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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

BEFORE THE ARBITRATOR

In the Matter of the Petition of MILWAUKEE DEPUTY SHERIFF'S ASSOCIATION for Final and Binding Arbitration Involving Law Enforcement Personnel in the Employ of MILWAUKEE COUNTY	Case CLXXII No. 31216 MIA-756 Decision No. 20562-A

APPEARANCES: Gimbel, Gimbel & Reilly, Attorneys at Law, by FRANKLYN M. GIMBEL and MARNA M. TESS-MATTNER, appearing on behalf of the Association.

GEORGE E. RICE, Corporation Counsel, and PATRICK J. FOSTER, Director of Labor Relations, appearing on behalf of the County.

ARBITRATION AWARD

Milwaukee County, hereinafter referred to as the County or Employer, and Milwaukee Deputy Sheriff's Association, hereinafter referred to as the Union or Association, were unable to voluntarily resolve certain issues in dispute in their negotiations for a new, 1983 Collective Bargaining Agreement, to replace their expiring 1981-1982 Collective Bargaining Agreement and the Association, on February 23, 1983, petitioned the Wisconsin Employment Relations Commission (WERC) for the purpose of initiating compulsory final and binding arbitration pursuant to the provisions of Section 111.77 of the Wisconsin Statutes. The WERC investigated the dispute and, upon determination that there was an impasse which could not be resolved through mediation, certified the matter to compulsory final offer arbitration by order dated April 21, 1983. The parties selected the undersigned from a panel of arbitrators submitted to them by the WERC and the WERC issued an Order, dated May 3, 1983, appointing the undersigned as arbitrator. Hearings were held at Milwaukee, Wisconsin on July 7, 8, and 13, 1983, at which time the parties presented such evidence as they wished to introduce. Post-hearing briefs and reply briefs were filed and exchanged, on September 14, 1983 and September 27, 1983 respectively. Full consideration has been given to the evidence and arguments presented in rendering the Award which follows.

THE ISSUES IN DISPUTE

Each parties' final offer, which was transmitted to the WERC by its investigator along with his notice closing the investigation and advising the Commission of the existence of an impasse, contained a number of proposals. The Association's final offer proposes that the duration of the agreement be for one year (1983); that there be implemented a 5% general wage increase, retroactive to December 19, 1982; that a definition of the word "day" be inserted in the overtime provision for purposes of establishing when daily overtime shall be paid; that the County agree to pay the full cost of a dental insurance plan, with such payment to be effective from the date of the award herein; and that the County agree to pay the full premium of life insurance coverage up to $15,000 per year, rather than

$10,000 per year, as currently provided. The County, in its final offer proposes that the agreement be of the same duration as that proposed by the Association; that there be no wage increase for the year 1983; that there be a change in the length of time during which employees must utilize compensatory time; that the per diem allowance for travel outside the county be increased; that the County implement and assume the full cost of a dental insurance program effective March 1, 1983; that the County increase the amount of fully paid life insurance coverage to $15,000 effective March 1, 1983; that new language regarding requests for changes in classification be included in the agreement; that new language dealing with notice in the case of a change of days off be included in the agreement; and that certain technical changes be made in the wording of the provisions dealing with shift selection and recalls from layoff.

Both parties agree that, while there are a number of issues raised by the differences in their final offers, they are only in substantial disagreement concerning two of those issues. Therefore, most of the discussion which follows relates to those two issues which are:

1. Whether there should be no wage increase for the duration of the 1983 Collective Bargaining Agreement or whether there should be a 5% general wage increase retroactive to December 19, 1982.

2. Whether the overtime provision of the agreement should be modified to include the definition of a "day" as proposed by the Association.

The terms of the 1981-1982 Collective Bargaining Agreement granted general wage increases of 9% and 1% in 1981 (effective on December 21, 1980 and June 21, 1981 respectively); and general wage increases of 9.5% and 1% in 1982 (effective on December 20, 1981 and June 20, 1982 respectively). Under the terms of the agreement there are three pay ranges for deputies, Deputy Sheriff I, Deputy Sheriff II, and Deputy Sheriff Sergeant. There are five steps in the pay range for Deputy Sheriff I and it takes five years for a deputy to reach the top step of that range. Most of the employees in the bargaining unit are at the top step of that range (200 out of approximately 379 members of the bargaining unit). There are approximately 76 employees at the various steps within the Deputy Sheriff I range. In the Deputy Sheriff II range, which includes detectives, there are approximately 62 bargaining unit members, 59 of whom are at the top (fifth) step. In the Deputy Sheriff Sergeant range there are approximately 41 bargaining unit members, all at the top step. The current pay range, which took effect on June 20, 1982 and would continue under the County's offer for the duration of the 1983 agreement, is as follows:

Pay Range 18A — Deputy Sheriff I

Biweekly:	$ 712.46	$ 852.56	$ 870.43	$ 887.40	$ 906.24	$ 929.87
Monthly:	1,548.97	1,853.56	1,892.41	1,929.31	1,968.09	2,021.64
Annually:	18,587.64	22,242.72	22,708.92	23,151.72	23,617.08	24,259.68
Hourly:	8.9057	10.6570	10.8804	11.0925	11.3155	11.6234

Pay Range 21B — Deputy Sheriff II

Biweekly:	$ 871.48	$ 888.46	$ 906.27	$ 930.88	$ 957.20
Monthly:	1,894.69	1,931.61	1,970.33	2,023.84	2,081.06
Annually:	22,736.28	23,179.32	23,643.96	24,286.08	24,972.72
Hourly:	10.8935	11.1057	11.3284	11.6360	11.9650

Pay Range No. 22B — Deputy Sheriff Sergeant

Biweekly:	$ 923.51	$ 948.11	$ 974.44	$ 1,001.21	$ 1,023.18
Monthly:	2,007.81	2,061.30	2,118.54	2,176.74	2,224.51
Annually:	24,093.72	24,735.60	25,422.48	26,120.88	26,694.12
Hourly:	11.5439	11.8514	12.1805	12.5151	12.7898

Under the Association's proposal the above salary schedule would be adjusted upwards by 5%, retroactive to December 19, 1982. According to the Association, this adjustment would result in a monthly salary range from $1,626 to $2,123, or an annual salary range from $19,512 to $25,476 for Deputy Sheriff I's; a monthly salary range from $1,990 to $2,185, or an annual salary range from $23,880 to $26,220, for Deputy Sheriff II's and Detectives; and a monthly salary range from $2,108 to $2,336, or an annual salary range from $25,296 to $28,032 for Deputy Sheriff Sergeants.

