

State of Wisconsin  
Before the Interest Arbitrator

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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the matter of the petition of

**LABOR ASSOCIATION  
OF WISCONSIN, INC.**

Daniel Nielsen, Arbitrator  
Dec. No. 26051-A

For Final and Binding Arbitration  
Involving Law Enforcement  
Personnel in the Employ of

Mediation: 09/28/89  
Hearing: 11/30/90  
Award: 03/03/90

**ADAMS COUNTY  
(SHERIFFS DEPARTMENT)**

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Appearances:

Labor Association of Wisconsin, Inc., Route 1, Box 288, Tomah, WI 54660  
by Mr. Dennis Pedersen, Representative, appearing on behalf of Local  
113.

Hollman & Pollex, Attorneys at Law, 313 Main Street, Friendship, WI  
53934-0098, by Mr. Charles A. Pollex, appearing on behalf of Adams  
County.

**Arbitration Award**

On August 1, 1989, the undersigned was appointed by the Wisconsin  
Employment Relations Commission to serve as Arbitrator of an interest  
dispute involving negotiations over a successor agreement between the  
Labor Association of Wisconsin (hereinafter referred to as the Association)  
and Adams County (hereinafter referred to as the County) for non-supervi-  
sory law enforcement personnel in the County Sheriff's Department.

The undersigned met with the parties for the purpose of mediation on  
September 28, 1989. Several outstanding issues were resolved in the medi-  
ation, and were added to the tentative agreements. An overall settlement was  
not reached, however, and a hearing was held on November 30, 1989 in  
Friendship, Wisconsin at which time the parties were given full opportunity  
to present such exhibits, testimony, other evidence and arguments as were

relevant to the matter. The parties submitted post-hearing briefs, and the record was closed on January 4, 1990.

Now, having considered the record evidence, the arguments of the parties, the statutory criteria, and the record as a whole, the undersigned makes the following Award.

## **I. The Final Offers**

As modified at the end of mediation, the final offers of the parties addressed 5 issues:

1. Wages - The County proposes a wage increase of 3-1/2% across the board effective 1/1/89, and 30¢ across the board effective 1/1/90.

The Association proposes a wage increase of 4% across the board in 1989.

2. Health insurance - The County proposes to add a pre-existing conditions clause to the health insurance plan for employees hired after 1/1/89, as well as increasing the prescription drug co-pay for all employees to \$10 (with an annual maximum of \$100) from the current \$2.

The Association proposes status quo on the health insurance.

3. Pay range for the new Secretary/Receptionist position - The County proposes a 1989 pay range of:

Start - \$7.25      6 months - \$7.45      1 year - \$7.65      2 year - \$7.85

The Association proposes a 1989 pay range of:

Start - \$8.17      6 months - \$8.45      1 year - \$8.71      2 year - \$8.98

4. Work schedule for the Secretary Receptionist - The County proposes that the Secretary/Receptionist work a 40 hour schedule, with a maximum of 8 hours in any day, which would be posted no less than 30 days in advance.

The Association proposes that the Secretary/Receptionist work a standard 5/2 schedule.

5. Duration - The County proposes a two year contract, covering 1989 and 1990.

The Association proposes that the contract cover only 1989.

The final offers of the parties are appended hereto as Exhibits "A" and "B".

## **II. The Statutory Criteria**

**"111.77 Settlement of disputes in collective bargaining units composed of law enforcement personnel and fire fighters.**

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

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
  - 1. In public employment in comparable communities.
  - 2. In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the 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, fact-

finding, arbitration or otherwise between the parties, in the public service or in private employment."

While each criterion is not expressly discussed, each has been fully considered in arriving at the decision in this case.

### **III. The Positions of the Parties**

#### **A. The Position of the Association**

##### 1. Hours of Work for the Secretary/Receptionist

The Association seeks to codify the regular schedule of the Secretary/Receptionist as a five on - two off, the same as that worked by other clerical employees. The contract provides for a negotiated number of "floaters" who do not work regular schedules, and the Employer is seeking to add another floater without negotiating an increase in the number. The Association notes that the incumbent has worked a regular 5-2 schedule since the job was created, and asserts that the County bears the burden of changing the status quo for this position.

