time or seasonal employee shall work overtime unless all regular employees are working overtime or are unavailable to work.

14.06 Overtime shall be divided as equally as possible."

The County proposes a completely revised Article XIV as follows:

"Article XIV - Workday - Workweek - Schedules and Overtime

14.01 The Sheriff shall prepare the schedule of hours to be worked. He shall establish the work period into which the shifts will fit.

The force will be scheduled to work on the basis of a Traffic Schedule and a Radio Operator Schedule.

Traffic Schedule

Standard schedule shall be four (4) shifts per twenty-four (24) hour period, as follows:

8:00 a.m. to 4:30 p.m.	(1/2 hour unpaid lunch period)
4:00 p.m. to 12:30 a.m.	(1/2 hour unpaid lunch period)
7:00 p.m. to 3:30 a.m.	(1/2 hour unpaid lunch period)
12:00 midnight to 8:30 a.m.	(1/2 hour unpaid lunch period)

Radio Operators

Standard schedule shall be three (3) shifts per twenty-four (24) hour period as follows:

7:00 a.m. to 3:00 p.m.
 3:00 p.m. to 11:00 p.m.
 11:00 p.m. to 7:00 a.m.

The deputy/part-time investigator will be required to work as scheduled within the Traffic Schedule and shall function as a traffic patrolman and traffic investigator as well as criminal investigator.

The above schedules will not be changes unless posted at least one month in advance and any new schedule shall provide for eight (8) hour shifts with sixteen (16) hours off between shifts and will have standard starting and ending shift times.

- 14.02 Part-time or temporary employees may be scheduled outside of the above schedules.
- 14.03 Employees shall be paid time and one-half under the following circumstances:
 - a) When required to work on a day that has been scheduled as a day off.
 - b) All hours worked outside the posted schedule except for those hours worked contiguous to the posted schedule and caused by absence for any reason of another employee scheduled to work.
 - c) Except for court appearances, any employee called back to work after he has completed his scheduled shift shall be given a minimum of two hours' work and shall be paid time and one-half during such time.
- 14.04 A minimum of two hours' pay will be paid for all court appearances, except those occurring during the officer's regularly scheduled shift. Where an officer is requested to appear in court in any civil suit, the Sheriff may require that he be subpoenaed and his fees for serving as a witness shall be paid into the department up to the amount that such officer receives as wages under this section.
- 14.05 Overtime shall not be voluntary. However, the Sheriff shall endeavor to divide it as equally as possible. Part-time employees shall not be scheduled for overtime and none shall work overtime so long as any regular full-time employee desires the overtime."

DISCUSSION - Issue #10

This article was vigorously argued by both parties at the arbitration hearing. The principle contention of the County was that the make up of the work week and shifts must be flexible within the discretion of the Sheriff. In addition, the single major aspect of the 1975 contract language with which the County addressed a great deal of argument, concerned the provision of Article 14.02 wherein it provides, "In case of illness, vacation, or other circumstance where there is a shortage of men to fill a schedule, sergeants shall have the discretion of calling whatever men are available to fill the shift."

The County contends that such provision removes the control of the scheduling and overtime determination of the department from management and places it with the employees and the Union because of the fact that sergeants are in the bargaining unit. The County contends that under the 1975 contract language, they have absolutely no discretion or control over the scheduling of overtime or the shifts and assignments thereof because it is contractually vested in the sergeants in their discretion.

The undersigned has read the language of 14.02 as contained in the 1975 contract in detail and is of the judgment that the County is reading such language in an over restrictive way. There is nothing in the total article that restricts the County from utilization of the rights reserved to it in the Management Rights clause of setting certain guidelines and policies with respect to scheduling and overtime under which the sergeant must operate. There is further, nothing in the contract which prohibits the Sheriff from directing the sergeant to schedule shifts or call in employees for overtime work pursuant to specific directions and guidelines which he may issue.

The Union specifically objects to the deletion of the language specifying a work schedule on the basis that the composition of a work schedule is then left completely in the discretion of the Sheriff. They contend that it is possible for the Sheriff to then schedule an employee so that he never has the weekend off, to schedule him so he works consecutive days far in excess of five, six, seven, etc., and affords no protection to an employee to the extent that he can look forward to or anticipate a consistent or relatively standard work week.

The County's proposal also appears to reduce the situations under which overtime is payable, specifically Section 14.03(b) which provides that those hours worked contiguous to a posted schedule that are caused by the absence of another employee who was scheduled to work, shall be paid at straight time, rather than at time and one-half. Under the 1975 contract, such exception to time and one-half pay is not found. The County's proposal further appears to provide for payment of court appearances at straight time under certain circumstances where they occur outside of an employees regular work schedule compared to payment therefor at time and one-half under the 1975 contract language. The County's proposal further deletes the 1975 language under Section 14.04 of the contract wherein an officer who appears in a civil suit and who receives subpoena fees & witness fees therefor is required to pay such fees to the department.

It would appear that the County's proposal would place many of the matters that are contractually covered in the 1975 language in the sole discretion of the Sheriff, and that as such, the schedules and work weeks, including days on and days off could be so scheduled so as to result in employees working a substantially greater number of hours during any given month and receive the same monthly pay, or being scheduled a substantial number of days on without days off being scheduled on a regular basis, or thirdly, in having schedules so set so that one or more employees may receive a weekend off only on rare occasions, if at all.

