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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
Before the Interest Arbitrator

In the Matter of the Petition)	
)	
of)	Case 105
)	
Lincoln County Professional)	No. 43514 MIA-1505
Deputies Association,)	Decision No. 26701-A
Local 101)	
)	
For Final and Binding)	
Arbitration Involving Law)	
Enforcement Personnel in the)	
Employ of)	
)	
Lincoln County)	
(Sheriff's Department))	

APPEARANCES

For the Association:

Thomas A. Bauer, Labor Consultant

For the County:

Charles A. Rude, Personnel Coordinator

PROCEEDINGS

On January 3, 1991 the undersigned was appointed Arbitrator by the Wisconsin Employment Relations Commission pursuant to Section 111.77 (4)(b) of the Municipal Employment Relations Act, to resolve an impasse existing between Local 101, hereinafter referred to as the Association, and the

Lincoln County Sheriff's Department, hereinafter referred to as the County.

The hearing was held on March 13, 1991 in Merrill, Wisconsin. The Parties did request mediation services which were unsuccessful and the hearing proceeded. At this hearing the Parties were afforded an opportunity to present oral and written evidence, to examine and cross-examine witnesses and to make such arguments as were deemed pertinent. The Parties stipulated that all provisions of the applicable statutes had been complied with and that the matter was properly before the Arbitrator. Briefs were filed in this case and the record was closed on May 1, 1991 subsequent to receiving the final briefs.

ISSUES

The issues of this case are as follows:

<u>ASSOCIATION</u>	<u>COUNTY</u>
Duration: 1/1/90 - 12/31/92	1/1/90 - 12/31/91
Wages: 1/1/90 - 2%	1/1/90 - 4%
7/1/90 - 3%	1/1/91 - 4%
1/1/91 - 5%	
1/1/92 - 5%	

Should the Arbitrator select the final offer of the Association or the final offer of the County as final and binding upon the Parties?

ASSOCIATION POSITION

The Association made the following arguments on its behalf:

Neither the authority of the Employer nor the stipulations of the Parties are at issue in this matter. With respect to the interest and welfare of the public and the financial ability of the unit, the Association claimed that its offer is more reasonable. The Association has proposed a three-year agreement. The Parties have spent an excessive amount of time in attempting to resolve this collective bargaining dispute. The Parties would, if the County's offer was selected, be required to commence collective bargaining no later than July 1, 1991. Therefore, a three-year agreement represents a tax savings to the County because it would not have to return immediately to the bargaining table so soon after the resolution of this contract. The Association noted the argument of financial ability was never raised during the collective bargaining process and, therefore, it is not at issue.

With respect to the comparables, the Association has brought forward a list of primary comparables which includes the following counties: Oneida, Langlade, Taylor, Price, Marathon and the City of Merrill Police Department. The Association has also gathered statistics for a group of what it termed are secondary comparables. These would include the following counties: Wood, Portage, Chippewa, Waupaca, Shawano, Clark, Oconto, Villas and Forest. It is the Association's position that the above counties are directly comparable since they follow the criteria set forth in the City of Cudahay case in that they are substantially equal in population, geographic proximity, mean income of employed persons, overall municipal budget, total complement of relevant department personnel, and wage and fringe benefits. The primary comparables are those which are contiguous to Lincoln County and whose law enforcement employees interact with the Lincoln County Sheriff's Department. The City of Merrill Police Department is located in the County Seat, and there is substantial interaction between the two groups. The Association argued that a review of the comparables, particularly in light of the historic ranking of Lincoln County with other comparables, should be considered. Acceptance of the Association's offer would continue the Association's rank of 6th or 7th with respect to the proper comparables. In addition, this would again place the Lincoln County's Sheriff's Department above that of the City of

Merrill Police, a position enjoyed by this unit from 1985 through 1988. During that period the unit members were paid between \$65 and \$70 per month higher than the average monthly wages among the comparables. During 1989 this dropped to less than \$50 per month greater than the average. The Association argued that it deserves a catch-up to again bring its average monthly compensation to between \$60 and \$70 per month higher than average.

