

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
DRIVERS, SALESMEN, WAREHOUSEMEN, MILK  
PROCESSORS, CANNERY, DAIRY EMPLOYEES  
AND HELPERS UNION, LOCAL 695, I.B.T.  
C. W. and H. of A.  
For Final and Binding Arbitration  
Involving Law Enforcement Personnel  
in the Employ of  
DANE COUNTY

ARBITRATION AWARD  
Case XLIV  
No. 19872 MIA-183  
Decision No. 14249-A

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This arbitration is to resolve an impasse between the Teamster's Union Local 695 (hereafter the Union) and Dane County (hereafter the County) with respect to negotiations leading toward a collective bargaining agreement for the year 1976 covering the wages and conditions of employment of nonsupervisory law enforcement personnel (hereafter police officers) employed by Dane County. Currently, Dane County employs 148 such personnel in its Sheriff's Department and in its Traffic Department. 128 of these are at the Range 15 level and 20 are at the Range 17 level.

The Union petitioned the Wisconsin Employment Relations Commission for arbitration of the dispute pursuant to Section 111.77, Wisconsin Statutes. The Commission certified that an impasse had been reached, ordered arbitration, and, by an order of February 4, 1976, appointed Richard B. Bilder of Madison, Wisconsin as impartial arbitrator to issue a final and binding award in the matter. This is a "Form 2" proceeding under Section 111.77 Wisconsin Statutes in which "the arbitrator shall select the final offer of one of the parties and shall issue an award incorporating that offer without modification."

A hearing was held at the Dane County Coliseum in Madison on April 26, 1976. Both parties were given full opportunity to present oral and written evidence and testimony, and each party subsequently submitted briefs. Mr. David Loeffler appeared for the Union and Mr. Robert M. Hesslink, Jr. appeared for the County.

The criteria to be applied by the arbitrator in a proceeding under 111.77, Wisconsin Statutes, are prescribed in Section 111.77(6). That section reads as follows:

- (6) In reaching a decision the arbitrator shall give weight to the following factors:
  - (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 prices 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.

ISSUES INVOLVED

Two issues remain unresolved between the parties. The first issue relates to the appropriate level of compensation to be paid to covered employees during 1976. The second issue relates to the appropriate amount of time that an employee should continue to be paid full salary while away from work because of a Workmen's Compensation injury. The parties proposals on each issue, retroactive to the beginning of the new contract year, are as follows:

1. Compensation

County offer

- "(a) The salary of each member of the bargaining unit shall be increased by \$438.27 per year;
- (b) The County shall make additional longevity and incentive payments to each member of the bargaining unit in the approximate amount of an additional \$83.48 per year based upon each individual's longevity and incentive status;
- (c) The County shall pay all additional retirement fund payments (both employer and employee's share) in the amount of approximately \$250.44 per member per year;
- (d) The County shall pay the full amount of the health and catastrophic insurance rate increases in the amount of \$417.40 per year;
- (e) Total cost to Dane County and benefit to the employees of this offer . . . . . \$1,189.59 per year, per average member of the bargaining unit."

This is in effect an offer to increase the base wage by 21 cents per hour and in addition to pay resulting increases in the cost of fringe benefits and longevity and incentive pay.

Union offer

"A Thirty-five Cents (35c) per hour increase in wages in all classifications."

This 35c per hour increase would result in and be in addition to certain fringe benefits and longevity and incentive pay increases which are related to basic wages.

2. Period of Continuation of Full Salary When Injured

County offer

The 1975 Agreement between the parties provides that an employee who is hurt and entitled to Workmen's Compensation shall continue to receive full salary for a period of 180 days. The County would continue that provision unchanged.

Union offer

"Full payment to an employee who is hurt and entitled to Workmen's Compensation, shall be paid for a period not to exceed three hundred and sixty-five (365) calendar days."

Thus, the Union would extend the period of full payment coverage from 180 to 365 days.

DISCUSSION

I will examine each of these two issues separately. However, the major item in dispute between the parties is that of compensation and the parties' arguments and evidence have been addressed principally to this issue.

1. COMPENSATION

In terms of the criteria set forth in Section 111.77(6), Wisconsin Statutes, the evidence and arguments of the parties respecting compensation relate primarily to subsection (d) (comparison of wages, hours and conditions of employment); subsection (e) (cost of living); subsection (f) (overall compensation); and subsection (h) (other factors). Subsections (a) and (b) are not at issue, and the parties have not introduced any substantial evidence on either subsection (c) or subsection (g), although the Union has referred in its argument to the County's ability to pay relative to other governmental units in the locality.