The arbitrator is dismayed at the fact that the parties have not been able to resolve through negotiations some of the numerous issues that have been raised by the two proposals of the parties. The undersigned is of the opinion, however, that the County's proposals of the parties. The undersigned is of the opinion, however, that the County's proposal constitutes a substantial and drastic change over that of the Union which involves primarily, language under which the parties have apparently operated and lived without substantial difficulty for the previous year and which proposes the additional inclusion in contract language of the work schedule that is presently in effect and which has been in effect for some time for the secretary and investigator. The undersigned would conclude that as between the two proposals on this issue, the Union's proposal is the most reasonable. As it relates to the County's contention that the Union's proposal deprives the County of its managerial function, the arbitrator rejects such argument. Section 14.04 of the 1975 contract language specifically provides that "overtime is to be paid for all time worked outside of the work schedule as required by the Sheriff." When one reads such provision in conjunction with the language of 14.02 which places the calling in of employees for overtime work in the discretion of the sergeant, one can conclude that the right to said guidelines under which the sergeant must operate for the purpose of exercising the discretion which is placed upon him by 14.02, remains with the Sheriff and is exerciseable by him by use of policies and procedures which he should relate to the sergeant. The placing of discretion under such provision in the sergeant does not prohibit the Sheriff from exercising the overall and ultimate responsibility and discretionary management responsibilities which he retains.

ISSUE #11

Article XV - Vacations

The Union proposes no change in the Vacation article from that contained in the 1975 contract which is as follows:

"15.01 All employees after one (1) continuous year of employment, shall be entitled to vacation leaves with pay and said vacation shall be taken during each calendar year and shall be based upon continuous service accruing as of their anniversary date of employment occurring during any such calendar year based upon the following schedule:

One (1) year of service	--	One (1) workweek of vacation (6 days)
Two (2) years of service	-	Two (2) workweeks of vacation (12 days)
Twelve (12) years of service	-	Three (3) workweeks of vacation (18 days)
Twenty (20) years of service	-	Four (4) workweeks of vacation (24 days)

15.02 Each January 1 employees will qualify for vacation leave during the calendar year in accordance with the above schedule based upon continuous service which will be accrued in that year.

15.03 Selection of vacation time shall be by seniority.

15.04 When a holiday falls in a vacation week, the employee shall receive an additional day of vacation, or, at the option of the Employer, either an additional day's pay or a day off."

The County proposes the following as and for Article XV:

"15.01 All employees after one (1) continuous year of employment, shall be entitled to vacation leave with pay and said vacation shall be taken during each calendar year and shall be based upon continuous service accruing as of their anniversary date of employment occurring during any such calendar year based upon the following schedule:

After one (1) year of service	-	One (1) workweek of vacation
After two (2) years of service	-	Two (2) workweeks of vacation
After twelve (12) years of service	-	Three (3) workweeks of vacation
After twenty (20) years of service	-	Four (4) workweeks of vacation

15.02 When a holiday falls in a vacation week, the employee shall receive, at the option of the Employer, an additional day of vacation, a day off, or an addition day's pay.

15.03 The parties recognize that the peculiarities of police work and the limited number of employees require careful planning of the vacation schedules. The Employer shall endeavor to schedule vacations according to the desires of the employees and, where such desires conflict, shall give priority to seniority to the extent hereinafter provided; however, the Employer shall have the final decision in setting the vacation periods but shall follow the procedure outlined in 15.04.

15.04 During the month of January of each year, the Sheriff shall post a vacation pick schedule and the employees shall sign for their elected period. Where more than one sign for the same period, the Sheriff shall have the right to require the less senior to pick another period. After the January pick period, no employee shall be allowed to bump another on the period picked.

15.05 Vacation periods desired outside the pick period may be arranged thirty (30) days in advance with the permission of the Sheriff."

DISCUSSION - Issue #11

The County's proposal, under 15.01, deletes any reference to the number of days of vacation, which is designated as 6, 12, 18, and 24 in the 1975 contract language. When one takes such vacation language change and considers it in conjunction with the proposed changes involving the workweek, the question is raised as to the definition of workweek referred to in the County's proposal on vacation. Under the discretionary language of the workweek, it is possible that an employee could work a seven day workweek during some weeks, a six day workweek under other weeks, a five or a four day workweek and the meaning and intent of "workweek" as used in the vacation schedule

would then be subject to considerable dispute. There is nothing in the County's proposed language which clarifies or defines such word. The Union expressed a concern that the six days which is defined as the workweek of vacation as specified in the 1975 contract could result in something less under the County's proposed language.

The County's proposal also provides for the posting of a vacation schedule and the selection thereon by the employees during January of each year. The Union expressed concern over the need to select vacations at such early time in the year on the basis that the employees may not be aware at that time as to when they might wish their vacation for purposes of engaging in activities with their spouse or family that would fit into their schedules.

While the language contained in the 1975 contract does not specifically limit the number of employees that can be on vacation at any one time or contain a provision that would allow the employer to deny a vacation during any time where the taking of vacation would cause a hardship to the continued operation of the department, neither does the 1975 language restrict the County's right to limit the taking of vacation based upon any such reasonable considerations.

On the basis of an evaluation of the two proposals, the undersigned is of the judgment that the proposal of the Union contains the most merit, and merely continues the language that was in existence during the previous year. In the absence of any evidence having been presented tending to show that such 1975 language caused and worked a hardship upon the County or created an unreasonable burden, the arbitrator is of the judgment that there has been no basis shown or established to warrant a change in such language. In any event, such issue must be given relative consideration in conjunction with the total proposal of each party.