In the first year proposals, the impact of the Association's proposal would average 3 1/2%, whereas the County has offered a 4% increase. The 5% Association proposals in the 2nd and 3rd years are fully justified by virtue of the anticipated cost of living during those periods. In addition, the three-year proposal by the Association would bring some stability to the relationship.

Regarding the County claim that bargaining unit employees earn an excessive amount of overtime which, coupled with their straight time earnings, gives them a substantial income, the Association noted that the majority of the overtime was due to the 1990 spear fishing problems in northern Wisconsin and that most, if not all, of the overtime costs were reimbursed to the County from state funding. The County may also argue its substantial (40%) increase in health insurance premiums from 1989 to 1990. The Association

argued that 1990-91 increase was minimal and indicates that stabilization has occurred. This large 1989-90 increase was due to unforeseen and catastrophic cases. The County has not proposed modification of the premium costs in its final offer. Association Exhibits 27 through 33 show the total cost impact of the Association's offer on the County would be very reasonable even when including the health care costs.

The Association claimed its final offer is more reasonable when compared to the cost of living. Data shows that the cost of living is rising at approximately a 5% rate, and the County's final offer of 4% simply is not reasonable. Other arbitrators have stated that, when considering cost of living, only the percentage increase in wages should be considered and not other costs associated with the bargaining unit such as health care. Therefore, it is the Association's offer which should be adopted by the Arbitrator based on the cost of living criteria.

Finally, the Association stated that it is its offer which is the most reasonable and should be adopted by the Arbitrator. Since the interest and welfare of the public are met by this proposal, the County has the financial ability to meet the Association's final offer and, when comparing the Association's final offer to other comparable units and when

analyzing the cost of living, it is the Association's proposal which meets all of the statutory criteria.

COUNTY POSITION

The following represents the arguments and contentions made on behalf of the County:

The County is not interested in a three-year agreement. Lincoln County has six bargaining units representing employees in the Highway Department, Courthouse and Annex, Social Services, Pinecrest Nursing Home, Developmental Disabilities, and Sheriff's Department. Negotiations for two-year agreements have been concluded with all bargaining units except for the Sheriff's Department. Four of the bargaining units settled for increases of 4% in 1990 and 4% in 1991. The 5th unit, that being the Courthouse, had staggered increases for 1990 which netted an effect of 4.2%, and a 3.5% increase in 1991. With respect to the internal comparables, the County's final offer in this case is reasonable and in line with settlements reached with other County units.

With respect to external comparables, those counties that are contiguous to Lincoln County, with the exception of

Marathon County, show settlements that are very much in line with the County's proposal with many rates below those of deputies in Lincoln County. Marathon County which adjoins Lincoln County to the south is substantially larger than Lincoln County from the standpoint of area, population and assessed valuation. It would be expected that the Sheriff's deputies in Marathon County would be more highly compensated, and, in fact, they are. This differential is not significant, particularly in light of the three grades for deputies which are not filled by automatic progression. The County also noted that Oneida and Marathon Counties are sharing health insurance premiums with their deputies and Lincoln County has not, either for 1990 or 1991, proposed any sharing of this premium in spite of a 40% increase in its 1990 health care costs. The County maintained that its relative position remains the same if its offer would prevail in this arbitration, and noted that it maintained its above average compensation for this entire period. Those counties that generally rank ahead of Lincoln County are all substantially larger from the standpoint of population and assessed valuation. In addition, while the 1990 proposals are relatively close, for 1991 the Association's final offer would result in a \$30,000 higher cost than the County's final offer, and the County would submit there has been no showing for a need for such a substantial increase.

From the standpoint of internal and external comparables with counties contiguous to Lincoln County, the County's offer to the Association is a fair and equitable one. There has been no evidence presented to show that a 5% increase is common or equitable and, therefore, it is the County's final offer that should be accepted.