The current agreement contains a provision dealing with overtime which reads in relevant part as follows:

"3.02 OVERTIME

"(1) All time credited in excess of 8 hours per day or 40 hours per week shall be paid in cash at the rate of 1½ times the base rate, except that employes assigned to continuous jury sequestration shall be paid 16 hours at their base rate and 8 hours at the rate of 1½ times the base rate for each 24-hour period of uninterrupted duty, and except that first shift hours worked in excess of 40 per week shall be paid at the rate of 1½ times the base rate.

"(2) Employes shall have the option of accumulating 48 hours of compensatory time, exclusive of holidays, in lieu of cash, within 13 pay periods, provided that such compensatory time may be liquidated only with the consent of the department head. If, because of the needs of the department, such compensatory time is not liquidated within the time limited, the unliquidated balance shall be compensated in cash."

The Association, as part of its final offer, has proposed to add a new subsection (3) to Section 3.02 dealing with overtime which reads in relevant part as follows:

"(3) For purposes of this section, a day shall mean a period of 24 hours measured from the employee's normal starting time."

According to the Association, this proposed addition to Section 3.02 merely codifies current practice with regard to the payment of overtime in the case of employees whose starting time is changed without prior notice, but would make such practice a matter of contractual right. According to the Association, current departmental policy measures overtime as any hours in excess of 8 hours per day, as measured from the beginning of the employee's shift. Thus, if an employee worked from 4:00 p.m. to 12:00 a.m. one day and from 8:00 a.m. to 4:00 p.m. the next day, the latter shift would be at overtime rates under both the present contract and the Association's final offer. However, if the employee is notified of the change two weeks before the effective date of the change, as required by Section 3.22 (except in cases of emergency), no overtime would be paid under the present agreement or the proposed change, according to the Association. Furthermore, the proposed change would not affect the present system, under which deputies receive overtime pay if called in "early" or required to work "late." The Association contends that the primary reason for the addition of the provision is to protect employees from

being assigned, without two-weeks notice, to work from 3:00 p.m. to 11:00 p.m. one day and again at 6:00 a.m. the following morning. Under these circumstances, the contract would not require overtime pay for the 6:00 a.m. shift because it would be technically a new day, at least according to the calendar. According to the Association, the present contract contains no language which would prevent the County from requiring the employee to work such a schedule at straight time pay.

THE ASSOCIATION'S POSITION

The Association acknowledges that the ultimate issue in this proceeding is which of the two final offers is the more reasonable under the statutory criteria. However, from the Association's point of view, there are three sub issues, and it directs its arguments to each of those three sub issues.

First, the Association argues that its proposed 5% wage increase is more reasonable than the proposed 0% wage increase in light of salary settlements received by comparable bargaining units. Secondly, the Association argues that its proposed 5% wage increase for 1983 is more reasonable than a 0% wage increase, in light of the 6.6% increase in the Milwaukee Consumer Price Index in the year prior to May 1983, and a projected 5.5% increase in the Consumer Price Index for all of 1983. Thirdly, the Association argues that its proposal to incorporate language defining the term "day" is more reasonable because it codifies existing practices regarding overtime computation.

In support of its first argument, the Association relies on the statutory criterion which requires the arbitrator to compare the wages, hours and conditions of employment of the employees in the bargaining unit with the wages, hours and conditions of employment of other employees in public and private employment. According to the Association, the "other employees" to whom such comparisons should be drawn are law enforcement employees working for certain police departments in the County of Milwaukee, including the City of Milwaukee, and to certain other County law enforcement employees employed by Dane County, Racine County, Washington County, and Waukesha County. In support of this argument, the Association presented considerable testimony illustrating the complex and, in some cases, unique duties performed by the deputies of the Milwaukee County Sheriff's Department. That testimony dealt with the Department's Training Academy, Records and Identification Division, Communications Bureau, Traffic Patrol Bureau, Bus Patrol Operation, Stadium Security Operation, Juvenile Officer and Major Occurrences Unit, Airport Security Operations, Victim-Witness Protection Program, Bomb Squad, SWAT Team, Boat and Scuba Diving Program, Detective Bureau, Welfare Fraud Unit

cannot utilize those services. Similarly, while Dane County Sheriff's Department provides some similar services, the more rural nature of that County results in a significantly different level and kind of services provided. The comparison to the State Patrol, which was drawn by the County, is inappropriate, since the Wisconsin State Patrol is not a full law enforcement agency and is primarily concerned with the enforcement of traffic laws and does not patrol the Milwaukee County freeway system, which is patrolled by the County.

According to the Association, the only comparable law enforcement agency which begins to approximate the myriad of services provided by the County's Sheriff Department, is the City of Milwaukee. However, the Association has included the other comparable departments, since a comparison to only one department would be too narrow a comparison.

The Association notes that the County also attempted to establish that certain civilian employees performing limited duties also performed by deputies are therefore comparable groups of employees. Those employees were dispatchers, security guards at the airport and institutions, and corrections officers all of whom are represented by District Council 48. According to the Association, the comparisons are invalid because of the limited duties performed by such employees. They are not required to carry guns and generally call upon sheriff's deputies for purposes of making arrests and enforcing the laws. Additionally, they are not considered to be on duty 24 hours a day, as are sheriff's deputies. The evidence establishes that deputies had a high rate of on-the-job injuries, higher than those of non-sworn personnel, and that such high injury rates are the result of the hazards of the work performed by deputies. There is no similar evidence for the civilian employees, to whom the County would draw comparisons.

In summary, the Association argues that the high level of physical danger, the sworn obligation to enforce the law 24 hours per day, the carrying of weapons, and the possession of arrest power, constitute major factors distinguishing deputies from civilian employees represented by District Council 48 and are substantial enough and significant enough to render "absurd" any attempt to compare the contract benefits of the two groups. Finally, the Association points out that the Wisconsin Statutes dealing with collective bargaining, distinguish between municipal law enforcement employees and civilian municipal employees. From this, the Association argues that a like distinction should be made between the two groups for contract comparison purposes.

The appropriate employee groups for comparison then, according to the Association, are the employees of the Milwaukee Police Department, followed by other appropriately weighted police and sheriff departments in the Greater Milwaukee Metropolitan Area. A comparison of the 1983 wages for those employees (to the extent that they were established at the time of the hearing) clearly supports the Association's position, according to the Association. In this connection, the Association relies upon a series of graphs which were prepared for the hearing herein which graphically illustrate the relative positions of the parties' final offers in relation to established (or in the case of the City of Milwaukee proposed) salaries for 1983. In constructing these comparisons, the Association attempted to evaluate the actual job classifications to insure that they were comparable to the classifications in Milwaukee County. In addition, the Association only used figures which were actual 1983 figures, except in the case of the City of Milwaukee where the Association relies upon a tentative agreement which

was negotiated by the parties and recommended for adoption, but was rejected by the City of Milwaukee Police Department's bargaining unit. (As noted below, the County objects to any consideration given to the tentative agreement reached with the City of Milwaukee, because it was rejected.)