ISSUE #12

Article XVI - Sick Leave

The Union proposed a continuation of the 1975 contract language without change which was as follows: (except for an agreed upon improvement, hereinafter detailed)

- "16.01 The Employer agrees that all regular employees shall be entitled to a sick leave of twelve (12) days per year with pay, which sick leave shall accumulate at the rate of one (1) days per month. Employees may accumulate unused sick leave; however, the maximum accumulation is seventy-five (75) days.
- 16.02 Probationary employees shall accumulate sick leave at the rate specified above and shall not be entitled to use the said sick leave until completion of thirty (30) days of employment.
- 16.03 Employees shall be allowed sick leave credits in case they must be absent due to an emergency or severe illness in their family.
- 16.04 The Employer shall have the right to require a doctor's certificate from the employee following three (3) consecutive days of sick leave.
- 16.05 Any employee who exhausts his sick leave credits and is unable to return to work due to a continuing illness or injury will be granted an unpaid leave of absence for a period of not more than six (6) months."

The County proposed a Sick Leave article as follows:

- 16.01 The Employer agrees that all regular employees shall be entitled to a sick leave of twelve (12) days per year with pay, which sick leave shall accumulate at the rate of one (1) day per month. Employees may accumulate unused sick leave; however, the maximum accumulation is seventy-five (75) days. Sick leave shall automatically terminate on termination of employment except in case of retirement or death, in which event the employee or his estate shall be paid for one-half (1/2) of the allowed accumulated sick leave.

- 16.02 Probationary employees shall accumulate sick leave from date of employment but shall not be allowed to take such accumulation until after sixty (60) days of employment.
- 16.03 Where a bona fide illness or accident of any member of employee's immediate family residing in his household requires his presence, accumulated sick leave may be used.
- 16.04 Except for 16.03, sick leave shall be used only for bona fide illness or disability resulting from accident. Upon request, the employee shall have the burden of proving necessity for utilization of sick leave. The Employer may at any time require medical proof of disability. Any employee found guilty of willfull misuse of sick leave or falsely reporting sickness or accident may be disciplined by suspension without pay or discharged.
- 16.05 Sick leave may not be utilized where the absence is covered by Workmen's Compensation benefits and any sickness and accident benefits received through the employer's insurance plans shall be deducted from the amount of sick leave entitlement.
- 16.06 Sick leave may be utilized up to three (3) days for an employee who actually attends the funeral of spouse, mother, father, son, daughter, brother or sister, and one (1) day for attending the funeral of mother-in-law, father-in-law, brother-in-law, or sister-in-law.
- 16.07 Any employee who exhausts his sick leave credits and is unable to return to work due to a continuing illness or injury will be granted an unpaid leave of absence for a period of not more than six (6) months."

DISCUSSION - Issue #12

Paragraph 16.02 of the County's proposal makes the same change as that proposed in Article 9.02 discussed earlier of increasing from 30 to 60 days the time required in employment before a new employee would be entitled to take sick leave.

Section 16.03 of the County's proposal would appear to more specifically define and/or limit the definition of "family" by defining the situations where sick leave may be used to the situations where a bona fide illness or accident involves a member of the employee's immediate family residing in his household which requires the employee's presence.

Section 16.04 of the County's proposal would permit the employer to require medical proof of request for use of sick leave to any absence, including the first day, as compared to the 1975 contract language which calls for a doctor's certificate after three consecutive days of sick leave.

Section 16.05 of the County's proposal is new and would call for a reduction of an employee's sick leave account in proportion to the amount of workmen's compensation benefits which an employee may receive while off on disability.

Section 16.06 of the County's proposal is also a new provision and provides that sick leave may be used for attendance at the funeral of specified persons. Under the County's proposal, the funeral leave provision of Article XVIII, entitled Funeral Leave as contained in the 1975 contract would be deleted.

The undersigned cannot conclude that the proposal of either party is unreasonable, because of the fact that similar type provisions and treatment of sick leave can be found in various other collective bargaining agreements. The undersigned does find, however, that the effect of the County's proposal is to reduce the benefits with respect to the situations where an employee may be off due to disability and drawing workmen's compensation benefits and to the situation where an employee attends a funeral.

This issue will be given consideration in conjunction with the total proposal of each party.

Issue #13

Article XVII - Holidays

The Union proposed a continuation of the 1975 contract language without change which was as follows:

"17.01 Holidays. All regular employees shall be entitled to the following holidays with pay: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, Christmas Day and Good Friday afternoon.

17.02 All employees shall receive holiday pay pursuant to section 17.01 which shall be regular straight time pay. Employees who work on a holiday or any part of a holiday shall receive additional pay at the rate of one-half the normal straight-time pay for the day worked. In addition, all employees whether or not they worked on any holiday during the term of this Agreement shall receive six (6) days of compensatory time off at straight-time pay during the term of the Agreement. Compensatory time shall be arranged by the Sheriff. It is understood that the six (6) days of compensatory time will not be taken consecutively. Compensatory time must be taken during the term of the Agreement and may not be carried over from year to year."

The County proposed the holiday article as follows:

"17.01 Legal holidays shall be as follows:

1. New Year's Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Thanksgiving Day
6. Christmas Eve Day
7. Christmas Day
8. Good Friday afternoon

17.02 Any employee who works on any legal holiday shall be paid time and one-half for all hours worked during the holiday."

DISCUSSION - Issue #13

The County's proposal on this issue involves a substantial economic reduction to that which was previously realized by the employees under the 1975 article.