DISCUSSION AND OPINION

The respective final offers of the Parties, particularly in the years 1990 and 1991, are extremely close. A review of the evidence in this case shows that each side has brought forth excellent arguments making for a very difficult decision.

There is no dispute over the lawful authority of the Employer or whether the stipulations of the Parties enter into this decision. With respect to the interest and welfare of the public and the financial ability of the unit of government to meet the costs, while this is certainly not a wealthy community with a large tax base, there was no showing that either side's position would create an undue hardship or create conditions which would not allow the County government to meet its obligations. There have been no arguments presented that any changes during the pendency of

the arbitration proceedings would materially affect this decision.

Regarding the comparables, there was no argument between the Parties as to which external comparables are appropriate, although it seems to this Arbitrator that just about the only thing that Marathon County and Lincoln County have in common is a common county line. In any event, the external comparables seem to give a slight edge to the Association's position. The Lincoln County Sheriff's employees have enjoyed a relatively high standing with respect to the comparables, and the Association's proposal would restore and maintain that standing. The internal comparables give a slight edge to the County. The proposals made on behalf of the County to this bargaining unit are consistent with the offers accepted by the other bargaining units, although the Association made vigorous arguments as to why those internal comparables should be discounted by the Arbitrator. A complete review of the comparables data provided by both Parties does not give the Arbitrator a clear direction for the resolution of this case.

The cost of living criteria favors the Association's position in that the cost of living has been and is currently in the 5% range. This is a criteria which is not only

mandated to be considered by interest arbitrators but should be considered by arbitrators in making their decisions. Although cost of living is of substantial significance, it should in no way be built into a wage system unless it is expressly agreed to by the Parties.

With respect to the overall compensation, the County made excellent arguments concerning the overtime compensation of the employees, although overtime compensation cannot be counted on from year to year and the employees have no control over whether or not overtime would be offered to them. The County's hospitalization costs have increased dramatically and yet it has not asked the Association members to share in any of these additional costs. The overall compensation seems to somewhat favor the County's position.

All in all, the Arbitrator is left with an extremely close decision. As is common in these cases, he has come to the conclusion that neither side's proposal has conclusively met the statutory criteria. One of the factors that is traditionally taken into account in interest arbitration is the impact of the total package. We have a somewhat unusual situation in that the County is asking for a two-year agreement and the Association has put forward a three-year proposal. If only the first two years of each proposal are

compared, by a very small margin, it is the Association's position that would be more reasonable proposal based on reasons noted above. There would be sufficient justification to deviate from the internal pattern created by Lincoln County. However, the Association has made a three-year proposal. This proposal significantly alters the bargaining relationship. As this Arbitrator has noted in other awards, the proponent of such change must fully justify that change, and provide strong reasons and a proven need. This is an extra burden of proof. The proponent of such change must fully justify that change by exceptional arguments under the statutory criteria or show a quid pro quo was given or that other groups were able to obtain this change without a quid pro quo.

Comparing the Associations three-year proposal to the County's two-year proposal, the Arbitrator has concluded that the Association simply has not been able to sustain its position. None of the tests for altering the bargaining relationship noted above have been met by the Association. The Arbitrator agrees that it is certainly not within the best traditions of collective bargaining to begin negotiations some two or three months after the previous negotiations have been finalized, however, that simply is not enough to justify its three-year proposal. Therefore, it is the County's proposal that will prevail.

AWARD

On the basis of the foregoing and the record as a whole, and after full consideration of each of the statutory criteria, the undersigned has concluded that the final offer of Lincoln County is the more reasonable proposal before the Arbitrator, and directs that it, along with the predecessor agreement, as modified by the stipulations dated January 18, 1990, constitute the 1990-91 agreement between the Parties.

Signed at Oconomowoc, Wisconsin this 9th day of May, 1991.


Raymond E. McAlpin, Arbitrator