##### 2. Wages for the Secretary/Receptionist

The Association seeks to include the deputized Secretary/Receptionist in the existing Division I pay level, along with the Matrons, Dispatchers, Jailors, Administrative Secretary and Records Officers. The incumbent regularly performs dispatching, devoting between 25% and 50% of her time to this work on an overload basis. Further, she functions as a matron on a regular and routine basis. In addition to this, the incumbent Secretary/Receptionist is required to act as an Investigator in cases of sex crimes, which averaged one per month between the creation of the job in summer of 1989 and the date of the hearing. Even when not working in these classifications, the Secretary/Receptionist performs clerical functions akin to those of the Records Officers in the Division I pay level. The County offered no persuasive rationale for the unfairly low pay level it proposes for this position, and the offer of the Association should be accepted.

##### 3. Health Insurance

While the County claims that its addition of a pre-existing condition exemption for new employees and an increase in the prescription drug co-pay would have a positive effect on premium rates, there is no evidence of this in the record. The County's insurance agent testified that the changes would probably not have any significant impact on premiums. He further indicated that the prescription drug proposal would not accomplish any positive result. The evidence does establish, though, that there will be a

dramatic reduction in premium costs for 1990. In the face of this reductions, and on the merits of the evidence, neither of these proposals is justified.

The County argued that the Association had been unwilling to entertain proposals to reduce insurance costs in negotiations, but again this is not supported on the record. It was the Association that raised the possibility of switching to lower cost insurance systems, with the County refusing to consider any alternative to its self-funded plan. The Association notes that the County never consulted the employees when it decided to go to a self-funded insurance plan, and thus the County's complaints of a lack of cooperation on insurance are somewhat hollow.

The Association acknowledges that the Courthouse employees represented by AFSCME have accepted the County's insurance offer, but the officers of that Union testified to the significant and valuable quid pro quos received in the form of reclassifications, increases in sick leave accumulation and the creation of a longevity step which added 18¢ per hour to the wage rates for the large majority of unit employees. These quid pro quos are not present in the County's final offer to the Association, and the Courthouse settlement should therefore be distinguished. The Association also argues that the majority of the bargaining groups within the County have not agreed to any insurance changes, and that there is therefore no pattern supporting the County's position. The status quo position of the Association should be favored on this issue.

#### 4. Wages

The 1989 wage offers of the parties differ by only 1/2%, and this is not a significant element of the dispute. The Association notes, however, that the County's law enforcement employees are paid less than the average of the comparables, and that the disparity in pay rates is increasing. Even the Association's final offer would leave Adams County under the area average, although it would not create quite so large a gap as the County's proposal.

The Association refutes the County's claim that the internal pattern supports a 3.5% increase rather than a 4% increase. This ignores the effect of the reclassifications and longevity steps included in the Courthouse settlement. The wage rates in the Highway Department, because of a structured wage settlement, increased by amounts ranging from 4.5% to 5.4%, even though the cost over the contract year was only 3.5%. Thus the actual increases within other bargaining units favor selection of the Association's offer. This conclusion is the same whether one considers wage rates alone, or package costs.

5. Duration

The duration issue received relatively little attention in the hearing, and is a minor issue. There is no evidence in the record on this point, and no impact on the bargaining process can be discerned from selecting on offer on duration over the other.

For all of the foregoing reasons, the Association urges that its offer be accepted.

**B. The Position of the County**

1. Hours of Work for the Secretary/Receptionist

The ability to flexibly schedule the Secretary/Receptionist is critical, since it was one of the underlying reasons for creating the position. The position is specifically designed to provide overload relief to dispatchers during seasons of peak activity. The County must retain the ability to schedule this employee as the need arises. The rigid 5/2 proposal of the Association would deny the County this flexibility.

2. Wages for the Secretary/Receptionist

The County's offer on wages for this position is reasonable when viewed in light of external comparables and internal comparables. The only position of a like kind in the surrounding counties is in Marquette County and is paid at a substantially lower rate than the County has proposed. Within the Courthouse, the County's offer would put this employee at a higher rate than the Deputy County Clerk and Deputy Clerk of Courts. The offer is obviously equitable, given the very simple clerical nature of the position.

Granting that the incumbent spends some portion of her time performing matron and dispatch work, the County argues that these relatively minor portions of the Secretary/Receptionist's duties should not dictate an unreasonably high pay rate. The work is less stressful than that performed by Record Clerks, and is not directly involved in any routine law enforcement work. While the incumbent does perform some investigative work on sex crimes and abuse involving women or small children, that is not attributable to the job duties, but to the particular skills and background of the current incumbent. While it may enhance the value of the individual, it does not bear on the value of the job.