The inclusion of the data with regard to the tentative settlement in the City of Milwaukee is appropriate because it reflects what both bargaining teams believed was an acceptable package, it constitutes the best evidence of what the 1983 salary figures will be in the case of the strongest comparison that exists, and the existence of a tentative agreement between two parties who have only settled on one contract in the prior 15 years of bargaining, constitutes strong evidence of an additional relevant factor under the statutory criteria set out in Section 111.77(6)(h). In fact, the Association argues that if the Association had not drawn some comparison to the City of Milwaukee, the County probably would have objected to its other comparisons.

The Association's data demonstrates that in the case of the starting salary for Deputy Sheriff I's, the County's final offer would result in a lower starting salary than that of 14 other comparable law enforcement agencies. On the other hand, the Association's final offer would place the County in the middle of the range, with 9 other law enforcement agencies having higher starting salaries. At the top of the Deputy I pay scale, which includes the bulk of the Association's membership, a Deputy I will earn less than the maximum salary earned by deputies and police officers in 9 jurisdictions, under the County's offer. (The departments in question are all police departments as follows: West Allis, Milwaukee, Brookfield, Franklin, Glendale, River Hills, Racine, Greendale, and Brown Deer.) According to the Association,it is "patently unreasonable" for experienced deputies, whose daily duties augment the activities of smaller municipalities, to receive a salary lower than the salaries paid to comparable officers, including some of the same municipalities serviced.

The Association points out that under its offer a Deputy I would start at the tenth highest salary level of the agencies compared, but would be earning more than any other law enforcement officer holding a similar position after five years. According to the Association, a similar pattern exists in the case of Deputy II's and Deputy Sheriff Sergeants. Even with a 5% wage increase, the County's deputies will not be the highest paid law enforcement officers in the state, either at the starting rate or the top rate for those classifications.

According to the Association, the County's own exhibits also illustrate the reasonableness of the Association's offer. A review of the percentage wage increase granted for the various municipalities in Milwaukee County which are included in one of the County's exhibits, averaged 5.3%. The Association's proposed 5% increase is in accord with this average. Similarly, the contiguous counties relied upon by the County for comparison purposes settled for wage increases for 1983 which averaged 4.3%. While the Association disputes the comparability of this group, it points out that the County's own exhibits reflect that the Association's proposal is closer to the pattern of settlements than is the County's.

With regard to the total cost of the final offers, the Association again points to County exhibits. Those exhibits estimate the cost of the Association's final offer at 5.1% and the County's final offer at .17%. Further, the Association points out, that these estimates do not give any

consideration to the fact that certain services provided by the Sheriff's Department are reimbursed by outside agencies.

With regard to the second issue discussed, the relationship of the parties' final offers to the cost of living criterion, the Association relies upon the testimony of its expert with regard to the most accurate estimate of the cost of living which will occur during the term of the current agreement. That testimony, which was based on a projection of data available as of May 1982 and information contained in various sources relied upon the Association's expert, establishes that the probable increase in the cost of living in Milwaukee as measured by the CPI-W Milwaukee index will be somewhere between 5.5% and 6% for calendar 1983. While the County attempted, through cross-examination, to undermine this testimony by reference to the hypothetical possibility that certain deputy sheriffs may not eat meat, drink, pay rent, utilities or mortgage payments, or own an automobile, the Association argues that such hypothesis is improbable and contrary to the testimony of its expert concerning possible deviations from the norm. Based on this evidence, and the lack of any evidence to the contrary, the Association argues that its final offer must be found to be more reasonable than the County's under the cost of living criterion.

With regard to the third issue addressed by the Association in its brief, the Association argues that its offer is more reasonable on the question of defining a "day" for overtime purposes because it merely codifies an existing departmental policy regarding the computation of overtime. It notes in this regard that Section 3.04 of the agreement, dealing with standby pay, similarly defines "day" as "24 hours measured from the employee's normal starting time." According to the Association, inserting the same language into the overtime section will insure the continuation of the present department policy of requiring two-weeks notice of such a change to avoid the payment of overtime. Without such a change, the department's "policy" could change at any time leading to the consumption of time, effort, and financial resources to deal with grievances which will arise. In summary, the Association argues that its final offer is more reasonable than the County's because it codifies existing policy, utilizes language already in the agreement, and prevents future arbitrary changes in scheduling, whereas the County's offer simply does not address the issue.

In its reply brief the Association counters a number of County arguments, which are based on individual statutory criteria, as follows:

1. The County's arguments with regard to the interest and welfare of the public should be ignored because no factual evidence was introduced which would support the argument relating to employee morale or budget constraints. There is no direct evidence as to why other County employees settled for no wage increase. On the other hand, a Union witness from the brewery industry, with experience as a County deputy , testified with regard to why unions sometimes agree to contracts which emphasize certain non-economic issues such as job security, in lieu of wages. Further, a review of the summary of the changes made in the District Council 48 contract suggests that there were a number of changes in the agreement which were made as part of the agreement. The 1983 County budget was not introduced into evidence and the Association argues that it is therefore improper for the County to seek to raise a question in that regard in its

brief. According to the Association, the appropriate remedy for this conduct could include a striking of the County's brief but indicates that it only asks that such portion of the brief making reference to such matters be disregarded.

2. Contrary to the County's assertion, the record establishes that sheriffs'deputies in other counties do not perform the same kind of functions as the deputies in Milwaukee County. A number of functions, such as the Training Academy, the Traffic Patrol Unit, and the Victim-Witness Protection Program, among others, are unique to the department. On the other hand, the State Patrol and civilian detention workers and correctional officers are not comparable, since they do not perform numerous functions performed by sheriff's deputies. Further, such comparisons ignore the fact that traffic patrol officers and jailers are also frequently called upon to perform the full range of sheriff's duties. The claim that sheriff's deputies will be earning more than Milwaukee County Police Department employees is misleading because said claim is only true with regard to the top step of one wage category. At that same step, the County's offer will result in deputies earning less than the police officers in nine area municipalities. Even with a 5% increase, sheriff's deputies will lag behind a number of other groups under either offer.

3. The County's effort to discredit the Union's expert on the question of the projected cost of living is unpersuasive, because regardless of which percentage base figures are used for purposes of projections, the Association's final offer will come closer to holding sheriff's harmless from the effects of inflation during the term of the agreement than will the County's offer.

