

BETWEEN

FEB 2 1984

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

ROCK COUNTY DEPUTY SHERIFFS' ASSOCIATION,)	Case CLIX No. 30510
and)	MIA-691
ROCK COUNTY, WISCONSIN.)	Decision No. 20600-A

I. BACKGROUND

This is a matter of final and binding interest arbitration pursuant to Section 111.77(3) of the Wisconsin Municipal Employment Relations Act. The Rock County Deputy Sheriffs' Association (Association) is the exclusive bargaining representative of nonsupervisory law enforcement personnel employed by Rock County (County or Employer).

The parties' collective bargaining agreement expired on December 31, 1982. On October 18, 1982, the Association filed a petition requesting that the Wisconsin Employment Relations Commission (WERC) initiate compulsory final and binding arbitration pursuant to Section 111.77(3). An investigation was conducted by the WERC staff which disclosed that the parties were deadlocked in their negotiations. On April 19, 1983, the parties submitted to the WERC their final offers as well as a stipulation on matters agreed upon.

On April 29, 1983, the WERC certified that the conditions precedent to the initiation of interest arbitration had been met. The parties thereafter selected Jay E. Grenig as the arbitrator in this matter.

Arbitration proceedings were conducted on August 12, 1983. The County was represented by Bruce Patterson, Employee Relations Consultant. The Association was represented by Thomas J. Basting, Attorney at Law, Brennan, Steil, Ryan, Basting & MacDougall. The parties were given full opportunity to present relevant evidence and arguments at the hearing. Upon receipt of the parties' briefs, the hearing was declared closed on January 6, 1984.

II. FINAL OFFERS

Both parties propose that, except as modified by their final offers or previously agreed upon items, all provisions of the 1982 agreement shall be included in the 1983 agreement.

A. The Association's Final Offer

1. The wage appendix as attached to the 1982 contract showing the wages as of September 1, 1982, shall be amended as of January 1, 1983, to provide for an across the board five percent (5%) increase.
2. The 1982 wage appendix dated September 1, 1982, as attached to the 1982 contract shall also be amended to delete therefrom the special wage ap-

pendix for the Special Investigators, and said Special Investigators shall be included at the same salary schedule and added to the nonranking deputies and court officers, so the classification shall read:

Nonranking Deputies and Court Officers and Special Investigators.

3. Section 11.03 of the 1982 contract shall be amended to provide as follows:

11.03 Order. No permanent employee shall be laid off when there are temporary, probationary state or federal subsidized employees or reserves in the Department performing Deputy Sheriff's functions: including correctional officers.

4. Article XI of the 1982 contract shall be amended to provide as follows:

11.05 Separate Seniority Rosters for Investigators and Other Members. The recall provisions of section 11.04 shall be applied and administered separately as they relate to the District Attorney Special Investigators and those members who are under the direct supervision of the Sheriff. Separate seniority rosters shall be kept for that purpose.

B. The County's Final Offer

Effective July 3, 1983 increase hourly rates set forth in the Wage Appendix dated 9/1/82 by four percent.

III. STATUTORY CRITERIA

In determining which offer to accept, the Arbitrator must give weight to the following statutory (Wis.Stats. § 111.77(6)) criteria:

- a. The lawful authority of the employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and financial ability of the unit of government to meet these costs.
- d. Comparison of wages, hours and conditions of employment of the employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally.
- e. The average consumer prices for goods and services, commonly known as the cost of living.
- f. The overall compensation presently received by the employes, 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, factfinding, arbitration, or otherwise between the parties in the public service or in private employment.

IV. DISCUSSION

A. Wages

1. Introduction

There are approximately 68 employees in the bargaining unit represented by the Association.

The County's offer would result in an annual wage increase of two percent. The average 1983 base wage would be increased to \$22,577. There has been an increase of 3.24% in health insurance for 1983. The increase in wage and benefit costs to the County would be 5.09% under its proposal.

The Association's offer would result in an annual wage increase of five percent. The average 1983 base wage would be increased to \$22,794. The increase in wage and benefit costs to the County would be 8.09% under the Association's proposal.

2. Statutory Criteria

a. Lawful Authority of the Employer. There is no contention that the County lacks the lawful authority to implement either offer.

b. Stipulations of the Parties. While the parties were in agreement on a number of facts, there were no stipulations with respect to this issue.

c. Ability to Pay and Interests and Welfare of the Public. There is no contention that the County lacks the financial ability to pay either offer.

Noting that the unemployment rate in the County is substantially higher than it is nationally or in Wisconsin, the County argues that the County's economic condition supports rejection of the increase demanded by the Association and acceptance of the County's offer.

While the County has experienced serious unemployment problems, it has not demonstrated that its economic problems are significantly different than those of other counties in geographical proximity to Rock County or significantly worse than those of the city of Janesville.

d. Comparison of Wages, Hours and Conditions of Employment. The County contends that the comparison should be made with the negotiated salary increases with the nine other bargaining units in the County. The Association contends that the comparison should be made with the wages of law enforcement personnel employed in nearby counties and cities.