If one assumes for purposes of comparison, that the average employee would normally work five of the seven and one-half holidays provided, one finds that the employees would receive 148 hours of pay for the holidays not worked, the holidays worked and the compensatory days off under the 1975 contract provision, whereas under the County's proposed holiday article, the employees would receive 60 hours of pay under the holiday article. When one computes out the hourly rate based upon the deputy proposed rate of \$745 per month, it reveals that the net difference to the employees would amount to \$18.40 per month less under the County proposal as compared to continuation of the 1975 contractual provision.

The undersigned will give consideration to this issue on that basis in conjunction with all issues involved in the total proposal of each party.

Issue #14

Article XIX - Military Leave (Leaves of Absence)

The Union proposes a continuation of the 1975 contract provision which provides as follows:

"19.01 Employees who are members of the National Guard or military reserves or other service organization shall be granted temporary leave for tours of duty. The employee shall be paid the difference between his regular earnings (not to exceed two (2) weeks for any one call out for reserve training or emergency duty) and his service pay for such period. Any employee called out for active duty with the Armed Forces of the United States of America shall be granted a military leave of absence and his seniority shall continue to accumulate during such leave; however, such employee must return to duty within ninety (90) days from the day of release from such active duty in order to be re-employed with such continued service status."

The County's proposal has deleted the Funeral Leave provision carried as Article XVIII in the 1975 contract and rennumbers Article XVIII in their proposal as Leaves of Absence and proposes as follows:

"18.01 Any employee required to be absent by reason of military duty shall be granted a leave without pay for the period of such service and shall be returned to employment pursuant to law.

18.02 Any employee shall be granted a leave of absence without pay for good cause, provided such leave is approved by both the Employer and the Union. Any leave in excess of one month shall be in writing and copy furnished the Union."

DISCUSSION - Issue #14

The County's proposal would eliminate the differential pay provided for employees who are called to serve in the National Guard or military reserve, and thereby constitutes a reduction in the benefits which the employees were entitled to receive under the 1975 contract. Such issue will be considered in conjunction with the total proposal of each party.

Issue #15

Article XX - Jury Duty and Witness

The Union proposes to continue the 1975 contract provision which provides as follows:

"20.01 Any employee subpoenaed for jury duty or as a witness shall be paid the difference between his regular earnings and his jury duty or witness fee, excluding mileage, for such time spent on jury duty or as a witness."

The County proposal contained no reference to such matter.

DISCUSSION - Issue #15

The County's proposal, by deletion of such article would eliminate the differential pay between an employee's regular earnings and the fee he would be paid by service on jury duty or as a witness, which is a reduction in what the employees were entitled to under the 1975 contract. The undersigned will give consideration to such issue in conjunction with the total proposal of each party.

Issue #16

Article XXI - Workmen's Compensation

The Union proposes to continue the 1975 contract provision which provides as follows:

"21.01 All employees shall be covered by Workmen's Compensation insurance. In the event an employee suffers compensatory injury or illness in the course of performing his duties, he shall be paid the difference between any payment under Workmen's Compensation and his regular pay. Time paid for in this section shall not be charged to sick leave."

The County rennumbers such article to Article XIX and proposes as follows:

"19.01 All accidents occurring while on duty and which could result in a claim under the Worker's Compensation Act of Wisconsin shall be reported to the Employer as soon as practicable, but not later than the end of the scheduled shift."

DISCUSSION - Issue #16

The County's proposal on this issue would serve to eliminate the differential pay not chargeable against sick leave that is provided under the 1975 contract provision. Such issue will be given consideration in conjunction of the total proposal of each party.

Issue #17

Article XXII - Hospital & Medical Insurance

The proposals of both parties continue the current hospital and medical insurance coverage along with the provision that the County continue payment of 70% of the premium. A difference with respect to the life insurance is provided whereby the County proposes to provide \$25,000.00 life insurance coverage, the same as under the previous contract, but proposes that the County's contribution will be 70% of such premium, whereas under the 1975 contract provision, the employee paid the premium on \$1,000.00 of the coverage for one month, and the County paid the remainder of the premium. The County's proposal on this issue constitutes a reduction of what the employees had previously enjoyed under the 1975 contract provision.

Issue #18

Article XXIV - Leaves of Absence

The Union proposes continuation of the Leave of Absence provision contained in the 1975 contract, whereas the County has proposed their previously discussed Article XVIII, which County proposal eliminates the specifically referred to leaves that would be granted under the 1975 provision for the purpose of running for public office, to fill appointment to public office, and to serve in an elected or appointed Union position, and treats leaves of absence in general language and makes such leave subject to approval by both the Employer and the Union.

Issue #19

- No Strike or Lockout

The 1975 contract contained no provision with respect to such matter.

The County proposed the following as Article XXI of their proposal involving no strike or lockout as follows:

The Employer agrees that there shall be no lockout of its employees, and the Union agrees that neither it nor its members will cause, permit, or take part in any strike, work stoppage, slowdown or picketing. No employee shall participate in any work slowdown procedure in any form. Violation of any part of this article shall constitute prima facie grounds for discharge.

In the event of any violation of this article, the Union, upon notice thereof given in writing by the Employer, shall meet the following requirements:

(a) The Union shall, within four (4) hours after notice from the Employer, publicly declare that such action is unauthorized, and shall order its members to cease violation, notwithstanding the existence of any wildcat picket line.