4. With regard to the County's arguments as to various benefits, the Association points out that many of those benefits are not immediately available, but require considerable tenure for attainment. Further, the Association argues that the pension figures relied upon by the County are inflated because they ignore the contract provision which provides for an 8% contribution and rely upon figures outside the contract which inflat the estimate by approximately $6,000 per employee per year. According to the Association, there is no rational reason for such inclusion, which the County attributes to "unfunded liability", and when such amounts are excluded the overall compensation received by deputies in this unit is quite comparable to the overall compensation received by other comparable groups of employees. Further, the evidence here indicates a high degree of employment stability and that portion of the criterion in question would seem to minimize the importance of the overall compensation figures relied upon by the County.

5. If any consideration is given to general background information concerning unemployment and private sector settlements involving concessions and freezes, consideration should also be given to the fact that such settlements are often motivated by concerns about job security, which concerns are not present in this case. The County's argument ignores wage increases granted other law enforcement agencies and is unsupported by any evidence that the general public has demanded that the salaries of law enforcement officers be frozen.

6. According to the Association, the intent and effect of the proposed modification of the overtime provision was adequately explained in the testimony and its brief and the County's arguments misinterpret the intent and effect of that provision. It is not true that the language is merely a restatement of the language in Section 3.04 and it is not true that the proposed language is vague, unless the existing language is conceded to be vague. The new language would allow the department to schedule changes in employee's shifts

as needed for department efficiency and public safety and there would be no change in overtime payments if the provisions of Section 3.22 of the agreement are met. The new language would merely insure that deputies could not routinely be required to work more than eight hours within the time span provided without overtime compensation or contractual notice. While current policy requires notice or overtime pay, that policy is subject to possible change in the future and the Association's language would codify the policy.

COUNTY'S POSITION

In its brief, the County sets out its position in relation to each of the statutory criteria. According to the County, the lawful authority of the County is not implicated by the issues in this case since it possesses the requisite authority to set the wages, hours, and conditions of employment involved. Also, with regard to "stipulations of the parties" the County points out that no stipulations were entered into in this case and therefore that criterion would have no application to the facts in this case.

With regard to the interest and welfare of the public and the financial ability of the County to meet costs, the County argues that this criterion is implicated. Because all of its bargaining units, except this bargaining unit and two others, settled for a wage freeze for the year 1983, an award of 5% in this unit could seriously affect the morale of the 8,620 employees (90% of the County's employees) who settled for a wage freeze for the year 1983. The record establishes that many of those employees are required to work directly with deputy sheriffs and a drop in morale could result in diminished quality in the delivery of service which could adversely affect the interest and welfare of the public. The financial ability of the County to pay for the award should also be considered because the County Board provided nothing in the budget to fund wage increases for employees during the year 1983. The carefully deliberated budget established by the County should not be lightly disregarded since it reflects the County's determination that the delivery of efficient services to the public at the lowest possible cost could only be achieved through wage freezes.

With regard to the comparison criterion, the County makes a number of arguments. First, since no comparisons were drawn to the private sector by either party, that portion of the criterion would have no applicability to the facts in this case, according to the County. As to the proposed comparison to other law enforcement agencies, the County argues that more valid comparisons can be made between Milwaukee deputies and the deputies employed elsewhere, especially in contiguous counties and in the state patrol. Employees of those agencies perform the same kind of functions as do the sheriffs and perform functions that are different from those performed by the various police departments in and around Milwaukee and elsewhere. This similarity is demonstrated by the testimony of the Union's expert on cost of living who acknowledged that deputy sheriffs and bailiffs are in a specific category for purposes of computing cost of living changes. In addition, appropriate comparisons can be drawn between deputy sheriffs and employees who work in detention facilities since 100, or over one-quarter of the bargaining unit here, is composed of deputy sheriffs assigned to the Milwaukee County jail.

According to the County, its comparisons demonstrate that its final offer will cause the bargaining unit to maintain its relative position in relation to other sheriff's agencies. Under the County's offer, Milwaukee County will rank second (by $11.00 per year) to Racine County, as it did in the prior year of 1982. Further, a comparison of County and Association exhibits demonstrates that a deputy who works in the jail receives much more in wages than does a correctional officer who works at the House of Correction, the child care supervisors who work at the juvenile detention facilities, and correction officers at the Wisconsin state prison. Even an Association witness admitted that, when working in a detention facility, these employees perform the same functions as those performed by deputy sheriffs when assigned to the County jail. A Deputy Sheriff I receives $21,718, while a Correction Officer I receives $19,366. Child Care Supervisor I's at the juvenile detention facility receive $18,304 and correction officers at the Wisconsin state prison receive $15,080. Similarly, Deputy Sheriff II's receive $22,357, while Correction Officer II's receive $20,489 and, correction officers at the Wisconsin state prison receive $18,512.

The County concedes that, if the undersigned gives consideration to the tentative settlement reached by the City of Milwaukee with its police department, the figures contained in that settlement constitute a "significant comparison" which can be made to a police unit. Thus, if the Association's final offer in this case is selected, Milwaukee County deputies will, for the first time since 1968, receive higher wages that a City of Milwaukee policeman. This is true even though the City of Milwaukee Police Department is by far the largest police organization in the area. This fact alone establishes that the Association's offer is highly unreasonable, according to the County.

The County also argues under the comparability criterion, that the Association's proposed percentage increase will destroy the internal equity that exists among County employees. According to the County, the strongest comparables of all are the settlements between the County and its other collective bargaining units and over 8,600 County employees have accepted a wage freeze for 1983. According to the County, it is "highly unreasonable" that this small unit of 375 deputies should receive a wage increase of 5% under these circumstances.

With regard to the cost of living criterion, the County challenges the reliability of the projections made by the Union's expert. According to his testimony, the Union's expert utilized the May 1982 to May 1983 CPI-W for Milwaukee for purposes of making a proportional projection, assuming the accuracy of the official projection of a 4% rate of national inflation. The County argues that a different projected rate of inflation would result if the March rather than May figures were used. Similarly, if the January figures were used an even different projection would be established. Further, according to the County, the expert's reliance upon newspaper articles as part of his projection was so speculative as to be "unworthy of comment."

The County also argues that if the expert's testimony with regard to "keeping even" with the cost of living is considered relevant, then his testimony regarding the percentage rise in the cost of living in 1981 and 1982 is also relevant. Those increases amounted to 11.193% and 5.156%, or a total of 16.349%. During that same period, the 1981-1982 Collective Bargaining Agreement generated increases of 20.5%. Thus, the difference between the negotiated settlements and a percentage rise in the cost of living is 4.151%. Therefore, the County argues, that since the Association is already 4.151% over the rise in

the CPI-W for the relevant period, such evidence hardly supports a 5% increase, solely on the basis of "catching up" to the cost of living.

