



## FINAL OFFERS

Employer:1. Term

2 years - 1/1/80 through 12/31/81

The contract may be reopened for negotiations on the following items provided notice of such reopening is given by either party on or before October 1, 1980:

- a) The wage rates listed in Appendix "A" for 1981.
- b) The County payment in 1981 toward the employee's retirement contribution in Section 25.01.
- c) The County payment in 1981 toward the hospital insurance premium in Section 27.01, but only if the 1981 premium exceeds \$32.55 per month for the single plan and/or \$82.00 per month for the family plan.

2. Pension

Revise Section 25.01 to read:

"25.01 - The County shall pay up to the following monthly amounts of the employee's contribution to the Wisconsin Retirement Fund;

	<u>1/1/80</u>	<u>7/1/80</u>
a) For protective employees classified in the first two classification groupings listed in Appendix "A".	\$68	\$79
b) For non-protective employees classified in the first two classification groupings listed in Appendix "A".	\$68	\$79
c) All other employees.	\$43	\$54

3. Annual Clothing (Section 28.01)

Revise group names and add \$15 to each grouping so that provision reads as follows:

Traffic Uniformed	\$200
Non-Uniformed	\$150
Uniformed Non-Traffic	\$125

4. Wages

1/1/80 - All rates to be 108.5% of 1979 rates  
(Red Circle Rates - Continue Memorandum of Agreement during term of 1980-81 contract)

- 5. All other items in the 1978-79 contract are continued except as modified in the attached "Agreed Items".

Association:

1. Term. A two year term from January 1, 1980, to December 31, 1981, with all changes and amendments to be retroactive to January 1, 1980. The contract may be renegotiated, as to the salary schedule only, for calendar 1981. All other provisions of the agreement shall remain in effect for the entire term of the agreement.

2. Clothing Allowance. The clothing allowance to be modified as follows:

Annual allowance; traffic uniformed, \$200.00; non-traffic uniformed, \$150.00; non-uniformed personnel, \$150.00.

3. Retirement. County to pay 100% of the employee's contribution to retirement.

4. Process Servers. The process server position to be placed at grade 14 on the salary schedule and the assistant process server is to be placed at grade 12. Persons currently occupying the positions of process server and assistant process server to advance to those new grades in the same manner in which promotions are handled, i.e., to go to the lowest step on the new grade level resulting in an increase in pay.
5. Lead Deputies. The four lead deputies in the traffic department and the one lead deputy in the radio room to be paid \$25.00 per month over and above their salary pursuant to the salary schedule.
6. The salary schedule for 1979 to be amended by increasing the amounts appearing thereon by 9.25%, which percentage increase shall apply also to red-circled or overrate positions.
7. All tentatively agreed upon items including increased health insurance coverage.

#### STATUTORY STANDARDS

The Arbitrator is required to choose the final offer of one of the parties and must issue an award incorporating that offer without modification. In reaching his decision the Arbitrator shall give weight to the following factors as provided in Section 111.77(6) of the statutes:

- (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.
- The Arbitrator will review the positions of the parties on the various issues and will add his comments on them.

#### CLOTHING ALLOWANCE

The 1979 contract between the parties provided an annual clothing allowance of \$185 for traffic uniformed employees, \$135 for investigators and process servers, and \$110 for all other employees. The Employer's final offer proposes to increase each of these by \$15 annually for totals of \$200, \$150, and \$135. The Association proposes the same increase for the first two groups (\$15) but a larger increase for the other personnel (\$40). The Association would thus have final annual allowances of \$200 for traffic uniformed, \$150 for non-traffic uniformed, and \$150 for other personnel.

Employer Position. The Employer points out the parties have had different clothing allowances for the three categories of employees since at least 1974 and the Employer proposes to continue this practice and to give a uniform increase of \$15. The employees for whom the Association proposes a \$40 increase are communication aides, radio operators, jailors, matrons, Huber Law officers, a jail sergeant, and office clerical employees. None of these employees are outside personnel and except for an unusual occurrence, work indoors all the time. The Employer does not dispute that an increase in the allowance is in order but it questions whether the Association has substantiated its contention that a minority of employees should receive more of an increase than the rest of the unit. The Association has shown what uniform costs might be but has not provided evidence as to what necessities were either not purchased or were purchased by the employee himself above and beyond the allowance.