The parties have utilized the following public employers for purposes of comparison of wages:

Employer	1982		1983		Increase
Dane County	\$8.36	\$10.01	\$8.99	\$10.76	7.5%
Walworth County	\$9.07	\$11.09	Not Settled		
Jefferson County	\$8.37	\$ 9.69	\$8.78	\$10.10	5.0%*
Janesville P.D.	\$8.41	\$11.09	\$8.82	\$11.74	4.6%
Beloit P.D.	\$7.62	\$10.68	\$7.97	\$11.16	4.5%
*4.25% at top rate.					
Rock County	\$8.45	\$11.03			
Ass'n Offer			\$8.87	\$11.58	5.0%
County Offer			\$8.62	\$11.25	2.0%

In 1982 Rock County ranked second with respect to starting wages and third at the top wage (only three cents an hour below the top two employers). In 1982 the median starting wage among the comparables was \$8.37. The County exceeded the 1982 median starting wage by 8¢ an hour. The median 1982 top wage was \$10.68. The County exceeded the 1982 median top wage by 35¢ an hour. The 1982 average starting wage among the comparables was \$8.37 which the County exceeded by 8¢. The 1982 average top wage was \$10.51 which the County exceeded by 52¢.

Comparing Rock County with the comparables that have settled for 1983, the County's offer would place it fourth at the starting wage while the Association's offer would keep it in third place. With respect to the top wage, the both offers would improve the top wage ranking to second place.

The median starting wage among the comparables that have settled for 1983 is \$8.80. The County's offer is below the median by 18¢ while the Association's offer exceeds it by 7¢. The median top wage among the comparables is \$10.96. The County's offer is 29¢ above the median while the Association's exceeds it by 62¢.

The average starting wage among the comparables that have settled for 1983 is \$8.64. The County's offer of \$8.62 per hour is 2¢ an hour below the average and the Association's offer of \$8.87 per hour is 23¢ above the average. The average top wage is \$10.94. The County's offer of \$11.25 per hour exceeds the average top wage by 31¢ an hour and the Association's offer of \$11.58 exceed the average top wage by 64¢ an hour.

The pattern of settlements for 1983 among the comparables indicates settlements ranging from 4.5% to 7.5%. The average settlement is 5.4%. The County's offer of a two percent increase is 3.4% below the average and the Union's offer of a five percent increase is .4% below.

The following chart summarizes the 1983 wage settlements of the County and nine of its 12 bargaining units:

Unit	Percent Increase	Cents per Hour	Overall*
Highway	2†	16††	6.3%
Health Care Cntr	0	0	5.0%
Courthouse	1.32	8	6.9%
Child Care	0	0	4.3%
Juvenile Prob	3	23	6.2%
Pub Health Nurses	0	0	5.9%
Social Workers	2	19	5.6%
Psycho-Soc	0	0	3.7%
Reg Nurses	0	0	5.2%
Ass'n Offer	5	52	8.1%
County Offer	2†	21††	5.1%

*Includes increases in wages and fringe benefits.

†Four percent effective July 1, 1983.

††Wage increase not effective until July 1, 1983.

Five County bargaining units received no wage increase whatsoever. The average wage increase was .92%. The median overall increase was 5.6% and the average overall increase was 5.46%.

Under either offer, bargaining unit members represented by the Association will receive an average base salary higher than the average base for all other represented County employees, except attorneys and deputy sheriff supervisors.

e. Changes in the Cost of Living. Because cost of living increases are usually "catch up" in effect, the increase in the Consumer Price Index for the 12 months preceding the effective date of a contract is usually considered to be relevant. See Hartford School District, Dec. No. 18845-A (Zeidler, 1982); City of Franklin, Dec. No. 19569-A (Imes, 1982). Consideration of changes in the cost of living after the effective date of a contract could have the effect of encouraging delays in negotiating a settlement.

The cost of living as measured by the Consumer Price Index (CPI) increased by 3.9% during the 1982 calendar year.

f. Overall Compensation. With respect to overall compensation, the record shows that in the external comparables three of the comparable employers provide dental insurance. The County provides a uniform and cleaning allowance of \$350. This is higher than all but that provided by Janesville (all uniform expenses paid). Detectives in Beloit receive a higher uniform allowance but the rank and file deputies receive a lower allowance than the deputies employed by the County.

With respect to a comparison of benefits provided other County employees, the record shows that under either offer the employees represented by the Association will continue to receive fringe benefits equal or superior to those provided employees in other bargaining units.

g. Changes During Pendency of Arbitration Proceedings. No relevant changes during the pendency of the arbitration proceedings brought to the arbitrator's attention.

h. Other Factors. This criterion recognizes that collective bargaining is not isolated from those factors which comprise the economic environment in which bargaining occurs. See Cudahy Schools, Dec. No. 19635 (Gundermann, 1982); Madison Schools, Dec. No. 19133 (Fleischli, 1982).