The County argues that the evidence introduced at the hearing supports its position with regard to the overall compensation received by the employees in question. In fact, the County argues that this criterion should be given the most consideration in this case since it is the overall compensation that attracts and retains an employee. The numerous fringe benefits provided deputy sheriffs are just as important as the pay and the cost of those benefits should be a major factor in determining the reasonableness of the relative positions of the parties in this case. According to the County, without any wage increase for the year 1983, the total benefit cost to the County for wages and fringe benefits for a deputy sheriff is $38,657. Under the Association's proposal, that figure would rise to $40,365. The County, by merely maintaining its present wage schedule, far out strips the 15 other muncipal police departments listed in its comparison document. In fact, the annual cost is $2,000 per year higher than the nearest comparable, the City of Milwaukee Police Department with the tentative 2.9% increase included.

Thus, according to the County, by maintaining its position on wages and adding the fringe benefits to its offer, the Association will remain number one when it comes to the cost of wage and fringe benefits provided to the deputies. As to contiguous counties, i.e., Racine, Ozaukee, Waukesha, and Washington, the County of Milwaukee is nearly $5,000 higher than its nearest rival, the County of Racine and is almost $7,000 above the average. Therefore, under this criterion, by making no wage increase offer, the County has not changed its relative position. According to the County, these comparisons are very significant and should be given considerable weight, since it is this cost that the taxpayer must bear to retain the services of a deputy.

The County also points out in this connection that the evidence establishes that its turnover rates are low and that the number of applicants for positions is high. This suggests that the wage and fringe benefits offered are sufficiently attractive to attract and keep deputies. Although the number of filled positions has dropped from 410 authorized to approximate 375 employed, due to an effort to hold down the costs in the department, a number of applicants have continued to apply for the vacant positions.

With regard to the criterion dealing with changes in the other criteria occurring during the pendency of the arbitration proceedings, the County points out that the parties stipulated that the proceedings concluded, for purposes of this criterion, at the close of the hearing and that therefore any relevant changes in the criterion were presented as part of the evidence in this proceeding.

With regard to "other factors" commonly taken into consideration in proceedings such as this, the County argues that the arbitrator's background and experience is such that he should be free to consider such factors as his knowledge of the general status of the economy, the percentage of the working population that is unemployed, private sector settlements providing for concessions and wage freezes and other factors which can be ascertained from newspapers and other sources generally available to the public. In this connection the County argues that this is

not the time for wage increases, especially in public service where there is no profit factor involved.

With regard to the Association's proposed change in the overtime provision, the County argues that the Association's proposal is vague and could result in a significant cost to the County. Notwithstanding the interpretation of this language offered by the Union's president, the County points out that the language standing alone indicates that, if an employee in the bargaining unit has his shift changed, and the change results in the employee working more than 8 hours in a 24 hour period measured from his normal starting time, the County will be obligated to pay overtime. Since the provision does not address any other section of the contract, including the section on shift selection, a strict interpretation of this language could result in the payment of overtime at time and one-half to bargaining unit employees. According to the County, the record contains numerous references to changes in shifts due to emergency reasons and for other purposes. The existing standby pay language which utilizes the same definition clearly states that said definition applies to the section dealing with standby pay and not other sections of the agreement. For this reason, it is not accurate to say that the proposed provision will simply cause the overtime provision to conform to the requirements of Section 3.04. Standby pay has nothing to do with overtime pay and therefore the proposal cannot be read to merely constitute a clarification in that regard.

Further, the County argues that the language, which appears to be clear in its requirement of overtime pay, is very unclear in light of the Association's explanation as to its purpose. The vagueness in its proper interpretation caused by that testimony causes the proposal to be unreasonable, according to the County. For this reason it should be counted as a substantial potential cost to the County which raises the entire cost of the Association's final offer.

Finally, as noted above, the County argues that the tentative agreement which was rejected by the Milwaukee Police Association should not have been admitted into evidence and should be rejected. The County acknowledges that it has been unable to find any ruling on the point but argues that the tentative agreement is simply too speculative for the arbitrator to consider. In this sense court cases rejecting evidence of offers to purchase land made by the condemnor during negotiations, because they are privileged, present a useful analogy. Similarly, evidence regarding elements that might affect the value of property depending upon events and combinations of occurrences, while in the realm of possibilities, are excluded from consideration because they are not shown to be reasonably probable. One court case cited by the County rejected evidence concerning the price contained in an option to purchase in condemnation proceedings, for this reason. Here, we have an offer rejected by the membership of the police association and subject to further negotiations and possible modification as well as ratification by the Association and Common Council and Mayor of Milwaukee. Such an offer contains elements that depend upon events or combinations of occurrences which, while in the realm of possibility, are not shown to be reasonably probable and therefore should be excluded from evidence in this proceeding.

In its reply brief, the County reviews the Association's arguments with regard to the claims that the work performed by bargaining unit members is complex and unique and points to certain

alleged deficiencies in that evidence and arguments. According to the County, the testimony does not support the Union's argument in this regard and, except in rare instances, fails to establish that the work performed by deputies for the County is any different than the duties performed in any of the other law enforcement agencies cited by the parties and, certainly no different than the duties performed by any other deputy sheriffs in a county contiguous to Milwaukee County. In the case of the training academy, the County points out that many current deputies did not attend the academy and that the academy in fact trains numerous employees of other law enforcement agencies, which fact establishes the comparability of their training. The functions of the one employee working in records and identification are, according to the County, no different than those performed by similar employees in other law enforcement agencies. The same holds true for employees working in communications, according to the County. With regard to traffic patrol, the County argues that there is no evidence that such duty constitutes a larger proportion of the work in Milwaukee County than it does in other counties. The same can be said for bus patrol and stadium patrol as well as security at the County's airport facility, according to the County.

While the evidence establishes that Milwaukee County is the only county with a full-time 24-hour Victim-Witness Protection Program, at least 13 other counties have similar programs. Few members are involved in the bomb squad and the testimony concerning the County's SWAT team fails to establish that other departments do not likewise have SWAT teams. In the case of boat and scuba diving, there is no evidence with regard to other counties and in the case of the Detective Bureau there is no showing that the functions of the Milwaukee County Detective Bureau are unique. While the Welfare Fraud Unit is the only one of its kind in Milwaukee County, there is no testimony to establish that there are not units of a similar kind in other counties. Even though the Children's Court Center is not unique in the opinion of the County, the County points out that other civilian detention workers, represented by District Council 48, also work there. The County's institutions may be the largest of their kind in southeastern Wisconsin, but there is no showing that other counties do not provide similar security services. There are only six bargaining unit members in the drug unit and other municipalities do have drug units as well. While Milwaukee County has a large jail facility, other counties have jail facilities, as reflected in Wisconsin Statutes. It is true that deputies are on call for other duties, but there is no such showing that such practice is not common in other sheriff's departments outside Milwaukee County. Like other sheriff's department employees, deputies for Milwaukee County provide various court services, as reflected in the Wisconsin Statutes. Finally, the County points out that the record fails to establish whether other deputy sheriffs patrol parks in counties outside Milwaukee.