3. Health Insurance

The County's two proposed changes on health insurance are modest, but important. The pre-existing conditions clause would limit exposure of the self-funded insurance plan for the existing ailments of new employees until

they had been employed for 270 days or been without treatment for 90 days. This allows for cost control within the plan, without affecting any current employees.

The second proposal, to increase the deductible on prescription drugs from \$2.00 to \$10.00 (up to \$100.00), is aimed at curbing the excessive cost of prescription drugs under the health plan. While the actual savings may be minimized by the administrative costs of the new system, it represents a starting point for controlling the ever-increasing cost of health insurance, while leaving employees with very good health coverage in comparison with employees in comparable counties. The County's plan has been deemed reasonable and acceptable by the represented employees in the Courthouse unit, who incorporated these changes into their most recent contract. Thus the County is not seeking some unprecedented change, but merely to extend an existing system within its work force.

#### 4. Wages

The County's 3.5% offer for 1989 and 30¢ per hour increase for 1990 is more reasonable than the Association's 4% proposal. The CPI for non-metro areas in September 1989 revealed a 2.8% annual increase. The 3.5% offer of the County, together with the 1989 insurance cost increase, totals more than 7%. This is a generous proposal and should be accepted.

The County's largest union, the Courthouse employees, accepted a 3.5% increase for 1989, while the COLA provision in the Highway workers' contract provided an effective increase of 3.5% for 1989. Plainly, the County's position is more reasonable when viewed in light of the internal comparables.

External comparable also support the County's position on wages. Marquette County's Deputies received a 3.5% increase in 1989, and the deputies in Juneau and Waushara Counties, while not settled, were offered that amount by their respective County Boards. The two fulltime officers of the City of Adams Police Department received increases in an amount generally comparable to the County's offer, although exact percentages were not available for that settlement. In sum, the position of the County is consistent with the pattern of negotiations in the area.

The County urges rejection of the Association's claim of "catch-up" for these deputies, noting that their wage rates are competitive with, and their total compensation is superior to, area departments:

<u>Municipality</u>	<u>Top Road Officer Hourly Wage Rate</u>	<u>1989 Insurance Cost per hour</u>	<u>Total Compensa- tion per hour</u>
Waushara Co.*	\$ 9.99	\$ 1.26	\$ 11.26
Marquette Co.	\$ 10.14	\$ 1.43	\$ 11.58
Juneau Co.*	\$ 10.48	\$ 1.59	\$ 12.07
Adams County*	\$ 10.01	\$ 2.55	\$ 12.56
City of Adams	\$ 10.33	\$ 1.18	\$ 12.14

\* - Assumes last offer of the County

Even factoring in the longevity plans in Waushara County (7¢ per hour) and Marquette County (12¢ per hour), consideration of total compensation does not justify selection of the Association's "catch-up" proposal. The superior ranking of Adams County workers does not change in 1990, even if one accepts the testimony presented by Association showing a drop in insurance rates of 33¢ per hour. Any such drop in insurance costs is almost certain to be temporary.

The relevant consideration on the wage issue is total compensation, and the County's final offer would leave the deputies better compensated than any of the law enforcement officers in comparable departments.

#### 5. Duration

A two year agreement has practical advantages over a one year agreement. The final disposition of this case will not take place until 1989 is ended, and a two year settlement will allow the parties to administer the contract while it is still in effect. Moreover, a two year duration will place the three largest employee groups -- Highway, Courthouse and Sheriff's Department -- in the same contract cycle. This will facilitate bargaining over the continuing issue of health insurance. Thus the County's proposal on duration should be accepted.

For all of the foregoing reasons, the County urges that its final offer be accepted.



#### **IV. Discussion**

Treating the two health insurance proposals of the County as distinct issues, there are six issues to be determined herein. Each is addressed in turn.

##### **A. Hours for the Secretary/Receptionist**

The Association is correct in arguing that the Secretary/Receptionist currently works a regular 5/2 schedule. This schedule is not, however, the result of any past negotiation between the parties. From the representations made at the hearing, it appears that this schedule has, in part, been maintained because of the parties' inability to reach any interim agreement on hours for this position. The County's burden in changing this status quo item is not comparable to that it bears in, for example, the insurance area where it seeks to alter previously bargained terms. Still, the norm in the unit is a fixed 5/2 schedule, and the County as the proponent of a different system for this position does have the responsibility to justify its proposal.