Association Position. The Association points out that its proposal would cost only \$650 a year more for the entire unit than the Employer proposal. The Association contends that the Employer has not established that the non-traffic personnel do not have the same uniform needs as traffic officers. Officer Yow testified on behalf of the Association as to the uniform requirements of employees in this category. From his testimony it is clear that the same expenses are incurred by the non-traffic personnel. Replacement costs due to wear, accident, and contact with suspects are substantially the same in both categories.

Association Exhibits 16 and 17 show that with the exception of Calumet and Waupaca Counties, all of the comparable employers pay a larger annual clothing allowance than the Association proposes.

Arbitrator's Comments. I think the parties would agree that this is a secondary issue in their contract dispute. I do find that on the basis of the Association's comparables, other counties provide larger clothing allowances than Outagamie County is proposing. If we use only the Employer's comparables (Employer Exhibit 6), Brown, Fond du Lac, Winnebago, and Manitowoc do provide larger clothing allowances according to Association Exhibit 17.

Primarily on the basis of the comparables, the Arbitrator feels that the Association has made a more reasonable case for its position on the clothing allowance.

#### RED CIRCLE RATES

Red Circle rates usually result from a revision of a wage program that results in a lowering of a wage rate for a particular classification. To avoid reducing the wages of an individual employee who was paid at the higher rate, that employee is "red circled" or maintained at the higher rate as an exception to the wage program. Sometimes the red circle rate is frozen until the new wage rate for the classification catches up with the red circle rate. In this case the approach is to freeze the dollar relationship to the classification rate. The employee continues to receive the same dollar amount of increase that is granted to the classification. The Employer proposes to continue the memorandum of agreement between the parties concerning the red circle rates. The Association proposes that its salary increase proposal of 9.25% shall also apply to red-circled or over-rated positions.

Employer Position. The Employer contends that the red circle rate payment was originally established by voluntary collective bargaining and that the party seeking to change it in an arbitration proceeding should justify the change by substantial proof of the need for change. The Association did not present such evidence in its brief.

Association Position. The Association did not address this question in its brief but did respond in the reply brief. The Association states that the two employees with red circled rates should receive the same increase as other employees. These employees have suffered the same effects from inflation. If the general increase did not apply to them, there would be undue hardship to them and their purchasing power would be eroded more than their fellow employees. The proposed 1980 wage rate increases have nothing to do with increased productivity or increased purchasing power but will merely offset to some extent the effects of inflation.

Arbitrator's Comments. The Employer did not have an opportunity to respond to the Association's rationale on this issue since the Association did not justify its position before its reply brief. There is always some short term hardship to employees whose rates are red circled when general wage increases are granted, and the hardship is greater when the increase is primarily a cost of living adjustment. The Association does not challenge the fact that the parties earlier agreed that the positions were out of line and should be brought into line eventually. Since most of the wage increases currently and in recent years are in response to inflation the red circle rates could continue for a long period of time if such employees always got the inflation wage rate adjustment. Perhaps a reasonable solution in times like these would be to provide smaller increases to the red circled employees than to the other employees, so that the rates would be in line after a few years. However, the parties have not proposed this.

The Arbitrator concludes that the Employer's final offer is more reasonable on this secondary issue. The Association did not provide its rationale until the reply brief and the Employer's position provides for progress toward bringing the pay rates in line with other positions.

#### PAY INCREASE FOR PROCESS SERVERS

The Association proposes that the position be placed at grade 14 on the salary schedule and that the assistant process server is to be placed at grade 12. The Employer opposes this change.

Employer Position. The Employer states that the Process Server and Assistant Process Servers are not "protective" employees. They are not trained as deputies and cannot be used in any capacity but as process servers. Brown and Winnebago Counties use regular traffic deputies (protective employees) to serve their process but these employees have full law enforcement training and can be used in several capacities. Manitowoc County and Fond du Lac County have a separate Process Server classification.

They both, like Outagamie County, provide a separate pay scale different from Patrol Deputies. Like Outagamie County they provide a lower rate for Process Servers than for Patrol Deputies (data shown in Employer Brief, p. 15). The Employer feels that the Association has not substantiated its position which would raise the Process Server's pay to the Patrol Deputy rate and the Assistant Process Server to the old Process Server rate.