In response to the Union's claim that no other law enforcement department in Wisconsin bears and fulfills responsibilities at a comparable level, the County argues that the record will not support such statement. However, there is testimony which establishes that sheriff's departments in other counties perform certain functions not performed by Milwaukee County deputies, i.e., the provision of police service to unincorporated villages. This is true because there are no unincorporated villages or towns in Milwaukee County. It is not necessarily correct to conclude that the state patrol is primarily concerned with the

enforcement of traffic laws, but nevertheless sheriffs who patrol the freeways in Milwaukee County are performing exactly the same functions as the state patrol when engaged in such activities, according to the County. For this reason their salaries and benefits are relevant for comparison purposes.

It is significant that the Association asserts that the comparison to the City of Milwaukee's Police Department is the most significant comparable, according to the County. In this connection the County points out that, if the Association's final offer is adopted and assuming that the City of Milwaukee settlement includes a wage increase like that proposed in the tentative agreement, the members of the Association would, for the first time since 1968, receive more in wages than a City of Milwaukee police officer. This fact alone makes the Association's offer completely unreasonable and upsetting of a relationship between the two groups of law enforcement employees that has been maintained for at least 15 years.

Contrary to the position taken by the Association in its brief, the County argues that it is reasonable to compare the wages of deputies to the wages of employees who work in other security facilities. Specifically, the County believes that it is reasonable to compare such employees to corrections officers at the House of Correction, child care supervisors at the Juvenile Detention Center, and guards at the Wisconsin state prison. This is so because over 25% of the bargaining unit, or 100 deputy sheriffs, are assigned to the jail facility. The evidence discloses that they are performing essentially the same functions and certain legislation recognizes the interchangeability between the various groups. Neither group of employees is allowed to wear a gun. While deputies are required to wear guns under most circumstances while off duty and can be called upon to make arrests, these distinctions are already given consideration through the provision of higher salaries and by providing for hazardous duty pay.

The County also challenges the persuasiveness of the Association's evidence as to the hazardous nature of work as a deputy since the evidence makes no comparison between deputies and County employees generally, including correctional officers, security guards, and child care supervisors. Further, the County criticizes the nature of the information provided as to the extent of injury and amount of time off.

The Association's argument on wages is not persuasive in the view of the County for the following reasons:

1. Contrary to its assertions that the deputies will not be the highest paid law enforcement officers in the area surveyed under its proposal, over 50% of the bargaining unit will earn more than any other law enforcement officers in comparable positions, including police officers employed by the City of Milwaukee.

2. The Association's arguments completely ignore the fact that 90% of the employees of Milwaukee County have already accepted a zero percent wage increase for 1983. According to the County, it would be inequitable to allow the unit of 375 officers to receive a wage increase under these circumstances.

3. The Association's arguments totally ignore the total compensation criterion and consideration of evidence in that regard establishes that deputies in Milwaukee County are and will remain number one among all police agencies in the

metropolitan area and contiguous counties.

In response to the Association's evidence and arguments concerning reimbursement received from third party sources, the County argues that such evidence and arguments are not persuasive because there are numerous other departments that receive such reimbursements. Contrary to the Association's claim that it is unfair to compare deputies to such other employees, such comparisons are not inappropriate since other employees also perform unique services of a specialized nature, including registered nurses, engineers, and other professionals, all of whom have accepted a zero percent wage increase for 1983. This argument also ignores the impact on the morale of such employees if the Association's offer is selected in this proceeding.

With regard to the Association's arguments about the Consumer Price Index, the County points out that the statutory criteria do not contemplate that final offers will be selected on the basis of this criterion alone and the County repeats its criticism of the testimony of the Union's expert in this regard.

Finally, with regard to the Association's proposal to modify the overtime provision, the County argues that the Association's final offer is so vague as to make its entire offer unreasonable. In this regard the County contends that the Association's argument is very difficult to follow. Thus, at one point in its brief the Association argues that it is current department policy to measure overtime in the manner proposed and an example is given whereby an employee who worked from 4:00 p.m. to 12:00 a.m. one day and from 8:00 a.m. to 4:00 p.m. the next day, is entitled to receive overtime under the present contract as well as the Association's final offer. Later, in the same brief, however, the Association argues that if an employee works from 3:00 p.m. to 11:00 p.m. one day and from 6:00 a.m. the following morning, the contract would not require the payment of overtime pay because the 6:00 a.m. shift would start during a new day. These examples demonstrate what the County is fearful of under this proposal -- that every time a shift is changed, which results in working more than 8 hours in a 24-hour period, measured from the usual shift starting time, overtime payment would result. According to the County, the language proposed does not differentiate between the two examples found in the Association's brief. In both cases the employee would be working more than 8 hours in a 24-hour period, yet the Association argues that in the first instance, the policy would be to pay overtime and in the second instance, the contract and policy do not require them to pay overtime. These examples are inconsistent and tend to show that the Association does not even understand its own offer. Under these circumstances, the County argues that the arbitrator certainly cannot understand the Association's offer and should reject it for that reason alone. On the other hand, if the arbitrator renders an award based on the last offer of the Association, the award would be vague and not end the controversy because it would not constitute a mutual and definite award upon the subject matter submitted, and would be contrary to the provisions of Section 788.10(1)(d) of the Wisconsin Statutes.

DISCUSSION

While the parties, in their arguments, have addressed the two disputed issues raised by the final offers, the undersigned has also reviewed the other aspects of their final offers under

the statutory criteria. None of the other portions of their final offers would appear to be unreasonable in relation to any of the statutory criteria and, further, the parties are in essential agreement on several important points. First, both parties agree that the new agreement should be for one year only and that it should contain provisions for an increase in the limit on the fully paid portion of the group life insurance coverage and provisions for a fully paid dental insurance program. In fact, the County's offer contains an earlier date of implementation for these improved fringe benefits, which accounts for the .17% estimated cost of its final offer.

While the issue raised by the Association's language proposal is not of great consequence in comparison to the wage issue, that issue will be addressed first, since the reasonableness of that proposed issue, in relation to the statutory criteria, should be given some weight, along with the other evidence and arguments, for purposes of evaluating the parties' overall final offers.