The County argues that the ability to schedule the Secretary/Receptionist on a flexible basis underlay the creation of the position. It is undisputed that the County in part intended this position to meet peak demand times created by deer hunting, festivals and summer weekends, where a guarantee of two consecutive days off might interfere with coverage. The County's proposal goes beyond the need it described, however, in apparently allowing the supervisory officials of the Department to schedule the Secretary/Receptionist to work weeks without any days off:

"The Secretary/Receptionist will work a 40 hour per week schedule, no more than 8 hours per day, with the exact schedule to be posted thirty (30) days in advance."

Furthermore, by capping the work day at 8 hours, the County insures that the Secretary/Receptionist will be required to work at least six days in any week in which she is scheduled for less than eight hours in one day. Thus the potential exists for creating truly unreasonable work schedules for the incumbent of this position.

The Association, for its part, did not offer evidence to show that the County has no need for flexibility in this position, relying instead on the fact that the 5/2 schedule was the existing pattern for the job. On the state of the record, neither offer can be said to be completely reasonable. The Association's offer would preclude flexible scheduling for a position created to be flexible. The County's offer would allow for an extreme of flexibility. The problem

with the County's position, however, is merely a potential -- to the extent that the actual schedules need not be unreasonable, it is within the County's power to exercise both good faith and good judgment by avoiding abusive scheduling of the Secretary/Receptionist. Evidence of an unreasonable pattern of work schedules for this position would be persuasive in future efforts to bargain modifications or additional safeguards into the contract.

The final offer of the Association prevents the County from realizing one of the benefits it sought in creating the Secretary/Receptionist's position. The final offer of the County, while carrying with it potential problems, can be reasonably administered to realize flexibility while protecting the incumbent Secretary/ Receptionist from an unduly burdensome or chaotic work schedule. The final offer of the County is therefore slightly preferred on this issue.

#### **B. The Wage Rates for the Secretary/Receptionist**

The County has proposed to create a new and lower pay classification within the contract for the Secretary/Receptionist, while the Association would group the position with the Records Officers, Administrative Secretary, Jailers and Dispatchers. The basis for the County's lower pay scale is the lower level of stress in the position, and a comparison with other clerical positions outside of this unit, while the Association points to the similarity of the Secretary/Receptionist's duties and those of the other unit employees in the higher pay group. The Association has the better of this argument.

The testimony at the hearing showed that the Secretary/Receptionist regularly performed dispatcher and jailer work, as well as clerical work of the same general nature as that performed by the Records Officers. Additionally, the incumbent has acted as an investigator for sensitive crimes involving women and children. All of this type of work is performed within the Department by other personnel being paid at a higher rate. While no one of these functions constitutes a majority of her work time, taken together they do make up a very substantial portion of the job.

As for the Sheriff's contention that the clerical work done by the Secretary/ Receptionist is less stressful than that of the Records Officers because the latter must proofread materials for submission to the District Attorney, the undersigned finds this a rather strained argument. Presumably any competent clerical worker will proofread the material he or she prepares. On the County's argument that the sensitive crimes investigations are assigned to this worker only because of special training received prior to her posting to the Secretary/Receptionist's job, the fact remains that she is

required to perform this work on a regular basis as part of her regular routine, while being paid as a Secretary/ Receptionist.

The County's attempt to compare this position with the lower paid position of Secretary/ Matron in Marquette County suffers from a lack of any evidence showing the actual duties of that position. Further, as with the comparisons drawn to the clerical positions in the Courthouse unit, the appropriate level of pay for a given set of tasks is more reliably indicated by the negotiated rate for that work within this unit than in other units. The undersigned does not dismiss the County's assertions that the core work of this position may not be as demanding as that that regularly performed in positions of records officer, dispatcher, investigator or jailer. Ideally, the Secretary/Receptionist would have the ability to receive the higher rate when performing the duties of these higher rated jobs, and a lower rate when performing core duties. That is not an option in this case, however. The only choice is to either set the pay at slightly over a dollar an hour less than that paid to other unit employees who perform similar duties, or to match the pay rates. Given the substantial overlap between the regular duties of the Secretary/ Receptionist and higher rated positions in the unit, the undersigned concludes that the Association's offer is more reasonable on this issue than that of the County.