(b) The Union shall not question the unqualified right of the Employer to discipline or discharge employees engaging in, participating in, or encouraging such unauthorized strike, except that any issue of fact as to participation shall be subject to the grievance procedure."

DISCUSSION - Issue #19

The Union contends that Wisconsin Statutes govern such area and that the County's proposal is beyond the realm of reasonableness and demands conditions which the Union has no legal right to enforce. They also contend that it challenges the right of freedom of speech.

The undersigned notes that (b) of such proposal provides that the Union would not question any discipline or discharge of employees who engage in any unauthorized strike action.

Issue #20

Article XXV - Miscellaneous

The Union proposes to continue the 1975 contractual provisions with the exception of Section 25.05 which would be revised to reflect a change in such provision which had been agreed upon between the parties prior to impasse. Such article was as follows:

- "25.01 Physical Exams. The Employer shall have the right to require physical exams of employees and agrees to pay for such examinations so required.
- 25.02 Bond. The Employer will provide bond protection for each member of the bargaining unit.
- 25.03 Whenever any employee is proceeded against in his official capacity, or as an individual because of the acts committed while carrying out his duties as an officer or employee, the County shall pay all attorney's fees, costs of defending the action and any judgment which may accrue against the employee in accordance with the Wisconsin Statutes.
- 25.04 Officers shall not be required to perform custodial duties or be required to shoot animals.
- 25.05 (substitute language agreed upon between the parties) The Employer shall provide air conditioning in the squad cars and in the office.
- 25.06 The County shall pay for necessary maintenance of squad cars.
- 25.07 When it is necessary to transport a citizen in a squad car, the County shall assume any liability which may be incurred in case of an accident."

Without reproducing the County's proposal verbatim, the differences which their proposal raise with respect to the language of the 1975 contract article will be listed and discussed. The County's proposal restates in substantially identical form the provisions for physical exams, bond, protection against liability, and the agreed upon language change with respect to squad car maintenance.

Their proposal adds new provisions which provides for special treatment for temporary and regular part-time employees. With respect to the regular part-time employees, their proposal provides that the probationary period shall be computed based upon the number of hours worked compared to a full week and provides that with respect to fringe benefits, that they receive fringe benefits on a pro-rata basis in proportion to the average number of hours worked compared to a full normal week. The Union contends that such proposal changes the conditions of employment for regular part-time employees with respect to seniority and probationary period and that their proposal changes the fringe benefit entitlements that such employees received under the 1975 contract provisions. They contend that under the County's proposal, part-time employees are denied accumulation of seniority.

The second major change in the County's proposal is the deletion of the provision contained in Section 25.04 of the 1975 contract provision which provides that officers are not required to shoot animals. The County's proposal would remove such provision.

Section 23.08 of the County's proposal concerned the uniform allowance and provided as follows:

"23.08 Uniform Allowance. Crawford County shall establish clothing allowance in each year's budget as negotiated with the department. The County will provide new employees with necessary clothing."

The uniform allowance issue was one of the six issues that the Union sought to raise in the arbitration hearing. The Union's final offer with respect to clothing allowance as set forth on Union Exhibit #1 and as contained in their final offer was as follows:

"Newly hired officers will receive all necessary clothing and personal gear. Should the new officer fail to remain employed by the County during his first year, said clothing and personal gear shall be returned to the County. After one year of employment, each member of the Department shall be paid \$100.00 each January 1, and each July 1 for clothing and cleaning allowance."

The County's proposal also contained a new section entitled 23.09 as follows:

"23.09 Target Practice. Providing ammunition (wad cutters) is available, the Sheriff shall schedule monthly target practice and the Employer will furnish up to forty (40) rounds of ammunition. All officers must meet the N.R.A. qualification on the specified P.P.C. course on or before the 12th practice session."

DISCUSSION - Issue #20

The Union views the County's proposal as taking away certain benefits that had previously been enjoyed by regular part-time employees, which purportedly amount to a reduction in the amount of fringe benefits that they would otherwise be entitled to and by removing any seniority accrual for such employees. They also view the County's proposal as reducing the County's liability with respect to protecting the employee from liability which he may incur in the performance of his duties by placing the County's liability according to the limits of its liability insurance. The Union further indicated that the provision involving target practice constitutes a new condition of employment affecting the employees. It would appear that the Union's contentions are correct in that the County's proposal does in fact eliminate and reduce certain benefits to which regular part-time employees received and/or were entitled to under the previous 1975 contract language.

The undersigned cannot conclude that the County's proposal is not reasonable. The restriction of accumulation of seniority to only full-time employees and the payment of fringe benefits to regular part-time employees on a pro-rata basis proportionate to the number of hours they work are found in some contracts. It is also a fact, that some contracts afford regular part-time employees equal rights with respect to accumulation of seniority and receipt of fringe benefits the same as full-time employees, and in that respect, the undersigned cannot conclude that the Union's proposal of retaining the 1975 contract provisions are unreasonable. The effect of the two proposals on such issues, must be given consideration on the basis that it constitutes a reduction of the benefits and rights previously enjoyed by such employees in conjunction with the total proposal of each party.

with the exception of the first four hours of working time spent therein. There is no corresponding provision in the 1975 contract, and it is presumed that under the 1975 contract provisions that an employee required to perform work in a higher classified job would be paid the rate specified in the Appendix A wage rates that is provided for such jobs without an exception of the first four hours therein. As such, it appears that such proposal by the County would serve as a reduction to the benefits previously enjoyed by the employees under the 1975 contract.