The undersigned must agree with the County that the Association's arguments with regard to the actual affect of the proposed change is somewhat confusing and possibly inconsistent. Further, even when those arguments are viewed in their most favorable light, the inclusion of the proposed language under the circumstances would, in all likelihood, generate future disputes rather than avoid them.

The apparent intent of the Association is to include a provision in the agreement which will either create or codify a financial disincentive, to discourage the County from making certain undesirable changes in shifts without giving two weeks prior notice. If a change in shifts were to be made wherein the starting time of the changed shift was earlier in the day than the starting time of the deputy's"normal" shift , the changed shift would be compensated at time and one-half rates. At one point in its brief, the Association asserts that such premium pay would already be required under the agreement and department policy, at least based on the facts described in the example given (4:00 p.m. to 12:00 a.m. and 8:00 a.m. to 4:00 p.m.). However, at a subsequent point in its brief, the Association admits that such overtime pay is not presently required under the terms of the agreement, based on an example which is difficult to distinguish from the above example. (The only possible distinction is that, in the first example, the first shift is said to end at 12:00 "a.m." and is arguably part of the second day; whereas, in the second example, the first shift is said to end at 11:00 p.m., which is indisputably not a part of the second day.)

More important than this potential uncertainty as to the actual impact of the proposed language, is its failure to specifically exclude situations where a shift is changed pursuant to the provisions of Section 3.22. While the Association contends that it is not the intent of its proposal to require overtime payments in such cases, the definition of a "day" is, by the wording of the proposal itself, limited in its application to Section 3.02 of the agreement. As the County points out, the provision, as worded, could easily generate future disputes as to its proper application in such circumstances. Furthermore, the Association has taken no position in this proceeding as to the applicability of the definition if a shift is changed on less than two weeks notice, for the other reasons set out in Section 3.22. Therefore, the proposal would appear to require the payment of overtime in all such situations. The record does not disclose how frequently shift changes made pursuant to Section 3.22 involve the establishment of a new shift which starts less than 24 hours after the start of the old shift, but the proposal could prove to be quite costly if such changes

are a frequent occurrence, even though those costs would be unrelated to the Association's stated purpose for including the provision in the agreement.

Under these circumstances, the undersigned concludes that the County's proposal not to include the proposed language in the existing overtime provision is more reasonable than the Association's proposal and that conclusion should be given some weight in evaluating the relative reasonableness of both parties' total final offers.

The Association's arguments with regard to its proposed 5% wage increase rely primarily on two of the statutory criteria, comparability and changes in the cost of living. In the case of the comparability criterion, the Association argues that only external comparisons should be made, i.e., comparisons to police departments in Milwaukee County and certain police and sheriff departments outside Milwaukee County. It also argues that the tentative agreement reached with the Milwaukee police should be treated as the prime comparable, notwithstanding the fact that a final settlement had not been reached at the time that the record herein was closed.

The evidence presented by the Association establishes that the Milwaukee deputies are a highly trained group of law enforcement officers who perform a wide variety of law enforcement and related functions and that those functions are, in some cases, unique or performed at a unique level of skill and frequency. While the variety of functions includes most functions performed by police departments, they also include functions which are only performed by a large sheriff's department operating in an urban environment and that some such functions are unique to the Milwaukee County Sheriff's Department, or at least are performed at a unique level of skill and frequency because of the urbanized nature of Milwaukee County. Because of this fact, the undersigned agrees that comparisons to the City of Milwaukee Police Department are probably stronger than comparisons to any of the other police departments among the comparables relied upon by the Association. However, valid comparisons can also be drawn to other urbanized sheriff's departments, particularly those in contiguous counties as well as to the police departments operating in and around Milwaukee County. The undersigned also agrees that, in general, comparisons to other law enforcement officers are stronger than comparisons to other municipal employees.

At the hearing, the undersigned indicated his intent to consider evidence regarding the terms of the tentative agreement which was reached with the Milwaukee Police Department, notwithstanding the fact that said agreement was rejected by the Association's membership prior to the hearing. The County was advised that said ruling was subject to reconsideration, based upon arguments to be included in the County's brief. The undersigned has reconsidered this ruling, based on the County's arguments set out above, and concludes that such evidence should be considered because it is the best evidence available concerning the wages, hours and working conditions of police officers in the City of Milwaukee Police Department for the year 1983 and also because of the importance of such comparison. The terms of the tentative agreement are not deemed "privileged,"since they do not relate to an offer of settlement of the dispute in this case which was made under circumstances which might preclude disclosure to the undersigned. Further, the terms of the tentative agreement are not considered to be so speculative as to be unreliable. They represent the best judgment of the parties' representatives as to what constitutes a reasonable settlement for 1983 and should be given considerable weight, given the difficulties which those

parties have experienced in the past in reaching voluntary agreements.

A review of the evidence regarding the level of wages paid by the municipal employers alleged to be comparable by the Association, generally supports the Association's position, with one notable exception. That exception relates to the top salary for Deputy I's, which applies to over half of the members of the bargaining unit and is discussed further below. Thus, the proposed 5% increase will not result in the establishment of compensation levels which are out of line with other comparable police and sheriff departments in the case of starting salaries for Deputy Sheriff I's or the starting salaries and top salaries for Deputy Sheriff II's and Detectives and for Deputy Sheriff Sergeants. In fact, the evidence shows that the Association's offer will generally cause department salaries to fall about in the middle of the range of 18 comparables relied upon by the Association in all those cases. The County's offer would result in salary levels in the lower half of that range.

The County's comparison of salary levels is generally limited to the top of the range for base salaries and is likewise discussed below. However, the County also included data concerning the level of wage increases granted to employees employed by a number of the municipal employers relied upon as comparable by the Association as well as those relied upon by the County. As the Association points out in its brief, this data tends to support the reasonableness of the percentage increase sought by the Association.

While one can question the accuracy of the Association's prediction of the actual level of increase in the cost of living that will be experienced in the Milwaukee area in 1983, the Association would appear to be correct in its assertion that the increase in the cost of living, as measured by the Consumer Price Index for urban wage earners (CPI-W) for Milwaukee in 1983 will probably be in the neighborhood of 5%. This means that, if the Association's offer is selected, there will probably be little erosion in the purchasing power reflected in the 1983 salaries for deputies; but that there certainly will be some erosion under the County's offer.

As the County points out, this argument is based on an analysis of the projected rate of increase in the cost of living during the term of the agreement rather than the more conventional analysis of changes in the cost of living which occurred during the term of the prior agreement. It is this latter consideration which is normally considered when evaluating the reasonableness of wage proposals under the cost of living criterion. However, there is no reliable evidence on this point in the record.[1/] Nevertheless, it is indisputable that the County's proposal that there be no wage increase in 1983 will predictably result in a erosion of real wages earned by deputies and that the Association's proposal must therefore be given preference under this criterion.

The County relies upon a number of statutory criteria

1/ The undersigned does not agree that the record establishes that the CPI-W for Milwaukee during the term of the old agreement was 16.349% and believes the figure to be otherwise.

in addition to the two discussed above. In addition, it argues that internal comparisons, i.e., comparison to the six County bargaining units which have reached voluntary agreements to accept no wage increases for 1983, should be given the greatest weight in this proceeding.

Before evaluating these arguments, it is appropriate to deal with the Association's objection to the County's reference to its 1983 budget in connection with its arguments. It is true that the County's budget was not introduced into evidence. Furthermore, even if it is assumed that the County's 1983 budget was set based on the assumption that there would be no wage increases granted to this bargaining unit, a reasonable assumption under the circumstances, such action in itself does not help establish that the County's offer is the more reasonable under the statutory criteria. The question presented here is whether the County's decision not to offer any wage increase to this bargaining unit is more reasonable under the statutory criteria than the Association's proposal that a 5% wage increase be granted.

The Association also objects to the County's argument that morale problems will result if a 5% wage increase is granted to the bargaining unit, based on its claim that such arguments is speculative. The undersigned must agree that the question of whether there will be morale problems is one on which there was no testimony. However, any such testimony could also be critized as "speculative" as well. In the view of the undersigned, it is appropriate, especially under the criterion dealing with "other factors" normally taken into consideration in proceedings such as this, to consider the disruptive impact on employee relations, particularly collective bargaining relations with other bargaining units, which may arise if a 5% wage increase is granted to this bargaining unit. It is that fact, along with the harsh impact of a zero wage increase proposal, which makes this such a difficult case.

It is true, as the County argues, that its current salary for the top step of the Deputy I classification will remain ahead of the comparable salary for deputies in Ozaukee, Washington, and Waukesha Counties and will undoubtedly remain ahead of the salary for state patrol officers. However, this group constitutes a somewhat narrow group for comparison purposes and ignores the salaries which will be paid to policemen in the City of Milwaukee. As other County exhibits show, the top salary for a Milwaukee police officer was $24,432 in 1982 and will be $25,192, if it is increased by 2.9% for 1983, as proposed in the tentative agreement reached. Association exhibits are in agreement with this figure and demonstrate that other city salary figures will include a $21,061 starting rate for police officers and rates ranging from $26,003 to $27,756 for classifications comparable to the Deputy II classification. These rates will all be ahead of the Milwaukee County rates and will generally fall within the top three rates, among the 18 comparables relied upon by the Association.

There is little evidence in the record regarding the historical relationship that has existed in the case of salaries for the various police and sheriff departments relied upon by the parties. However, the County introduced testimony and an exhibit which demonstrates that, for many years, the maximum salary for police officers in the City of Milwaukee has exceeded that paid to the deputies in the top step of the Deputy I range. The difference has varied over the years and has been as much as 10.9% (in January 1976) and as little as .91% (in July 1982). The Association's proposal would not only put the top salary for the Deputy I over that of every other department analyzed in

its exhibits, but also ahead of the City of Milwaukee. The undersigned finds this aspect of the Association's proposal particularly troublesome, not only because it applies to a majority of the bargaining unit, but because it would occur in a year when all other County employees have agreed to a wage freeze.

The Association points out that the agreement to accept a wage freeze, which was entered into by District Council 48, also includes a number of language provisions related to job security and that there are no comparable tradeoffs sought by the Association in this round of negotiations. However, the representatives of the machinists, firefighters, engineers and architects, nurses, and operating engineers, have all agreed to accept a wage freeze for 1983 and the testimony indicates that there are no comparable job security provisions contained in any of those agreements.

Before weighing the evidence and arguments for purposes of evaluating which final offer should be accepted, the undersigned believes that it is also appropriate to comment on several other facts which should be taken into account in that balance. First of all, the County points out that it has established a comprehensive group of fringe benefits which compare favorably to any benefits received by any of the comparables. Secondly, when the value of those benefits is added to the salaries paid to deputies, the overall compensation paid to deputies exceeds any of the comparables. The Association seeks to dispute the accuracy of the County's claim in this regard by reliance upon the contractual provision which requires that 8% of each deputy's salary be paid by the County into an individual retirement account. However, the evidence establishes that the retirement formula utilized by the County (2.5% per year) is quite generous in comparison to all other departments (save the City of Milwaukee) and requires, for purposes of actuarial soundness, that the County contribute substantial sums to the system to cover what would otherwise constitute unfunded liability. The Association's own data demonstrates that numerous members of the department have acquired considerable seniority and accumulated considerable credits toward retirement under this system.

It is also significant that the evidence establishes that the County has had no difficulty in recruiting new deputies, to the extent that it has tried, and that part of the City of Milwaukee's tentative agreement called for a wage freeze at the recruiting and first and second year levels.

The outcome in this case therefore turns on the proper balancing of those arguments found persuasive in the case of both parties' final offers. Most of the Association's arguments as to external comparisons, as well as its argument concerning the impact of a wage freeze under the cost of living criterion, are found to be persuasive. On the other hand, the County's arguments relating to the reasonableness of the language change sought by the Association; internal comparisons and the inequity of granting a wage increase to this group of employees when all other employees have accepted a wage freeze; comparisons to the City of Milwaukee police officers; and overall compensation, including the value of fringe benefits, are found to be persuasive. The Association is correct in its claim that comparisons between law enforcement employees are generally more persuasive than comparisons to other employees. However, in this case a particularly difficult issue is presented because of the fact that all County bargaining units that have settled to date have agreed to accept a wage freeze for 1983. Added to this

consideration is the fact that the Association's proposal would result in a situation where the majority of the members of the bargaining unit would be earning a higher salary than all other comparable groups, including Milwaukee police officers, in a year when all other County employees have been asked to and have agreed to accept a wage freeze. Further, the evidence demonstrates that, as measured by overall compensation, the deputies are currently compensated as well or better than any other comparable group (save the City of Milwaukee) and that the proposed wage freeze will probably not result in any recruitment difficulties. Under the County's offer, the top step for Deputy 1's will be ahead of the four counties relied upon by the County for comparison purposes and will be at the exact midpoint among the comparables relied upon by the Association.

Under these circumstances the undersigned concludes that the County's offer must be found to be the more reasonable offer under the statutory criteria and therefore enters the following

AWARD

The County's final offer, submitted to the Wisconsin Employment Relations Commission, shall be included in the parties' 1983 Collective Bargaining Agreement along with all of the provisions from the 1981-1982 agreement which are to be continued without change.

Dated at Madison, Wisconsin this 17th day of October, 1983.

George R. Fleischli
Arbitrator