Association Position. Process Server Don Plato is in charge of that function within the Sheriff's Department. In many departments there is a sergeant or lieutenant in charge of the civil process division. Mr. Plato is directly responsible for the work of two subordinates whom he must train and supervise. He must keep himself abreast of changes in the law. There are personal risks involved in the serving of papers which are different from those experienced by officers on the road only in frequency.

The total cost of the upgrade would be only \$600. Under the Association proposal only the head process server would have the same salary status as patrol officers and the other process servers would still be a step below patrol officers. No evidence has been provided of counties in which the disparity between persons serving process and patrol officers is as great as the disparity in Outagamie County.

Arbitrator's Comment. Concerning the last Association statement above, the Employer brief did show a differential of \$159 between Process Server and Patrol Deputy in Fond du Lac County. Outagamie County proposes a differential of \$64 between the Process Server and the Patrol Deputy (Employer Brief, p. 15). The Association would eliminate the differential. For Assistant Process Server the differential in Fond du Lac County is \$221 in favor of the Patrol Deputy. The Employer's differential in Outagamie County would be \$115.

Arbitrator's Comments. It appears that at least in comparison to Fond du Lac County the Employer provided some justification for his position. While I can see some good rationale for the Association position that the head process server get a pay rate comparable to a Patrol Deputy, I do not feel that at this point, the Association has fully justified its position. The comparables in this case are very limited but do seem to support the Employer position.

#### CREATION OF LEAD DEPUTY POSITIONS

The Association is proposing that the four lead deputies in the traffic department and the one lead deputy in the radio room be paid \$25 per month over and above their salary pursuant to the salary schedule. The Employer rejects the proposal.

Association Position. The Association states that while there is no official position on the organization table for "lead deputies", the fact is that there are five lead deputies. Their selection is made either by the Sheriff or by the shift lieutenant.

The lead deputies know who they are as does everyone else on the shift. Their responsibility is to assume command in the absence of the sergeant. The testimony indicated that the sergeant might be unavailable for as much as one-third of the time due to vacations, days off, absence due to illness, or other reasons. In addition the sergeant may be on duty but occupied elsewhere with other duties.

When the sergeant cannot be present, the lead deputy is required to assume his normal duties such as supervising other officers and seeing that investigations are handled properly. In the past, mistakes in performing these supervisory duties have been deemed by the Sheriff to be the responsibility of the lead deputy and disciplinary actions have occasionally resulted.

The Association's proposal is to provide token additional compensation for the position because of the added responsibility and as a means to make the lead deputy a sought-after position.

The Employer has raised questions as to possible administrative problems. The Association understands that the position is discretionary with the Sheriff, that the senior man is not always selected, and that the lead deputy might be changed by the Sheriff at his pleasure. Having created the position and having bargained about compensation for it, the Employer is in a poor position to claim that the position is unworkable.

The Employer argues that the compensation of the lead deputies is a permissive subject of negotiation (the Association does not concede this). The fact is that it

Employer's Position. The Employer states that the Association proposal to create a "Lead Deputy" position involves a permissive subject of bargaining and that it is impractical. The 1978-79 contract between the parties contains no reference to "lead deputies". Nowhere in any resolution, ordinance or motion of the County Board nor in any Sheriff's Department rule or regulation is there any mention of "lead deputies."

While there may be some informal type of designation of a lead person in certain departments, it is strictly that--an informal arrangement.

There are unanswered questions surrounding the Association's proposal. How shall the lead deputies be selected? Is the new position subject to the job-posting provisions in Article XX? Is the appointment to lead deputy a promotion? Can the appointment be rotated? Is there provision for a "replacement" lead deputy if the appointed lead deputy is off work, on vacation, sick leave, etc? What are the qualifications for the position? Are the traffic and radio lead deputies interchangeable?

The creation of a lead deputy position, just like the creation of any other new position in the bargaining unit is a matter of management policy and is a permissive rather than a mandatory subject of bargaining (City of Beaver Dam, WERC Dec. No. 12152A).

The statutes relating to arbitration of law enforcement officers (Section 111.77) do not contain a specific provision that transforms a permissive subject into a mandatory one (for the purposes of the proceeding) as is the case under the recent mediation/arbitration law.

Even if the permissiveness argument could be overlooked, the Association's proposal is so full of problems that its adoption in its present form would promptly embroil the parties into a whole new series of litigation. If the issues raised by the Association's proposal on this point are resolvable, they must be discussed at length in face-to-face negotiations between the parties themselves. Imposition by an arbitration award is totally unworkable.