Issue #22

- Wisconsin Retirement Fund and Wages

Wisconsin Retirement Fund. The Union has proposed that the Employer pay the full amount of the Wisconsin Retirement Fund. At issue is the six percent contribution, referred to as the employee's share.

The County proposes to continue the present contribution which has been that the County pays the employer's share and the employee pays his own six percent share to the Wisconsin Retirement Fund.

Wages. The Union proposes the following:

"1. Wages (per month)

Investigator	\$835.00 (After probation per Section 13.03)
Traffic Sergeant	\$835.00 (After probation per Section 13.03)
Radio Operator Sgt.	\$738.00 (After probation per Section 13.03)

	<u>Start</u>	<u>6 Months</u>	<u>1 Year</u>
*Deputy	\$685.00	\$715.00	\$745.00
Radio Operator-Jailer	\$665.00	\$695.00	\$725.00
Secretary	\$400.00	\$430.00	\$460.00

*Present Deputy 2 to be 'red circled' at \$817.00 per month."

The County proposed the following to be included in Appendix A as the Wages for those classifications listed as follows:

"	<u>Per Month</u>	<u>After</u>
	<u>Probationary Period</u>	<u>Probationary Period</u>
Traffic Sergeant	\$760.00	\$835.00
Radio-Operator Sergeant	725.00	738.00
Deputy	670.00	745.00
Radio-Operator Jailer	640.00	725.00
Department Secretary	375.00	416.00

Note: (1) Present Deputy 2 to be red circled at \$817.00 per month
 (2) Present Investigator to be red circled at \$817.00 per month."

DISCUSSION - Issue #22

In its brief, the County summarizes the differences between the Union's wages proposals and the County's wage proposals as being insignificant and states at pages 26 and 27 of their brief as follows:

"Under the County proposal the investigator would be given traffic duties, but would be red circled at \$817.00 per month. Under the union proposal, he would be inefficiently confined to criminal investigation only, but would receive \$835.00 per month. Under the County proposal the Department Secretary would be paid \$416.00 per month or approximately \$5,000.00 per year. Under the Union's proposal, she would be paid \$460.00 per month, or approximately \$5,500.00 per year. In the balance of the positions the salaries would be exactly the same.

Hence, there are more important considerations than the salary scales of the two proposals."

The Union, in its brief, points out that in the 1975 contract, ten classifications were listed involving ten employees carrying variable rates. The County and the Union both deemed advisable to consolidate the classifications into fewer in number as reflected by the proposals of both parties. They have computed the average monthly increase of the County's wage proposal as amounting to an average of \$37.57 per month per employee or a 5.21 percent average increase.

The Union in computing the Union proposal with respect to wages determined that the average monthly increase per employee, excluding the secretary, would be \$39.37 per month or a percentage increase of 5.46 percent.

On the basis of the observations offered by both the County and the Union, it is clear that the differences between the two parties proposals involving wages is not significant for purposes of resolving the subject dispute. The major difference centers around the proper rate to be paid the Secretary.

The County contends that the offer made for the Secretary in this instance is the same as the average of \$5,000.00 per year paid to the other nine secretaries employed by Crawford County. In addition, they contend that the rate offered the Secretary is comparable to the salaries paid secretaries in the private sector of Crawford County. The County argues that the fringe benefits that are received by an employee of Crawford County are substantially greater than fringes received by secretaries in the private sector, thereby making the total remuneration received by a secretary of Crawford County better than secretaries in the private sector.

The Union entered several exhibits intending to draw comparisons to secretary classifications in other sheriff's departments of counties in southwestern Wisconsin. For purposes of such comparison, the Union listed the counties of Adams, Grant, Iowa, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk and Vernon. The survey and comparison data submitted by the Union reveals that the average secretarial monthly salary for the above counties was \$608.00 per month. Applying such average to the County's proposal would indicate an offer based on the County's proposal of \$192.00 per month less than the average. The Union's wage proposal for the secretary would amount to \$148.00 less than the ten-county average as shown on such comparison exhibits.

The arbitrator concludes that the comparisons submitted by the Union with respect to the secretary, are more meaningful than that of the County and that the Union's proposal is therefore the more reasonable.

With respect to the County's proposal to abolish the classification of investigator, the undersigned would find that such proposal is not critical to a choice of the two proposals. Either proposal can be considered reasonable. The County seems to infer in its presentation that by retention of the investigator classification, the County is prohibited from utilizing the investigator in other traffic department duties similar to that performed by the deputies. The undersigned can find no such restriction in any of the 1975 contract language or of any new language proposed by the Union. It would appear that by retention of the investigator position, that such employee could be utilized wherever needed, but that he would be the principle employee assigned and utilized wherever investigations are required.

The major monetary impact arises when one examines the impact of the Union proposal with regard to the Wisconsin Retirement Fund. Such proposal constitutes a six percent increase as such. If one combines such proposal to that of the wage proposal, one finds that the total proposal as reflected by such two issues amounts to a 11.21 percent average increase per employee using the County's wage proposal, and an 11.46 percent increase using the Union's wage proposal.

The Bureau of Labor Statistics Consumer Price Index reveals that the cost of living increased 7.0 percent in the calendar year 1975. The Union contends that the County's proposal falls far short of keeping employees abreast of the cost of living, especially in view of the numerous contract proposals which constitute reductions in other areas of the contract to benefits to be received by employees in 1976 under the County's proposal. They point out that the arbitrator should look at the cost of living increase that has occurred over a two year period and compare such cost of living to the actual wage increase that was granted the employees in 1975 along with that proposed for 1976. They compute the wage increase at approximately 5% that was received by the employees in 1975 and under the Union wage proposal for 1976 of 5.46% conclude that the wage increase over the two year period would amount to 10.46% while the cost of living rose during such two year period a total of 19.7%.