Each party has presented different figures as to the present level of compensation of County police officers and the effect on this level of compensation of proposed increases under the County and the Union proposals. These differences result from different views as to (1) the most useful way of presenting summary data concerning a diverse class; (2) the items appropriately included in or excluded from such total compensation figures; and (3) the appropriate base on which percentage measures of increases should be calculated. The broad summary picture presented by each party's exhibits is as follows:

County Exhibit #10 itemizes separately the figures for the 128 Range 15 officers and the 20 Range 17 officers; uses median or modal figures within these two ranges; includes base salary, longevity, educational incentive, pension health insurance, supercatastrophic insurance and FICA in compensation but does not specifically include the \$200 uniform allowance, shift differential, or vacation and holiday pay; and uses cash payments as a denominator to arrive at percentage increases. On this basis, the County presents the following figures for total compensation:

	<u>1975</u>	<u>1976</u>	
		<u>County Proposal</u>	<u>Union Proposal</u>
<u>Range 15</u>	19000	20164	20582
Dollar increase		1157	1582
Percentage increase (as % of 1975 Av. income of \$14,225)		8.1%	11.1%
<u>Range 17</u>	22317	23602	24044
Dollar increase		1285	1727
Percentage increase (as % of 1975 Av. income of \$16,933)		7.6%	10.2%

Union Exhibit #1, on the other hand, utilizes a composite figure for all employees rather than itemizing employees by pay range; uses an arithmetic average or mean rather than median or modal figures; does not include FICA but does delineate other fringe items; and uses gross compensation as a denominator to arrive at percentage increases. On this basis the Union presents the following total figures:

	<u>1974</u>	<u>1975</u>	<u>1976</u>	
			<u>County Proposal</u>	<u>Union Proposal</u>
In Pocket for Employees*	15183	16340	17249	17599
Yearly Increase		1157	909	1259
% Increase		7.62%	5.56%	7.7%
Additional County Costs**	4083	4336	4601	4690
Total Cost to County	19267	20676	21850	22289
Increase for Year		1409	1174	1613
% Increase		7.31%	5.68%	7.80%

\*Total of Base Wages, longevity, educational incentive, shift differential, uniform allowances, medical insurance, supercatastrophic insurance, Pension WRF 6%.

\*\*Total of WRF (Employers share), WRF (prior service), Holidays, vacations, sick days.

Each side has argued extensively the merits of its particular way of presenting these compensation figures. I believe that the County's use of median or modal figures within the two classes is generally more useful than the Union's average figures in that it presents the situation as it affects the "typical" police officer. However, both approaches to presenting the relevant data have proved helpful and there would appear no need to choose between them, so long as the basis for the calculations and the items which are respectively included and excluded in each are kept in mind.

(a) Comparison of Wages, Hours and Conditions of Employment

Section 111.77(6) (d) directs me to take into consideration a comparison of the wages, hours and conditions of employment of the employees involved in this arbitration with the wages, hours and conditions of employment in comparable communities. Arbitrators have frequently given considerable weight to this factor and I regard it as of principal significance in this case.

A threshold question is what communities should be considered comparable to Dane County for this purpose. The Union argues that the comparison should be solely with the situation of police officers of the City of Madison, since in its view Dane County and Madison police officers have similar responsibilities. It considers Monona and Sun Prairie not comparable, partly by reason of their smaller revenues and tax base. The County, on its part, urges that the City of Madison, Monona and Sun Prairie are all comparable since they occupy the same general geographical location and their police officers face many of the same problems. Indeed, it suggests that County police officers are more comparable to Monona and Sun Prairie police officers than they are to Madison police officers, since Madison police officers work in a more urban environment where they are likely to be in contact with greater criminal activity.

In my judgment, the functions and responsibilities of County police officers have certain aspects in common with those performed by officers in all three of these communities. Consequently all three are generally relevant. However, the evidence suggests that the general level of required skills, responsibilities and demands upon County police officers come considerably closer to those of Madison police officers than they do to police officers of these two other smaller communities. The evidence does not suggest that the responsibilities of or demands upon County police officers exceed those of Madison police officers.

Consequently, on the basis of the standard of comparability, I would consider any compensation plan for County police officers which is considerably closer to the compensation of Madison police officers than it is to the compensation of Monona or Sun Prairie police officers as being within a reasonable range. I would not, on the basis of comparability, require that such a compensation plan necessarily equal that of Madison, though I believe it should be relatively close to that of Madison.