Arbitrator's Comments. The Employer concedes that there may be some informal designation of a lead person in certain departments (Employer Brief, p. 16). It does appear that such lead persons have more responsibility than other deputies. I agree with the Association that if the Employer had objections to this proposal--as a permissive subject of bargaining--that the Employer should have asked the Association to omit such a provision from its final offer. It is late to do so at the time of filing briefs.

The Association has answered some of the Employer's objections concerning administrative feasibility but it has not commented concerning a number of the Employer's questions including whether the position of lead deputy should be considered a promotion and whether the position should be subject to job posting. If the Arbitrator were to select the Association final offer, I think that the parties could negotiate such matters.

The Arbitrator feels that this whole matter of whether to formally designate the position of lead deputy and to establish its compensation should be handled through collective bargaining rather than by imposition through an arbitration award. The position would not get off to a good start if it were imposed by an arbitrator with the Employer feeling that the administrative problems had not been worked out.

The persons who are performing the lead deputy role are not primarily supervisors. As indicated earlier such duties may represent something like one-fourth or one-third of their time. No doubt other employees have occasional supervisory duties and responsibilities without being given a title and additional compensation. Neither party explored the practices of other law enforcement agencies in situations like this.

The Arbitrator concludes that on this issue the Employer's stand has more merit primarily because this is an issue best resolved through collective bargaining between the parties, because the Arbitrator is reluctant to create new formal positions by way of an arbitration award, and because the Employer does raise some significant questions about its implementation, questions best resolved before it takes effect.

#### GENERAL WAGE INCREASE

The Employer is proposing a wage increase of 8.5% above 1979 rates. The Association is proposing an increase of 9.25% above 1979 rates. This and the pension issue appear to be the two major issues in this arbitration proceeding.

Employer's Position. The Employer's key argument is that the pattern of settlement with other Outagamie County bargaining units should be of primary consideration in this proceeding. The Employer has reached agreement with four bargaining units; all were two-year contracts with reopeners on wages and pension contributions for 1981. Only the contract with the Professional Police Association is unsettled.

Wage increases for the four other units were 8%, 9%, 8.2%, and 8.5%. The Employer's offer in this case is 8.5% and the Association is asking 9.25%. Pension contribution increases for the four other units were .4% for three and .5% for one. In the Police case here, the Employer is offering 1.1% and the Association is asking for 1.7%. The combined wage and pension increase for the other units totalled 8.4%, 8.7%, 8.9%, and

9.4%. In this Police case the Employer's offer is 9.6% and the Association is asking 10.95% (Employer Brief, p. 4). Thus the Employer's offer to its Deputies amounts to the highest cost settlement granted to any bargaining unit for 1980.

The pattern of settlements with the other bargaining units shows a relationship 94% wages--6% fringe. The Employer's offer in this case is 91% wage and 9% fringe but the Association's offer is heavily weighted toward the fringe portion--86% wage, 14% fringe (Employer Brief, p. 6 and Employer Exhibits 14, 15, 16, and 17).

The Employer cites several recent Wisconsin arbitration decisions in which the Arbitrator gives great weight to the pattern of other settlements by the Employer and other bargaining units (Employer Brief, pp. 7-8). Such prior settlements are of major significance unless the Union can substantiate strong inequities or poor comparisons that would justify a departure from the established pattern.

The Employer contends that Outagamie County Deputies compare most favorably when compared with other employees performing similar services in comparable communities. The Employer believes that comparisons should be made with employees of other comparable counties. Counties are selected rather than cities or villages because the county units include a substantial number of "non-protective" type employees such as jailers, process servers, dispatchers, and clerical employees that are not included in city or village police bargaining units.

The Employer's wage comparisons are with Brown, Fond du Lac, Winnebago, and Manitowoc Counties. The Association also used these counties, plus Waupaca and Calumet, in its wage comparisons. The Employer's wage comparisons for the positions of patrol deputy, sergeant, investigator, and jailer show the Outagamie County Employer offer for 1980 to be above Fond du Lac, Winnebago, and Manitowoc County and lower only than Brown County (Employer Brief, p. 11 and Employer Exhibits 6, 7, 8 and 9). Thus the comparables do not justify a departure from the pattern of settlements between the County and its other bargaining units.