The undersigned recognizes, however, and the Union so indicated during the presentation of their case, that they settled for a lower wage increase on the 1975 contract in consideration of having obtained substantial improvement and desirable contract language in a number of other areas. The undersigned is of the opinion that the cost of living and settlement involving 1975 cannot reasonably be given any substantial consideration in evaluating the proposals under the 1976 contract. It may very well have been that the Union received contractual benefits in 1975 that more than made up the difference between the actual wage increase and the cost of living that occurred in that year. The simple fact that is obvious in 1976, however, is that the cost of living for that year rose 7%, while the proposed wage increase including Wisconsin Retirement Fund is in excess of 11%. It therefore is obvious that there is an approximate 4% over-ride over the cost of living increase as reflected by such two items to be evaluated in conjunction with the other issues present in this case.

The County presented a number of exhibits with respect to what they contend are indications of the level of wages paid in Crawford County and which directly affect the ability of Crawford County to pay wages as determined by those paid by private sector employers. The Union also presented data concerning wages paid by private sector employers and each side selected those employers which would tend to be more favorable to their positions. The undersigned is of the judgment that the more appropriate comparisons should be to other counties and the sheriffs' departments specifically of such other counties. The Union did present wage data comparison with the named southwestern Wisconsin counties, hereinabove set forth, wherein their computation reveals an average rate paid to deputies by such counties of \$821.00 per month. Their exhibit entered as Union Exhibit #9 would indicate that the offer of both the county and union with respect to deputies of \$745.00 per month would be \$76.00 per month less than such average of the other counties.

Specifically with respect to the Wisconsin Retirement Fund contribution, the Union presented a tabulation of how the above listed counties contributed to the Wisconsin Retirement Fund, which tabulation revealed that all of the above listed counties contributed the full six percent of the employees' share with the exception of Vernon county who contributed four percent. The County in this case, proposes to continue its past practice and contribute only the employer's share and 0% of the employees' share.

From such tabulation, the arbitrator is of the judgment that the County is alone in its position with regard to Wisconsin Retirement Fund contributions. The evidence reveals that a number of the other counties surveyed have made such contribution or a portion thereof for several prior years. From such fact, it would seem that Crawford County has enjoyed substantial benefits to itself by not contributing in a manner comparable to surrounding comparable counties for Wisconsin Retirement Fund. The undersigned can find no basis in the evidence and testimony submitted herein to justify a continuation of such difference. While it would appear that the proposal of the Union to have the County pay the full six percent for the 1976 contract year causes the total package to appear substantial, the fact remains that the County has enjoyed a substantial advantage and savings by not paying such similar amount in past years toward the employees' share of Wisconsin Retirement Fund. The evidence and exhibits herein would clearly indicate that a catch-up is warranted with respect to Wisconsin Retirement Fund. The County contends that the Union's comparisons to the ten listed counties is extremely misleading because of the fact that the tax base of Crawford County is the lowest of any of the counties to which the Union would make comparison and that the ability of the taxpayers to therefore meet the rates that would be comparable to such other counties is substantially less than the other counties. They point out that the Union, in its comparisons, used counties with a substantially larger tax base which substantially distorts such exhibit. The undersigned has reviewed the County's argument in detail and finds that even if one used as comparables, the three closest tax base counties of Adams, Juneau and Richland, one finds that the average rate paid deputies is \$824.00 per month compared to that proposed to be paid in Crawford County of \$745.00 per month. In addition, all three of such counties contribute the full employees' share to the Wisconsin Retirement Fund of six percent. The arbitrator recognizes that Crawford County, on the basis of its lower tax base and ability to pay, should not reasonably be increased to complete equality with such neighboring counties. The average of the three counties compared to that proposed in Crawford County does in fact reveal a \$79.00 per month differential in wages, without considering the fact that the County's proposal of contributing nothing to Wisconsin Retirement Fund enlarges such amount by an additional six percent.

The uniform issue discussed hereinabove, would appear to involve a minimal improvement to employees on a monetary basis over that proposed by the County. The evidence and survey data submitted by both parties with respect to uniform allowance leads to the conclusion that the Union's proposal is a bit more realistic and is more in keeping with what other counties are doing. Such comparison indicates that Crawford County is the only county of the ten surveyed that is using the voucher system. Presumably the annual uniform allowance requested of a dollar amount would serve to partially compensate employees for expense of maintaining the uniforms in a clean condition. All of the other counties contained in such survey provide an annual dollar uniform allowance ranging from \$150.00 to \$300.00.

The undersigned has neglected to include one of the proposals of the Union in his discussion of Article XIV hereinabove involving the use of persons other than deputies to transport prisoners out of the County. The Union proposed the following as an addition to section 14.05 as follows:

"Two officers shall be utilized for safety purposes whenever a prisoner is transferred from the custody of Crawford County to that of another detention facility, such as the State Penitentiary, State or other hospital or jail. Two officers shall be utilized whenever a prisoner is picked up by the County to be brought to the jurisdiction of Crawford County for detention and/or possible prosecution."