On the substantive issue of comparison between the two proposals and compensation offered police officers in comparable communities, the County argues that, under its proposal, the total compensation paid to County police officers will exceed that paid to any municipality in the Dane County area, including Madison, Monona and Sun Prairie. It offers County Exhibit #12 in support of that contention. That Exhibit (which includes a comparison of 1976 base salary, longevity, educational incentive, pension, health and supercatastrophic insurance, FICA, and total compensation figures for "modal" police officers in these various other communities and under the two proposals for Dane County) indicates in summary the following figures for total compensation:

	<u>Monona</u>	<u>Sun Prairie</u>	<u>Madison</u>	<u>County Position</u>	<u>Union Position</u>
<u>Patrol Officer</u> (Range 15)	15,629	16,328	19,400	20,164	20,582
<u>Sergeant</u> (Range 17)	17,039	17,534	23,295	23,602	24,044

The County has also presented (Employer's Reply Brief, p. 2) a comparison adjusting the above figures by including uniform allowances but excluding FICA. These adjusted total compensation figures, which seem better to reflect what an employee is likely to regard as his or her total compensation, are as follows:

	<u>Monona</u>	<u>Sun Prairie</u>	<u>Madison</u>	<u>County Position</u>	<u>Union Position</u>
<u>Patrol Officer</u> (Range 15)	15,126	15,630	18,687	19,503	19,902
<u>Sergeant</u> (Range 17)	16,467	16,930	22,550	22,907	23,349

The County maintains that, since its offer will place County officers in a better position than either Madison, Monona or Sun Prairie police officers, its offer should be accepted as a fair and reasonable one, and the Union's offer should be rejected as excessive.

The Union has not introduced any direct evidence concerning comparison of the compensation of County police officers with that of police officers in comparable communities. Moreover, while it differs as to the inclusion and exclusion of certain items, it does not appear to challenge the general accuracy of the County's figures or the general results of the comparison in terms of total compensation between the two proposals and other communities which the County's figures show.

The conclusion that I draw from these figures is that the total compensation of County police officers would, under the County as well as the Union proposals, exceed that of police officers of Madison and, by even a larger margin, that of police officers of Monona and Sun Prairie. As indicated, the standard of comparability I have adopted is that the compensation of County police officers should be relatively close to, but need not equal or exceed that of Madison police officers. Therefore, since the County's proposal is more in accord with the compensation plans of Madison, Monona and Sun Prairie, and with the standard of comparison I have adopted, than is the Union's proposal, I believe that the County's proposal, in so far as the standard of comparability is concerned, is the more reasonable and should, at least prima facie, be the one selected.

The Union argues, however, that these total compensation figures are not a meaningful basis for comparisons between County police officers and those of Madison and other communities unless the hours worked to earn this compensation are also taken into account. It contends that County police officers are in fact receiving less than Madison police officers, since, while wages of the two groups are roughly comparable, County police officers work an average of 40 hours per week while Madison police officers work only an average of 37.5 hours per week. In the Union's view, if the money value of this working hour differential is taken into account, it is the Union's higher proposal rather than the lower one of the County which would in fact achieve greater parity between County police officers and Madison police officers.

The Union presents an extensive economic argument in support of its view as well as a complex calculation designed to give a monetary value to the lesser working hours of Madison police officers, and thus to convert Madison police officers' income to what it regards as a monetary equivalence with the 40 hour week worked by County police officers. As I understand it, this conversion of less hours of work into money is roughly at straight time rates. The Union's figures suggest, in effect, that, if Madison officers were working 40 hours per week at their going rate per hour, rather than only 37 1/2 hours per week, they would be making more money than County police officers, and that the Union's proposal would be closer to this constructed figure for Madison police officers than would that of the County. This, however, would apparently not be the case with Monona or Sun Prairie police officers, even if their less hours were given a monetary value.

The County's reply to the Union's position in this respect is that differences in working hours are not relevant and do not affect the validity of these comparisons. It argues that the issue is compensation, not hours; that the Union has not proposed a reduction in hours and it is not fair for it to introduce this issue at this late stage; that the fairness of compensation is related to the ability of police officers to meet their living expenses, and that this is measured by total compensation received independent of hours worked; and that County officers have compensating factors, such as longer vacations, more paid holidays, a higher uniform allowance, and, unlike Madison officers who must live in the city, freedom to live where they want, including non-urban and hence lower cost County areas. Moreover, the County argues that even under the Union's assumptions and constructed figures, the County proposal is still in line with comparable prevailing practice since it is even on this basis higher than that of Monona and Sun Prairie and not substantially below that of Madison.