### **C. Limitation on Coverage for Pre-Existing Conditions**

The County's attempt to limit liability for pre-existing conditions during the first nine months of employment, or until the employee has gone for 90 days without treatment of the condition, has little or no immediate impact on the insurance costs of the County. The County advances it as sound and important policy in insurance matters, and there was uncontradicted expert testimony to this effect at the hearing.

It is commonly accepted that, where a party seeks to alter the negotiated status quo, they bear the burden of showing a need for the proposed change, and at least the offer of a "buyout" for the change -- evidence of some quid pro quo is required. In this sense, arbitration seeks to reflect normal bargaining. Concessions are generally granted in return for other concessions.

The requirement that "need" be shown may be satisfied in a variety of ways, depending upon the circumstances. Here the showing is relatively slight, but the impact of the change is also relatively slight. The change, by its very terms, affects only new employees, and only for a brief period at the beginning of their employment. It represents a minor change in an insurance program that offers the best benefits within the comparable pool.

Furthermore, the County is not seeking to break new ground with its insurance proposal, since it has reached agreement on identical insurance language with its largest bargaining unit, the AFSCME represented workers in the Courthouse. On balance, the undersigned is satisfied that the County has sufficiently demonstrated a need for this change. This conclusion is based primarily upon the testimony of the County's expert witness.

The County has, however, demonstrated little in the way of a quid pro quo for this change in the insurance. The Courthouse employees have accepted the County's position, and the testimony regarding those negotiations indicates that agreement there was conditioned upon a new longevity pay plan benefiting the majority of Courthouse employees, an increase in sick leave accumulation for all employees and four reclassifications. While the reclassifications are difficult to define as direct quid pro quos for the insurance changes<sup>1</sup>, the other improvements would be easily transferable to this bargaining unit, and do appear to have been direct tradeoffs. The final offer of the County does not include these items as an exchange for the insurance changes, nor anything that might be identified as a quid pro quo.

While the County has justified its desire to add a pre-existing conditions clause, it has not justified its demand to impose the change through arbitration. The status quo position of the Association is therefore favored on this issue. Given the showing of need and minor impact of the proposal, however, this item has little weight in arriving at an overall decision.

#### **D. Prescription Drug Deductible**

The County has demonstrated that its annual costs for prescription drugs are some 50% higher than might generally be expected for an insurance group of its size. It identified this as the reason for its request to change the deductible on prescriptions from \$2.00 per prescription to \$10.00 up to a maximum of \$100.00, with the \$2.00 payment then becoming applicable. While the excessive cost would justify some change in the prescription drug provisions of the collective bargaining agreement, the specific change proposed by the County does not meet the need it has identified. The County's expert witness testified that the increase in the employee's share would have some slight effect on premium cost, but that this would be offset by higher costs of administering the provision. Further, he expressed the opinion that this

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<sup>1</sup> One reclassification was merely a change in title. Of the three promotional reclassifications, one had been agreed upon prior to bargaining. The two remaining reclassifications were identified as being tied to the change in insurance, although there is no evidence that any reclassifications were sought in this bargain, or could have been achieved given the fewer positions in the Sheriff's unit.

change would have little impact on employee behavior, unlike an earlier proposal which would have reimbursed differently for generic drugs and name brand drugs.

Beyond the questionable showing of need, the County's proposal on prescription drugs suffers from the same lack of any quid pro quo as does its request for limiting coverage on pre-existing conditions. The inclusion of this provision in the AFSCME agreement might justify the proposal simply in the name of moving to standardize the County's benefits package were it coupled with the tradeoffs discussed above. Absent any such linkage, or complete uniformity in the internal pattern, the County's failure to show a specific need for the change or any offsetting concession renders the Association's status quo position more reasonable. Since the increase in the employee's share of prescription costs will have a direct financial impact on current unit employees,<sup>2</sup> while apparently having little or no benefit for the County, this portion of the insurance package has greater weight in arriving at an overall result in this case than does the more modest proposal on pre-existing conditions.

### E. Wages

The Association has proposed a 4% across the board increase in wages for 1989, while the County's offer sets the increase at 3.5% across the board in 1989 and 30¢ across the board in 1990. The Association justifies its wage position by claiming a need to catch up to other area departments, as well as a desire to duplicate the actual settlements in other County bargaining units. The County, for its part, argues that its offer is supported by the internal and external pattern of settlements.