The County's position is that when the County transports a prisoner out of the County, it utilizes a second man, presumably a member of the Sheriff's posse, which would then not take deputies away from their regular duties. The County is of the judgment that the Union proposal would prove more costly to the County, and that such matter as it involves safety should remain in the discretion of the County.

The Union contends that such proposal is desirable from the standpoint of safety to the deputy and the public. They argue that without such provision, the County could assign any untrained person to accompany a deputy to transport a prisoner, which they claim in some instances, would expose the deputy to unwarranted risk and exposure.

While the arbitrator would be inclined to find that the County's proposal is the most valid, the determination of this issue is minimal as compared to the major issue of economics raised by the totality of the total proposals. Under the County's proposal, one would assume that the Sheriff would exercise reasonable discretion and in cases where prisoners do pose a risk, that he would assign more qualified personnel to so transport them. Where a prisoner reasonably poses no risk, he undoubtedly would or could assign a less qualified person to assist. In any event, this single issue must yield to the overall consideration that must be given to the total proposal of each. The Union contends that the use of untrained persons to accompany a deputy on such a mission exposes a deputy to substantially greater risk. The positions of both parties contain merit on this issue. The Union purportedly desires a contractual agreement that would insure by contract that only qualified persons would accompany them while transporting prisoners. Under the County's proposal, the determination of whether or not a fully qualified person would accompany a deputy would be solely within the discretion of the Sheriff.

SUMMARY

The undersigned is of the judgment, after a review and consideration of the economic and contractual impact which each party's total proposal encompasses, that the final proposal on behalf of the Union is the most reasonable.

While the monetary amount of the Union's proposal appears to be on the relatively high side of approximately 12% (which would take into consideration the wage increase, Wisconsin Retirement Fund contribution, uniform allowance, and pay out of sick leave on death or retirement), an examination of the County's relative position to adjacent and surrounding southwestern Wisconsin counties reveals that the County has enjoyed a substantial advantage over such other counties. Specifically, with respect to its contribution to the Wisconsin Retirement Fund on behalf of its employees, the evidence shows that it is the only county out of the ten southwestern Wisconsin counties who in the past, has contributed nothing toward the employees' share of WRF contribution. For the 1976 contract year, the County proposes to continue that advantage which amounts to six percent.

I find no substantial or unreasonable difference between either party's proposal with regard to uniform allowance, but do find on the basis of the comparable data submitted, that a uniform allowance that is fixed by contract in a dollar amount is the most common practice of the Counties surveyed.

The only fringe benefit that the County addressed substantial comment toward was the holiday and compensatory day benefit that had previously been a part of the 1975 contract. While the County contends that such provision amounts to a 13-1/2 holiday equivalent provision, it is worthy of note that the pay provided for an employee who works on a holiday is for one-half time pay, therefore resulting in time and one-half pay to an employee who works on such holiday. Many contracts provide for payment of holiday pay to employees regardless of whether or not they work and to also pay time and one-half to an employee who actually works on a holiday, thereby resulting in two and one-half times pay for an employee who actually works on such holiday. If one compares the holiday provision in Crawford County to other counties who provide such type treatment for holidays, and where the normal number of holidays is between eight and ten, one would find that such holiday provisions in other contracts would amount to a greater dollar expenditure than results in the holiday pay provision and the six compensatory day provision found in the Crawford County contract.

Even if one accepts the County's argument in total and accepts the proposition that the holiday provision as contained in the 1975 contract is substantially in excess of other counties, the fact remains that when one considers such single fringe benefit as being the only one that is better than what the survey data would indicate, one is still left with the proposition that on a wage comparison evaluation, the County enjoys a substantial differential to that of other southwestern Wisconsin counties.

As found in the earlier discussion of this award, it would appear that the County enjoys, and would continue to enjoy, under the Union proposal being implemented, a substantial differential which would place Crawford County in a \$60-\$80 per month category lower than most other counties in the Sheriff's department of such counties.

The arbitrator is of the judgment that the tax base and unique problems that are present in Crawford County do deserve recognition and are given reasonable recognition by virtue of such not inconsequential differential with regard to the wage difference between Crawford County and other southwestern Wisconsin counties.

The arbitrator is of the judgment that while a number of the contract language changes proposed by the County are in and of themselves reasonable, the result and effect of a substantial number of the County's proposals would serve to materially and substantially reduce the benefits and contractual protections that had previously been provided by the 1975 contract and under which the parties operated for such previous year. The impact in monetary percentage or dollars and cents is not possible to evaluate. The fact is clear in the judgment of the undersigned, however, that the potential reduction in monetary benefits to the employees in the bargaining unit is major and substantial to the extent that the computed percentage value attributed to the County's wage offer of 5.21% would very possibly be totally reduced to a 0 increase and could possibly be reduced to a negative increase depending upon the actual practice that the Employer would undertake with respect to instituting a work schedule.

The undersigned is of the judgment that the major and sweeping revisions being so vast in number and substantial in effect so as to eliminate or reduce the benefits previously gained through bargaining and included in the contract, is simply too large a pill to expect any Union or group of employees to swallow in a single dose.

It therefore follows on the basis of the above evidence, facts and discussion thereon, that the undersigned issues the following decision and

AWARD

That the last and final proposal of the Union is hereby found to be the most reasonable and it is therefore directed that the terms of said offer be incorporated into and serve as the terms of the collective bargaining agreement between the parties.

Dated at Madison, Wisconsin, this 1st day of July, 1976.

Robert J. Mueller /s/
ROBERT J. MUELLER
Arbitrator