The Union's argument is interesting and well presented. However, on balance, I cannot accept it for the following reasons. First, any attempt directly to translate wages into hours and vice versa in an arbitration of this kind would in my view be inappropriate and add undesirable complexities. Employers and employees have traditionally treated wages and hours as separate issues in their negotiations and Section 111.77(6) (d) also speaks of them separately. I agree with the County that, if the Union conceives of hours as an issue, it should properly raise them directly in negotiations. Second, I believe that the "rate of exchange" or trade-off at the margin between an employee's desire for higher compensation and his or her desire for shorter hours, and between an employer's desire for increased services and its desire for reduced costs, are difficult to precisely value or translate into dollar terms and may vary with each situation. The values the parties place upon these respective interests seem again better reflected through their negotiation of these issues than by an arbitrator's decision. Consequently, I do not regard the Union's specific calculation as to the "constructive" income of Madison police officers as a valid basis for comparison or as in itself compelling the conclusion the Union advances.

This is not to say that substantial differences in working hours, fringe benefits, or other factors may not in appropriate cases be taken into account by an arbitrator in weighing his overall decision. However, even if the difference in hours here involved is taken into account, my basic conclusion would not change. The figures indicate that the County's total compensation proposal considerably exceeds that of Madison and these other comparable communities in monetary terms. Consequently, even if a substantial allowance were made for this working hour differential, it would still not in my opinion reduce the value of the County's proposal to a level where it would, in terms of the standard of comparison, be the less reasonable of the two proposals. Moreover, as the County suggests, while County police officers have somewhat longer working hours than Madison police officers, this is at least to some extent balanced by what would appear to be slightly better vacations, holidays and residence requirements.

Both parties have also offered evidence regarding other wage settlements in 1976. The County cites as the most relevant frame of reference for evaluating the two proposals its prior settlement with the AFSME Joint Council of Unions, representing most other County employees. This settlement was for a 19c per hour increase, which the County compares with the 21c per hour here proposed by the County for its police officers and the 35c here proposed by the Union for these police officers. It urges that internal consistency of wage increases as among all County employees is a relevant criterion. The Union, on the other hand, cites as more relevant government statistics tending to show that wage increases negotiated in 1975 averaged 7.8%, which is somewhat greater than the increase proposed by the County and more in line with that proposed by the Union.

Each party has argued extensively for the relevance and persuasiveness of its evidence and the lack of relevance or persuasiveness of the other parties. I am persuaded by these arguments that it is difficult to decide what weight to give to either party's evidence. Thus, the County has based its argument relating to the Joint Council of Unions settlement solely on absolute money differences. Without evidence as to the respective salary bases and the respective responsibilities of employees involved in that settlement as compared with County police officers, it is not easy to make any useful comparison. Similarly, the national statistics presented by the Union pertain to large concerns on a broadly national rather than a local basis, and reveal little information as to the specific items included or excluded in the calculation. Consequently, this evidence seems to me inconclusive and I have not accorded either of these arguments substantial weight in reaching my decision.

To sum up on this issue of comparability, my finding is that the County's proposal as to compensation is more in accord with the prevailing practice as to the level of compensation of comparable communities in the Dane County area than the Union's proposal would be. Consequently, unless consideration of other standards indicated in Section 111.77(6) suggest otherwise, I would consider the County's proposal as preferable.

(b) Cost of Living

Each party argues that its proposal would be the fairest in terms both of the level of compensation required to maintain an intermediate standard of living and of recent increases in the cost of living. The Union presents government statistics from which it projects a 1976 intermediate budget for families in urban areas of \$16,407, and, compares this figure with what it calculates as "in pocket" money income for police officers of \$15,860 under the County proposal, and of \$16,186 under the Union proposal. The Union argues that both the County's and Union's proposals will be less than this projected budget but that the Union's proposal will be closer to it and thus more reasonable. The County argues that the appropriate measure is not the intermediate family budget, but rather the figures for median national income earned from wages by men working all year round. On the basis of government statistics, the County projects this figure for 1976 as \$13,768, which it argues is well below the income which would be provided by either proposal. The County points out that family budget figures include earnings of working wives and income from non-wage sources and argues that consequently these figures can properly be used as a basis for comparison only if the earnings of working wives of police officers and their non-wage earnings are also similarly taken into account.

Any attempt to determine a specific "living wage" for Dane County on the basis of such broad and indefinite figures is obviously fraught with difficulty. However, taking all of these considerations into account, it is my judgment that the level of compensation provided by either the County or the Union proposal would prove adequate to enable County police officers to maintain an intermediate standard of living, and that neither proposal would be unfair to employees in this respect.

As regards recent increases in the cost of living, each party argues that its proposal is more in line with the effects of inflation. The parties calculate the percentage amounts of increases resulting from their various proposals on a different basis and thus reach different figures. The Union calculates the "in pocket" increase resulting from the Union's proposal as about 7.7% as contrasted with about 5.6% under the County's proposal. The County calculates that Range 15 police officers would receive an 8.1% total increase under the County's proposal and 11.1% under the Union's proposal, and Range 17 police officers would receive a 7.6% total increase under the County's proposal and a 10.2% under the Union's proposal.

The Union argues that the cost of living increased 6.9% in 1975, is projected to increase another 6% in 1976, and that its proposal would best compensate for these increases. The County, on the other hand, argues that during this two year period when the cost of living by the Union's figures increased a total of 12.9%, the income of County police officers would by its calculation increase over the same two year period 15.7% under the County's proposals and 17.9% under the Union's proposals, thus keeping pace with and probably exceeding inflation.

It is difficult to arrive at any clear single figures for percentage increase in compensation under the two proposals, since these depend on the items included or excluded and on the basis used and method of calculation. However, regardless

of the precise percentage figures adopted, I am again of the view that either of the two proposals would enable County police officers generally to keep up with inflation, and that neither proposal would be unfair to employees in this respect.

To sum up on this issue of cost of living, my finding is that either proposal should enable County police officers to maintain a decent standard of living. Consequently, I find no basis in considerations relating to the standard of cost of living for altering my judgment that the County's proposal, on grounds of comparison with levels of compensation in comparable communities, is preferable.

(c) Overall Compensation and Other Factors

The County has pointed to various factors affecting the total compensation of its police officers, including steep recent increases in its health insurance and retirement payments on behalf of County police officers. The evidence does not reveal any substantial complaint by the Union concerning the general level of non-wage benefits provided, other than the one involved in the other issue in this arbitration concerning the period of full salary payments for injured employees. I am persuaded by the evidence that the overall compensation of County police officers is relatively high and that there are no grounds on the basis of this standard for altering my judgment that the County's proposal, on grounds of comparability, is preferable.

2. PERIOD OF COVERAGE OF FULL SALARY WHEN INJURED

The Union proposes that full pay benefits for police officers who are hurt and entitled to workmen's compensation should be extended from 180 days, as presently provided, to 365 days. It argues that physical danger is part of the police officer's job and that the County should provide full salary protection in such cases instead of placing the officer in a position where he must rely on income maintenance insurance, which pays less than full salary, during this additional period. It points out that the cost is likely to be negligible.

The County argues, first, that any such provision for full salary protection for an entire year is totally uncommon and completely without acceptance for other police officers in the Dane County area. It argues, second, that only a 180 day period of full salary protection is provided by the City of Madison for its police officers, and by the County for its other employees, and that there is no reason to justify any difference between these groups. Finally, it argues that adoption of the Union's proposal would cost the County additional money without any real need by employees, since injured employees will in such cases receive 65% of their income tax free under the existing income continuation insurance plan, which is almost as much as their full salary. Thus, in the County's view, the effect of the Union's proposal would be simply to shift the cost of this benefit from the income continuation insurance carrier to the County.

I find the County's position on this issue persuasive. Prevailing practice in Dane County indicates acceptance of at most a 180 day period of full salary protection, and the evidence does not show any local precedents supporting an increase to 365 days. Apparently, such cases of lengthy temporary disabilities arise only very rarely, and substantial protection over such an additional six months period is already provided through income continuation insurance. In my opinion, the evidence does not indicate any injustice, or any problem of sufficient practical dimensions, as to justify my finding contrary to such generally established practice. Consequently, I find that the County's position on this issue is preferable.

CONCLUSION

I conclude that the County's final offer should be adopted.

I do so primarily because I believe that the County's proposal regarding the total compensation of County police officers is more in accord with the level of total compensation of police officers in comparable other communities in the Dane County area than is the proposal of the Union, and that the County's offer is otherwise reasonable in terms of other factors such as the cost of living and overall compensation.



In addition, I believe that the County's position regarding maintenance of 180 days of full salary protection in case of injury is more in accord with the practice in this respect in comparable other communities in the Dane County area than is the Union's proposal, which would extend this to 365 days, and that there is no compelling reason for deciding contrary to that prevailing practice.

AWARD

It is my award that the County's final offer be and the same hereby is adopted.

Richard B. Bilder /s/

Richard B. Bilder  
Arbitrator

September 17, 1976  
Madison, Wisconsin