With respect to the Association's claim of a need for catch-up, it is true that the wage rates in this unit lag slightly behind the average for area departments. Applying Marquette County's 3.5% increase in Waushara and Juneau Counties for comparison purposes, the Association's offer would put the top patrol/deputy rate at 98.24% of the average in 1989, while the County would place it at 97.75% of average. This compares with 97.68% in 1988, 97.90% in 1987, 96.58% in 1986, and 97.10% in 1985.<sup>3</sup> Each offer closes

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<sup>2</sup> Taking the difference between the \$2 co-payment and the \$10 co-payment on the first ten transactions of the year, the potential cost for 27 unit employees would be approximately \$80 apiece, or \$2,160 per year. This assumes, of course, the highly unlikely eventuality of every employee filling at least \$100 worth of prescriptions over ten different transactions in each year.

<sup>3</sup> The base data for this calculation is drawn from Association Exhibits 7-13. These percentages do not reflect the longevity payments in Waushara and Marquette Counties.

the gap somewhat, continuing the slightly uneven trend toward the average over the past five contract years.

The undersigned has discussed catch-up pay in the past, and has stressed that, in order to be successful, a party must generally go beyond simply showing that the wages are lower than those paid to other area workers:

"The fairness of a particular wage depends upon what the other components of the compensation package look like in comparison with other districts, and in most cases a catch-up argument on wages must include evidence that the disparity is not made up in other ways." Cudahy Schools, Dec. No. 25125-A (6/21/88) at page 17.

No two sets of employers and unions will divide compensation dollars in precisely the same way, and the fact that one set chooses to devote more money to benefits than to wages does not mean that the wages are inequitably low. In this case, the evidence concerning total compensation shows a significantly higher health insurance contribution by Adams County than by surrounding employers, as well as a superior health insurance benefits structure. Even when both the longevity pay provisions in Waushara and Marquette Counties and the projected premium decrease for 1990 are factored in, the deputies' combined hourly compensation apparently exceeds the average by a significant amount.

The Association has not proven that the disparity in wages is the result of an inferior compensation package, and the undersigned finds that the case for catch-up adjustments is not made on this record.

Turning to the argument that the Courthouse settlement should be valued at more than 3.5% because of the new longevity provision and reclassifications, the undersigned notes that the testimony at the hearing divorced these improvements from the wage package, and clearly identified them as the quid pro quo for the changes in insurance. The undersigned has already concluded in §C and D of this Award that the longevity plan was not an element in making the wage settlement acceptable to AFSCME, but rather in combination with the increased sick leave accumulation formed the selling point for insurance. These elements of the Courthouse settlement cannot be forced to do the double duty assigned to them by the Association. They must be excluded from the wage increase in making comparisons in this case, and the County's position that the 1989 Courthouse settlement on wages supports its offer is therefore accepted.

As to the Highway Department's wages for 1989, they are the result of a COLA clause which generates a 2¢ per hour across the board increase for each .8 increase in the CPI. The increase is paid twice a year, in February and August. In 1989, the formula generated a 46¢ increase on wage rates, split between a 28¢ increase in February and an 18¢ increase in August. The rate for most employees in the Highway unit thus increased by 4.57%, at a cost to the County of approximately 3.5%. Both parties point to this settlement as justification for their positions on wages. Both are correct, as far as it goes. The Highway increase, which flows from a long standing contract provision, supports the County's proposal on the cost increase and the Union's on the rate increase. Its value as a point of comparison is, however, decreased by the fact that it reflects but one of the statutory criteria -- cost of living -- and does not stand as evidence of any type of local consensus on what might be justified by overall economic conditions or the climate of public sector negotiations at any given time. It serves to undercut the County's argument of uniform support among the comparables, but cannot be said to stand for the proposition that a rate increase of more than 3.5% is called for in all other County units. In short, it has little probative value in a dispute over what a voluntary settlement would have been had bargaining been successful.

The external comparables support the County's offer, with Marquette County having adopted a 3.5% increase in wages, and the City of Adams apparently increasing rates by 2.89% in 1989.<sup>4</sup> Together with the AFSCME settlement, this serves to show a pattern of support for the 3.5% offer of the County. While weakened by the mixed settlement in the Highway Department, this pattern leads the undersigned to conclude that the position of the County is more reasonable on the issue of 1989 across the board wage increases.

The County has also proposed a flat cents-per-hour across the board increase for 1990. 30¢ on the average wage in this unit is the same percentage increase as the 27¢ accepted by the Courthouse unit for 1990. There is no information available on other comparables for 1990. The County's position on 1990 wages is not unreasonable, but the issue of second year wages is not determinative of the dispute, given the lack of a competing Association offer and the limited data on what pattern might emerge for bargaining in the area.