The Association claims that the contracts with the County's other bargaining units contain benefits that the Sheriff Department Employees do not have. The Association mentioned the change in health insurance but no factual basis was provided to conclude that these insurance benefits are "far superior to the Sheriff's Department." The Association has not supported its claim that other law enforcement units "have developed substantial fringe benefits which do not appear in the salary schedule." The Outagamie County Sheriff's Department has none of these benefits, but many of the employing units cited by the parties have one or more of these benefits. The Association in connection with its allegation admits that it did not present any factual basis for the claim since:

"To do so, however, would be an extremely difficult task and likely to lead to considerable dispute" (Association Brief, p. 12).

The Association also attempts to compare an average percentage increase for all employees in the Outagamie County Sheriff's Department, both protective and non-protective with exclusively or almost exclusively, protective employees in other municipalities. This is improper and misleading.

Association Position. The Association feels that the wage item is the most important to both of the parties and that the more reasonable offer on this item should carry substantial weight in arriving at a final selection of offers. Neither offer meets the increase in the cost of living (Association Exhibit 7). The wage level will have a long term effect on an employee's decision to either remain with the Department or seek employment elsewhere. The Employer has not argued lack of ability to pay.

Wage rates are only a part, albeit a large part of the total compensation picture. Many law enforcement units have developed substantial fringe benefits which do not appear in the salary schedule such as longevity pay, shift differential, use of employer-owned vehicles, personal or floating holidays, over-compensation for uniform allowance and the like. The Outagamie County Sheriff's Department has none of these, but many of the employing units cited by the parties have one or more of these benefits. Neither party to the present dispute has presented evidence concerning such other fringe benefits but the Association has included longevity pay in its calculations concerning maximum wage rates.

In looking at wage rate comparisons, the change in those rates over time is also significant. Wage rates have increased an average of 18% from 1978 to 1980 in other employing units and only 16.8% in Outagamie County. Comparing the salary of a Kaukauna patrolman with one in Outagamie County ignores the fact that a patrol deputy in Outagamie County must put in seven years to get that maximum rate while the Kaukauna man reaches maximum in one year and is also eligible for shift differential pay and longevity pay while the Outagamie County employee has no such benefits.

This Employer has granted no new fringe benefits of substance during the 1978-80 period and the County's cost for health insurance has declined since 1978.

The Employer uses as comparables only four other counties, geographically close to Outagamie County. It excludes two contiguous counties but includes Manitowoc County which is not contiguous. The County does not adequately justify its exclusion of municipal employers within Outagamie County and the Fox Valley area. The wages paid to the area's municipal police forces are relevant. The municipalities cited by the Association contain the homes, shopping areas, and alternative places of employment of Sheriff's Department employees, yet they have been purposely ignored by the County in these proceedings.

The Association includes in its comparables, the municipalities of Appleton, Kaukauna, Kimberly, Little Chute, Menasha, Neenah, and Oshkosh. The first six are the principal Fox Valley communities and Oshkosh because it is similar in size to Appleton and is the county seat of adjoining Winnebago County.

Turning to the Association exhibits, for 1978-80, the County's offer would increase wages by 16%. The Association offer would be 16.8%. The CPI increased 24% from the start of 1978 to the start of 1980 (Association Exhibits 7 and 14).

The Association's Exhibit 15 shows that municipal wage rates increased 17.4% over the two-year period. Outagamie County is falling behind.

Wage increases for comparable counties show an average increase of 18.33% (Association Exhibit 18). Thus again, Outagamie County is not keeping up with its neighbors.

In its Reply Brief, the Association comments further on the other Outagamie County settlements. The employees at the Health center received a substantially improved health plan which resulted in an increased County premium of \$7.08 per month per man. They also received an additional floating holiday, new rates for several classifications, and a 9% salary increase (one-half percent more than the County is offering the Sheriff's Department employees).

Similar analysis of other County units indicates that they received major health insurance improvements, additional and floating holidays and special wage increases and reclassifications. The Employer's Brief (p. 4) is misleading in that it only refers to the relationship of wage and fringe benefits included in the settlement package. The Employer has not provided a total cost breakdown of wages and fringe benefits for any of the other bargaining units.