There is no evidence that the County has had to or will have to reduce or eliminate any services, that it will have to engage in long term borrowing, or that it will have to raise taxes if either offer is accepted.

3. Conclusion

Despite the fact that the percentage increase offered by the County is lower than the settlement rates of other comparable employers, an analysis of the evidence discloses that the County's offer would maintain the County's ranking at the top wage rate, while the Association's offer would improve the County's top wage ranking. Both offers would provide a top wage rate in excess of the median top wage. The County's offer at the starting wage is lower than the median starting wage and would result in a drop of one place in the relative ranking.

When the parties' offers are compared with the voluntary 1983 settlements of the nine County employee bargaining units, the Association's offer is considerably outside the pattern of settlement. This is true whether one compares the range of settlements, the average settlement, or the median settlement. The Association is seeking a five percent increase, whereas five bargaining units have settled for no wage increase at all and the largest increase of the remaining four units is three percent.

Although comparisons between law enforcement employees are generally more persuasive than comparisons with other employees, arbitrators have given great weight to settlements between an employer and its other bargaining unit when determining the reasonableness of offers. See, e.g., Brown County, Dec. No. 20455-A (Michelstetter, 1983); Manitowoc County, Dec. No. 19942-A (Weisberger, 1983); Milwaukee County, Dec. No. 20562-A (Fleischli, 1983); City of Brookfield, Dec. No. 19573-A (Rice, 1982); City of Oconto, Dec. No. 19800-A (Monfils, 1982).

The frustration of a union's being locked into an established pattern of settlement is understandable, but, in the absence of compelling circumstances, late settlements above a pattern established earlier penalize employees involved in the voluntary negotiations. This is destructive of the collective bargaining system and discourages voluntary settlements.

Acceptance of the County's offer would maintain the County's relative position at the top wage rate among the comparable employers and would continue the bargaining units high position with respect to wages and fringe benefits when compared to other County bargaining units. Furthermore, acceptance of the County's offer would not disrupt the collective bargaining system or discourage voluntary settlements.

Under these circumstances, departure from the wage pattern already in effect for nine other bargaining units in the County cannot be recommended and it is concluded that the County's wage offer is more reasonable than the Association's.

B. Wages for Special Investigators

The Association has requested that the wage appendix for Special Investigators in the 1982 contract be deleted for 1983 and that the Special Investigators be placed on the same salary schedule as the nonranking deputies and court officers. The County desires to continue paying the Special Investigators pursuant to a special wage appendix as in the 1982 contract.

The County Special Investigators work for the District Attorney's office and are in the Wisconsin Protective Retirement System. They are classified as police officers with arrest powers. A review of letters in evidence from the various counties shows that only four other Wisconsin counties have special investigators with arrest powers.

Because of the wide divergence in duties and powers of special investigators throughout Wisconsin, it is difficult to make any meaningful comparison of the wages, hours and working conditions of those employees. While there is some merit to the Association's claim that the County Special Investigators are paid less than special investigators in other counties, the nature of the work assigned to the County Special Investigators is not comparable to that of a deputy sheriff and therefore does not warrant their being placed on the same salary schedule as the deputy sheriffs.

Accordingly, it is concluded that the County's offer with respect to Special Investigators is more reasonable than the Association's.

C. LAYOFF PROVISION

The Association proposes that the layoff provision in the contract be modified to include Correctional Officers among the class of employees who must be laid off before a permanent employee in the bargaining unit is laid off. The Association contends that its proposal merely adds Correctional Officers to the current language requiring that "temporary, probationary, state or federal subsidized employees or reserves in the department performing deputy sheriff's functions" be laid off before sheriffs deputies are laid off.

The County asks that the Association's offer be rejected because it cannot, with twelve bargaining units, be granting preference to one bargaining unit's employees over employees in another bargaining unit.

The present contract language covers non-permanent employees who are or would be performing bargaining unit functions. The Association seeks to expand this language to cover a specific job classification and give its members the right to perform those duties in case of a layoff. Any such substantive change should be made through bargaining, not arbitration.

Accordingly, it is concluded that the County's offer with respect to layoffs is more reasonable than the Association's.

D. Seniority Rosters for Investigators and Other Members


At the hearing the parties agreed that the seniority roster language should be revised in accordance with the Association's proposal.

V. AWARD

Having considered all the arguments and relevant evidence submitted in this matter, it is concluded the offer of the County is more reasonable and is hereby selected. The parties are directed to incorporate into their 1983 collective bargaining agreement the final offer of the County together with all previously agreed upon items, including the

agreement with respect to a seniority roster for investigators.

Executed at Waukesha, Wisconsin, this 31st day of January, 1984.


Jay E. Grenig, Arbitrator