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<sup>4</sup> Neither party characterized the City of Adams increase in percentage terms, but the available data shows a 29¢ per hour increase for 1989, from \$10.04 to \$10.33 on the top rate.

On the overall issue of wages, the position of the County is more reasonable under the statutory criteria.

#### **F. Duration**

No evidence was presented on the issue of duration. While the County argues that a two year contract will allow it to bargain insurance in the same contract cycle in all three of its largest employee units, a one year contract does not preclude such bargaining. No compelling policy argument exists for favoring one proposal on duration over another, and there is nothing to indicate a long standing pattern in past years. Consideration of this issue does not favor either party's final offer.

#### **V. Summary and Conclusions**

Review of the evidence reveals a closely balanced case. The County's position on scheduling the Secretary/Receptionist, while flawed, is preferable to the position of the Association, as the latter prevents flexible scheduling in a position created to be flexible. On the issue of payment for the Secretary/Receptionist, it is the Association that has the preferable proposal. The County's position on that issue ignores the substantial overlap of duties performed by the Secretary/Receptionist and those performed by more highly compensated unit employees.

The Association's status quo offer on insurance issues is preferable in light of the County's failure to justify its higher deductible on prescription drugs, and the lack of any quid pro quo for the changes sought in both prescription drug benefits and liability for pre-existing conditions.

The issue of wages cuts in the County's favor, as the Association has not made a persuasive case for catch-up increases beyond the amount suggested by the external settlements and the Courthouse settlement. The County's offer of 3.5% in 1989 is more consistent with the settlement pattern than is the Association's offer of 4%. There is little in the way of guidance for 1990, but the one internal settlement in the Courthouse unit suggests that the County's offer is not unreasonable.

The wage proposals are fairly evenly balanced. Over a one year period the more reasonable proposal of the Association on wages for the Secretary/Receptionist would cost approximately \$2,000, while the more reasonable proposal of the County on overall wage rates would save \$2600. The potential cost to employees of the unwarranted prescription drug change sought by the County, while unlikely to reach its maximum of \$2160, serves



to further balance the economic aspects of the two offers. The insurance question was identified by the parties during this process as having the greatest importance of all of the items in dispute. The undersigned reluctantly agrees. This reluctance flows from the conviction that the Association's proposal on hours for the Secretary/Receptionist is truly unfair to the County, and awarding the Association's offer on the basis of the insurance issues necessarily requires selection of the Association's scheduling proposal as well. This problem, however, is inherent in the whole offer, final offer process. It is mitigated somewhat by the fact that the one year proposal of the Association allows for immediate commencement of bargaining to correct the problems in the hours provision awarded herein.

On the basis of the foregoing, and after full consideration of the statutory criteria, the undersigned makes the following

### **AWARD**

The 1989 contract shall include the terms of the predecessor agreement as modified by the final offer of the Labor Association of Wisconsin on behalf of its Local No. 113, together with the stipulations reached in bargaining.

Signed and dated this 3rd day of March, 1990 at Racine, Wisconsin:

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Daniel Nielsen, Arbitrator

Appendix "A"

Ex. "A"

RECEIVED  
JUN 03 1989

FINAL OFFER

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

This represents the final offer of The Labor Association of Wisconsin, Inc. and its Local No. 113 regarding a successor collective bargaining agreement to the 1987-88 Agreement between said Association and Adams County.

1. Article VI, Section 1: Add the newly created position of Secretary/Receptionist to the list of classifications in Division 1. (Accordingly, the wage rates for this position shall be the same as for the other classifications in Division 1.)
2. Article VI, Section 3: Amend the phrase ". . .and Administrative Secretary and Records Officer who shall work a (5-2) schedule. . ." in the first sentence to read:

". . .and Administrative Secretary, Records Officer and Secretary/Receptionist who shall work a (5-2) schedule . . ."