Arbitrator's Comments. The Employer's comparables are not adequate. They include neighboring counties but they exclude Fox Valley municipal police units. The fact that these units include fewer non-protective personnel than the county units is not an adequate reason for excluding them. We can still compare patrol officers' salaries in the counties and in the cities. Cities like Neenah, Menasha, and Kaukauna are in the local labor market area. County employees can and do compare their wages and fringe benefits with those of nearby cities. Employees can and do change law enforcement positions between nearby cities and counties. In most of the law enforcement unit cases that I have heard over the years the parties have felt that it was appropriate to include nearby city and county units. Perhaps the county comparisons should be given a little more weight than municipal comparisons but both have significance. It would have been helpful if the Employer had included wage changes over the last few years as the Association did. Could the Employer show that Outagamie County Sheriff's Department employees have not lost ground in wages since 1978 or 1979 in comparison with the other counties cited by the Employer?

The Employer's comparison of the wage and benefits of the five county units (Employer Brief, p. 4) is deficient in that it does not include other monetary benefits such as increased health insurance costs for some units and the clothing allowance increase for this police unit. Perhaps it would have also been possible to cost out the additional holidays some units secured.

The Association's detailing of benefits in the other Outagamie contracts should have been done in its brief rather than the reply brief so that the Employer would have an opportunity to respond. Concerning health insurance specific evidence was not presented as to whether the other units have a better plan than the police unit. The stipulations of the parties in the instant case did provide for some improvements in the Sheriff's Department health insurance contract.

It is difficult to tell from the exhibits of the parties, how the new H.M.O. plans compare in cost to the present health plan of the Sheriff's Department. For example, the contract for this department provides that the County will pay up to \$32.55 per month toward the premium on the single plan and up to \$82 per month toward the premium on the family plan. Employer's Exhibit 14, concerning the contract with the Health Center employee unit states that the County premium payment will increase from \$63.92 to \$71.00 per month, effective July, 1980. Is this the premium for the family plan?

As noted earlier by the Employer, the Association did not provide adequate data and comparisons both within the Outagamie County units and for other municipal and county law enforcement units to substantiate its claim that the Sheriff's Department is behind other units in fringe benefits such as holidays, longevity pay, shift differentials and other benefits. The Association states that the Outagamie County Sheriff's Department does not have a longevity plan but the Arbitrator finds that the contract between the parties does have some longevity provisions (Employer Exhibit 1, Article XXIII, p. 16).

#### RETIREMENT CONTRIBUTION

The Employer considers this the number one issue in this contract dispute. The Employer proposes to increase the contractual maximum monthly contribution of the County from \$60 to \$68 on 1/1/80 for protective employees in classification groups 1 and 2 and to \$79 on 7/1/80. For non-protective employees in classification groups 1 and 2,



there would be an increase from \$60 to \$68 on 1/1/80. For all other employees the contractual maximum would increase from \$35 to \$43 on 1/1/80 and to \$54 on 7/1/80. The Association proposes to eliminate any maximum monthly dollar limit and to have the contract provide that the County is to pay 100% of the employee's pension contribution.

Employer Position. All of the other County bargaining units agreed to continue the concept of a maximum dollar amount of pension contribution. These result in the following percentage of the total pension contribution being paid by the County for the four other units: 77.4%, 97.6%, 87.4%, 83.7% (Employer Brief, p. 5).

For the Police Association at year end, 1980, the percentage paid by the County will be 97.3% for protective employees, and 100% for the other employees (Employer Brief, p. 5). Thus, under the County's offer, the Police will have the highest percentage of its pension contribution paid by the County.

All four of the Employer's comparables (Brown, Manitowoc, Winnebago, and Fond du Lac Counties) have maximum dollar amounts that the County will pay toward the employee's pension contribution (Employer Exhibit 10). If one were to make a comparison of all the counties in the State, one might conclude that a provision for a maximum dollar contribution might be found in a minority of counties. However, in the comparable Fox Valley counties, it is still the consistent practice which has been maintained in newly negotiated 1980 labor agreements. If a change is made in this matter, it should be made at the bargaining table and not through an arbitration award.

Pension costs are big dollars. Public employment pension costs have nearly bankrupted several major cities in this country. The County wants to make sure that its employees understand the cost of pensions. As earnings increase, so does the pension contribution. If the County would agree to pay the full pension, its costs would not stop escalating.

Association Position. There are serious disadvantages to the practice of Outagamie County putting a maximum dollar amount on its pension contribution. It means that this item must be renegotiated every year. If an employee works overtime, he finds that he loses 6% of his overtime pay to retirement contribution plus other taxes on his earnings. The net result is that it is very unattractive to put in overtime.

The tax consequences are the most important. For every dollar that the employee pays to the retirement fund, he has to spend in excess of 20¢ in taxes. Dollars that the employer pays into the retirement fund on behalf of an employee are worth more to the employee than an equivalent wage increase because he does not have to pay income taxes on such employer contributions. In other words, the employer's dollars are worth more to the employee when they are paid as a retirement contribution than when they are paid as wages. In both cases, it represents a cost to the employer.

For these and other reasons, the payment by the Employer of 100% of the employee's contribution to retirement has become almost universal in county sheriff's departments as shown in Association Exhibit 17. Considering only those counties bordering on Outagamie County does not change the picture--Brown County pays in excess of \$30 more than Outagamie County's offer, Winnebago County also pays substantially more, and both Calumet and Waupaca Counties pick up 100% of the cost. The local trend is clearly toward 100% contribution. Association Exhibit 16 shows that every local municipality picks up this cost with the single exception of the Village of Little Chute.

Arbitrator's Comments. Both sides have clearly presented the advantages of their approach to the pension contribution issue. On the Employer side the principle advantage is consistency with the other 1980 Outagamie County settlements and the practice of a maximum dollar contribution in the more populous neighboring counties. There is also the principle of continuing the employee's awareness of the significant cost of this benefit. It is a benefit which escalates with salaries and going to a 100% employer contribution would substantially remove it from the bargaining table and lessen the employee's awareness of the real cost to the Employer. To some extent, the Employer has recognized the tax consequences to the employee by coming close to a 100% employer contribution and by a very substantial increase for 1980 in the employer contribution.

The Association has clearly outlined the tax advantage to the employee of a 100% employer contribution and the effect on overtime pay. It has also pointed out that most area municipalities and probably a majority of counties in the State have gone to the 100% employer contribution.

#### PROVISIONS FOR 1981

Both parties propose a two-year contract term, with reopeners for 1981. Both propose a wage reopener. In addition, the Employer proposes a reopener on pension contribution and also on insurance premium payment if the premium increases over a particular amount.

Association Position. Under the Employer's proposal, the County's offer would require negotiations to commence immediately on three issues--wages, retirement contribution and health insurance. If the Association's offer is selected, there need be negotiations for 1981 only as to salary schedule. It is inefficient and costly for all

concerned to have to negotiate these items separately when the only real issue is money and the ultimate outcome of the negotiations is always the same--the County picks up substantially all of the cost of retirement and health insurance.

Employer Position. The Employer points out that the Association's position on the health insurance reopener is misleading. The Employer's provision on health insurance provides that the issue will be reopened in 1981 only if the premiums increase beyond the dollar limits specified in the contract. If the premiums for 1981 do exceed these amounts, whether the County will pay the increase is subject to negotiations under the County's offer. Under the Association's offer, the employee will have to pay for the increase. Thus, it would appear that the employees would be in a better position under the County's offer.

Because pension costs escalate with wages, the Employer does want to leave this question open for 1981 rather than eliminate it by granting the Association's request for a 100% contribution.

Arbitrator's Comments. As is clear from the above, the matter of the reopener depends primarily on whether the Association or the Employer's Final Offer is selected. If the Employer's offer is selected, the pension contribution will be a 1981 issue. If the Association offer is selected, it is eliminated as a 1981 issue. On health insurance, there does seem to be a slight advantage to the Association in the Employer's offer, if health insurance costs rise in 1981.

#### ARBITRATOR'S CONCLUSIONS

Secondary Issues; The Association indicates that it considers wages to be the primary issue in this arbitration. The Employer has indicated it considers pension contribution to be the major issue. The Arbitrator concludes on the basis of the above and on the emphasis in the briefs, reply briefs, and exhibits that both wages and pension contribution are primary issues in this arbitration and that the other issues are secondary.

The secondary issues have been explored earlier. They were red circle rates, clothing allowance, pay increase for process servers, and the creation of lead deputy positions. The wage reopener could be added but its disposition follows primarily from the Arbitrator's selection of the Final Offer and it therefore does not require further attention.

In reviewing the secondary issues earlier in this report, the Arbitrator has indicated in each case whether he thought that the Association or the Employer position had more merit. The Arbitrator found in favor of the Employer's position on the issues of red circle rates, pay increases for process servers, and lead deputy positions. He found in favor of the Association on the matter of the clothing allowance. Thus on three of the four secondary issues, the Arbitrator finds that the Employer position has more merit and is more reasonable.

#### THE PENSION CONTRIBUTION ISSUE

As indicated earlier, both parties presented a good case for their point of view. As far as comparables are concerned, the Arbitrator must choose between whether to give more weight to the other Outagamie County settlements and the larger neighboring counties. Generally, I believe other Outagamie County settlements deserve more weight than state-wide trends and area county practices deserve more weight than settlements in more distant areas. Employees tend to compare themselves primarily with other local employees and employees in neighboring communities. The impact on Outagamie County collective bargaining must also be considered in view of the fact that all four of the other County bargaining units have settled for a 1980 continuation of the County's maximum dollar approach to the pension fund.

The tax disadvantage of this approach to the employees is offset in part because the Employer is paying 100% or close to 100% of the pension cost to most employees in this unit and the 1980 maximum increases granted by the Employer are substantial. Also, this issue is open for 1981 review.

The Arbitrator, therefore, finds that on this major issue the Employer position is more reasonable.

#### THE WAGE ISSUE

Here again, the positions of both parties have some merit. The strongest points in favor of the Employer's position are that its proposed wage increase is in line with the other county units that have voluntarily settled, the pension contribution is substantially increased, and the 1980 salary level compares favorably with the larger neighboring counties.

However, there are serious inadequacies in the Employer's case. His comparables ignore the Fox Valley cities and as part of the area labor market they should be considered. The Employer's wage and fringe benefit comparisons with the other County units are incomplete in that they do not take into account some of the economic benefits granted such as increases in the health insurance contribution and additional paid holidays. The Employer also has not examined trends over the past few years to see whether the employees in this unit are losing ground in comparison with other city and county law enforcement units.

Association Exhibit 15 shows that over the 1978-80 period, the Sheriff's Department salaries in Outagamie County increased a little less than the average of municipal police salaries in the Fox Valley. Only Neenah had a smaller percentage increase.

Association Exhibit 18 shows similar data for neighboring counties. Here the increases in Brown, Calumet, and Fond du Lac counties are larger than those proposed by Outagamie County but the increases for Waupaca and Winnebago County are lower than either the Employer or the Association proposes in this case.

The Association's comparables, including all neighboring counties and the Fox Valley cities, are more reasonable than those of the Employer. As indicated by Exhibits 15 and 18, it appears that Outagamie Sheriff's Department employees have lost a little ground since 1978 in comparison to neighboring cities and counties. The Association has also pointed out that the other Outagamie County units have secured important 1980 economic benefits not included in the Employer's wage and fringe benefit comparisons.

The Association, however, has not provided enough evidence to fully support its allegation that the Sheriff's Department employees have inferior fringe benefits in comparison to other county units and to other law enforcement units in the area.

Neither Final Offer fully offsets recent increases in the cost of living. The average employee nationally has not received wage increases large enough to offset inflation. The Association proposal would offset more of the inflation impact than the Employer's proposal.

Taking into account all of the evidence on this issue, the Arbitrator finds that on this major issue, wages, the Association position is more reasonable.

#### DECISION

Thus, the Arbitrator has found the Employer position to be more reasonable on three of the four secondary issues and on one of the two major issues. The Association position was found to be more reasonable on one secondary issue and on one of the two major issues. Thus, overall, I find the Employer position to be the more reasonable of the two Final Offers. Although the Association position on wages is more reasonable than that of the Employer on this major issue, I do not find the Employer position on wages to be so inferior to the Association position as to justify selecting the whole Association Final Offer.

Taking into account the statutory criteria and having reviewed the evidence and arguments presented by the parties, the Arbitrator concludes that the Employer Final Offer is the more reasonable and makes the following award:

#### AWARD

The Final Offer of the Employer, along with the stipulations of the parties, are to be incorporated into the 1980-81 collective bargaining agreement.

*Gordon Haferbecker*  
 \_\_\_\_\_  
 Gordon Haferbecker, Arbitrator