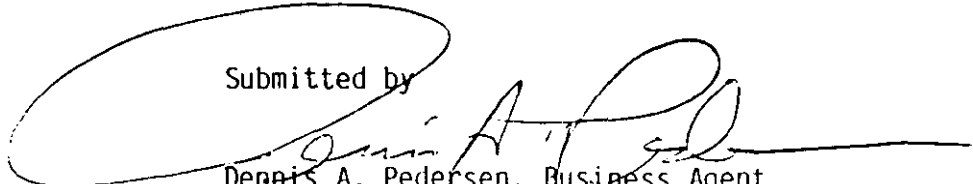
3. Article VI, Section 2: Add the following at the end of the existing language:

T.A.  
MEDIATION

The regular schedule of Floaters shall include at least eight (8) hours between shifts. Additionally, the Employer shall notify a Floater of a change in his/her regular schedule at least sixteen (16) hours in advance.

4. Wages - Article VI, Section 1: Amend the existing wage rates to reflect a 4% across the board increase effective 1/1/89.
5. Incorporate items agreed upon during negotiations, if any, into the successor agreement.
6. Duration: Amend the dates in Article XX to reflect a one (1) year Agreement, effective from 1/1/89 through 12/31/89.
7. All other terms of the 1987-88 Agreement to continue, unchanged, in the successor agreement.

Submitted by

  
Dennis A. Pedersen, Business Agent  
The Labor Association of Wisconsin, Inc.

Dated: June 1, 1989

a) A pre-existing condition will not be covered until:

1) A plan member completes a period of 90 consecutive days after his or her effective date of coverage without treatment for the pre-existing condition; or

2) A plan member has been covered under this plan for 270 consecutive days.

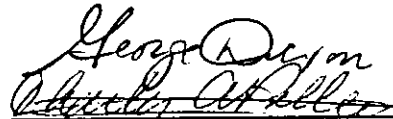
"Pre-existing condition" is an injury or sickness for which the plan member received treatment within 12 months prior to his/her effective date. "Treatment" means medical care, consultation with a physician, diagnosis, the taking of prescribed drugs or medicines, or the presence of symptoms which would cause a prudent person to seek care even though care was not sought.

2. Prescription drugs shall be subject to a ten dollar (\$10.00) co-payment with a maximum employee out-of-pocket expense of one hundred dollars (\$100.00) per calendar year; thereafter prescriptions shall be subject to a two dollar (\$2.00) co-payment.

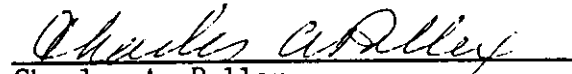
6. Duration: Amend the dates in Article XX to reflect a two (2) year Agreement, effective from 1/1/89 to 12/31/90.
7. All other terms of the 1987-88 Agreement to continue, unchanged, in the successor agreement.

Submitted by:

ADAMS COUNTY



Chairman, Personnel Committee



Charles A. Pollex  
Negotiator for Adams County

Dated: June 1, 1989

Appendix "B"

Ex "B"

FINAL OFFER

RECEIVED  
JUN 15 1989

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

This represents the final offer of Adams County regarding a successor collective bargaining agreement to the 1987-88 Agreement between The Labor Association of Wisconsin, Inc. and its Local No. 113 and Adams County.

1. Article VI, Section 1: Add the newly created Secretary/Receptionist in a separate division of employees with a wage scale as follows:

<u>Start</u>	<u>6 Months</u>	<u>1 Year</u>	<u>2 Years</u>
\$7.25	\$7.45	\$7.65	\$7.85

2. Article VI, Section 3: Delete the position of Administrative Secretary and Records Officer and add the following language: *Delete reference to Administrative Sec throughout contract.*  
"The Secretary/Receptionist will work a 40 hour per week schedule, no more than 8 hours per day, with exact schedule to be posted thirty (30) days in advance."

3. Article VI, Section 2: Add the following at the end of the existing language:

The regular schedule of Floaters shall include at least eight (8) hours between shifts. Additionally, the Employer shall notify a Floater of a change in his/her regular schedule at least sixteen (16) hours in advance.

T. & M. MEDIATION

4. Wages - Article VI, Section 1: Amend the existing wage rates as follows:

3½% across the board increase effective 1/1/89  
.30¢ per hour across the board increase effective 1/1/90

5. Insurance - Article VIII, Section 1: Amend Section 1 to read as follows:

1. INSURANCE. The hospital, surgical and chiropractic insurance plan as agreed to by the Employer and the Union shall be provided. The County shall provide the Employees with hospital, surgical and major medical insurance, with the County paying the full cost of the premiums for such protection. The coverages to be maintained shall be those coverages previously provided under WPS Group Plan No. 20257.0 as of April 24, 1985, including the HMP benefit level, together with current and future mandated coverages, subject only to the following conditions and exceptions: