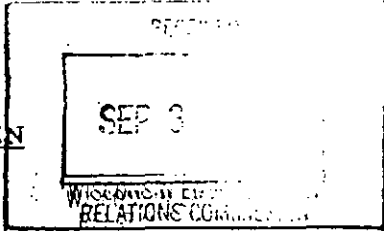


IN THE MATTER OF ARBITRATION BETWEEN



Wisconsin Professional Police Association/LEER

) OPINION AND AWARD
)
) Interest Arbitration:
) Wages & Duration of
) Agreement
)
) Arbitrator:
) John W. Boyer, Jr.
)
) Case 58, No. 53307,
) MIA-2003
) Decision No. 28661-A

-and-

Waushara County (Sheriff)
Wautoma, Wisconsin

APPEARANCES

For Wisconsin Professional Police Association/LEER

Richard T. Little, Bargaining Consultant
Gary Wisbrocker, Business Agent
Timothy Ganzel, Deputy Sheriff
Russell Monacelli, Deputy Sheriff
Randal F. Thurley, Deputy Sheriff

For Waushara County

Debra Behringer, Administrative/Personnel Coordinator
Randall TeWinkle, Corporation Counsel
June M. Roehl, County Board
George Sorenson, County Board Chairman
Norman Weiss, County Board, Chair Personnel Committee

Date of Hearing

June 13, 1996

Receipt of Post-Hearing Briefs

August 22, 1996

STATEMENT OF JURISDICTION

Pursuant to the provisions of the Municipal Employment Relations Act, as amended, the Wisconsin Employment Relations Commission issued its "Findings of Fact, Conclusions of Law, Certification of Results of Investigation and Order Requiring

Arbitration" following an informal investigation by a member of the Commissions staff.

The Arbitrator was selected by the Parties from a panel submitted by the Panel, and given the Parties had not agreed upon the criteria for the Award, the Arbitrator's jurisdiction is explicitly limited to selection of the "Final Offer" of the Union or the Employer.

The Employer is Waushara County and the Union represents all non-supervisory law enforcement employees of the County Sheriff's Department.

Pursuant to the Act and order of the Commission a Hearing was held in Wautoma, Wisconsin. At the Hearing the Parties were afforded opportunity to present testimony under Oath, evidence and arguments. The Parties requested opportunity to submit post-Hearing briefs, such were duly submitted. The Employer submitted a Reply brief, the Association communicated an intent not to submit such, and the Hearing was declared closed.

STATEMENT OF ISSUES

The Parties attempted to negotiate a successor Agreement for the Agreement that expired on December 31, 1995. The Association is seeking a one (1) year Agreement for 1996 only, while the Employer is seeking a two (2) year agreement for 1996-1997, and both Parties stipulate their "Final Offer" includes all tentative agreements achieved during the process of negotiations.

ASSOCIATION PROPOSAL

1) The wage rates specified in Appendix A of the 1994-1995 Agreement shall be increased 2.5% on January 1, 1996 and 2.5% on July 1, 1996.

2) That all tentative agreements reached by the Parties shall be included.

3) That Article 36 - DURATION shall be modified to provide the effective dates of the Agreement shall be January 1, 1996 through December 31, 1996; that is, a one (1) year agreement.

EMPLOYER PROPOSAL

1) The wage rates specified in Appendix A of the 1994-1995 Agreement shall be increased 3.5% plus \$.05 per hour effective January 1, 1996 and 3.5% on January 1, 1997.

2) That all tentative agreements reached by the Parties shall be included.

3) That Article 36 - DURATION shall be modified to provide the effective dates of the Agreement shall be January 1, 1996 through December 31, 1997; that is, a two (2) year agreement.

OPINION AND AWARD

On the basis of the evaluation of all documents, testimony and arguments presented by the Parties, the decision of the Arbitrator follows:

1) The Record indicates the Parties current Appendix A - Salary Schedule for 1994-1995 provides the following:

APPENDIX A
HOURLY
CLASSIFICATION AND SALARY SCHEDULE
EFFECTIVE JANUARY 1, 1994 - 4.5% A.T.B.

<u>Classification</u>	<u>Hiring Rate</u>	<u>6 Mo. Rate</u>	<u>15 Mo. Rate</u>	<u>24 Mo. Rate</u>
Chief Detective Traffic Chief				13.81
Detective Sergeant Patrol Sergeant Chief Jailor	12.14	12.55	13.08	13.65
Deputy Sheriff	11.78	12.17	12.69	13.24

HOURLY
CLASSIFICATION AND SALARY SCHEDULE
EFFECTIVE JANUARY 1, 1995 - 4.5% A.T.B.

<u>Classification</u>	<u>Hiring Rate</u>	<u>6 Mo. Rate</u>	<u>15 Mo. Rate</u>	<u>24 Mo. Rate</u>
Chief Detective Traffic Chief				14.43
Detective Sergeant Patrol Sergeant Chief Jailor	12.69	13.11	13.67	14.26
Deputy Sheriff	12.31	12.72	13.26	13.84

The Record also indicates the Association represents twenty-five (25) employees in the department that includes both full-time regular and part-time law enforcement personnel, excluding supervisory, confidential, casual and temporary employees. Further, the Parties negotiated their initial Agreement for 1991, and followed such with successive two (2) year Agreements for 1992-1993 and 1994-1995. Similarly, the Employer has three (3) other bargaining units, Social Service employees since 1981,

Public Health Nurses since 1984, and a Highway unit since 1986.

Finally, the Record indicates the tentative agreements reached by the Parties and stipulated to be included as part of the Award include an Article 11, Section 11.06 modification of a posting period, an Article 12, Section 12.01(E) modification to establish the position and work schedule of a Drug Prevention and School Liaison/Crime Prevention Officer; and modification of the classifications cited above in Appendix A, including deletion of the positions of Traffic Chief, Detective Chief and Chief Jailor, and addition of the positions of Jail Sergeant and Drug Detective and School Liaison/Crime Prevention Officer. However, neither Party provided a specific net cost or savings estimate/projection for any of the tentative agreements.

2) The Association contended without contradiction from the Employer that retention of the "best" employees and maintenance of a correspondingly high level of employee/departmental morale ought be perceived in the interest and welfare of the public. However, while the Arbitrator shall not dispute such a generalized contention, the Record is void of any explicit information relative to any "difficulty" in attracting and/or retaining a sufficient number of qualified employees in the department. Further, while professional literature clearly indicates a limited relationship between compensation and job satisfaction, the Record clearly indicates no significant changes

in the rates of employee absenteeism, use of sick leave and/or turnover during the recent past, and each of the latter are acknowledged to be far superior indicators of actual levels of employee job satisfaction. Accordingly, the Arbitrator was less than compelled by the Association contention, and such was not given significance in the Award.

The Association also contended without any contradiction that law enforcement personnel are required to perform such duties "around the clock" daily and annually. However, while such is clearly an occupational characteristic, such is traditionally compensated for with benefits such as "on call", "call-in" or "reporting" pay, "shift differential", etc. not in dispute. Accordingly, the Arbitrator was less than compelled by the contention.

Finally, the Employer advanced no contention relative to its inability to pay. Further, neither Party advanced compelling contentions relevant to the alleged impact of inflation as measured by the CPI-U index. The Association contended a prior Arbitrator had eloquently addressed the applicability of such to address the "ravages" of inflation, but such was at an economic time when such accurately portrayed "reality", compared to the very modest current and projected rates. Further, since that date the Department of Labor's Bureau of Labor Statistics has indicated the current modest data significantly overstate the

"real" rate of impact upon purchasing power.

3) The Record indicates both Parties presented compelling but contradictory rationale for acceptance of their alleged set of "applicable comparables." Further, the Arbitrator is totally cognizant and appreciative of the fact that comparability is typically a key criterion for achieving either a voluntary collective bargaining settlement or rendering of an Interest Award. Accordingly, the Arbitrator was compelled by the following:

A) The Record indicates the geographic location of the Employer in proximity to a larger and readily apparent more economically developed and diversified Winnebago County provided the singular basis for the disparate contentions relative to the allegedly externally comparable employers. The Association proposed inclusion of Winnebago County as done by another Arbitrator in 1990, while the Employer proposes the inclusion of Wood County, where the resulting comparable differences become readily supportive of the different positions in dispute. Further, Winnebago County immediately borders the Employer, where Wood County is contiguous only to Portage County and Adams County that are immediately contiguous to the Employer. Accordingly, given the conclusions above relative to employment stability within the unit, the local-regional labor market comparisons were not given a disproportionate "benchmark" significance as they

would of necessity have been in developing an initial Agreement between the Parties as occurred, and/or if the workforce was more mobil.

Further, the wage data for the alleged externally comparable units of governmental bargaining units are difficult to incontrovertibly apply given the data typically "lumps" allegedly similar jobs into different classifications, compares only the "top rate" or the "average rate", and fails to specify the applicable longevity step scale required to achieve the "top rate" that the Employer contends is only twenty-four (24) months for the instant bargaining unit but varies from twelve (12) to sixty (60) months for the other employers identified.

Further, the Record indicates the "real cost" of the Employer offer shall be 3.74% for 1996, and 3.83% for the Association's offer during that period. Accordingly, the "Final Offers" of both Parties are approximately equal to or exceed the pattern of settlements presented that average approximately 3.0% to 3.5% for 1996, and the 1997 rate Awarded also appears consistent with the limited pattern of reported settlements exceeded only by a 3% plus 1% increase in the disputed Winnebago County, but greater than the 3% increases effective for Green and Marquette Counties.

Similarly, the Parties correctly contend the Arbitrator ought consider the "total package" of wages and benefits when

applying the external comparables. However, while the Association alleges the bargaining unit receives fewer holidays, less sick leave and vacation and makes a greater contribution for health care insurance, such was rendered less than compelling by the Record. Specifically, the Employer contends without contradiction that: A) the employees health care contribution rate varies depending upon date of hire, and seventeen (17) members of the bargaining unit are at the pre-1992 level of ten (10%) percent as compared to the post-1992 rate of fifteen (15%) percent, B) the holiday schedules submitted by the Association fail to reflect the two (2) week holiday pay option in lieu of the nine (9) holidays that can range from sixty-nine (69) to ninety-two (92) hours pay for the period, C) contended sick leave accumulation data submitted by the Association fail to reference the "pay out" option for typical non-utilization of the maximum allowable accumulation, and D) the comparable Uniform Allowance data submitted by the Association fail to include the Employer practice of replacement of any/all employee clothing or equipment "ruined" on the job. The significance of the totality of the findings above being the Arbitrator is compelled to consider such aspects as part of the employees total compensation "package", and such is reflected in the Award. Further, such issues are not included in the Parties Final Offers or the brief citation of tentative agreements achieved prior to the Hearing, and the

Record is void of any indication the Association attempted to address these perceptions of inequity through the recent bargaining process.

Further, the Arbitrator was less than compelled by the Employer contention relative to overtime usage either for the instant unit or comparables, given such is clearly a variable subject to different levels of control depending upon total departmental size, shift and staffing levels, scheduling, etc., but probably can never be totally controlled, and certainly can have a significant potential economic impact upon both employees and the Employer.

Therefore, the Arbitrator was compelled to conclude that no single allegedly comparable external indicator functioned to be totally dispositive of the matter. However, the data indicate the Final Offers of both Parties are consistent with the parameters of either set of alleged comparables, and that selection of either set shall not significantly impact the differential effect of the offers or the Award.

4) The Record includes a portrait of the varied "pattern" of voluntary settlements achieved with the other bargaining units. Specifically, the Social Service unit represented by AFSCME received 3.5% for 1996, but has not settled for 1997. Similarly, the Public Health Nurses represented by United Health Professionals settled for 3.5% plus \$.05 per hour for 1996 to

allegedly achieve parity with the AFSCME unit, but that agreement is also not settled for 1997. In contrast, the Highway Department received 3.75% for 1996 and 3.84% for 1997. Finally, the non-unionized employees received 4.5% for 1995 and 3.5% for 1996, but the Record was void of any justification for such including the relative salary rates to which the percentages were applied and/or other "benefits" associated with salaried positions that impact upon perceptions of equity that rendered the comparison less than determinative. Similarly, the increase received by the Sheriff was also adjudged totally non-relevant based upon the clear criteria for the decision and other unique aspects of the position.

Nevertheless, the data functioned to partially buttress the Employer contention of alleged correlation between bargaining unit wage/benefit levels or increases in such, which any union would also utilize as a basic justification for its demands, and can be generally interpreted to indicate the "Final Offer" awarded is consistent with and/or exceeds the internal "wage pattern" above and shall not be interpreted as disadvantaging the other units that elected to voluntarily settle prior to the instant proceeding.

5) Therefore, given the inability of any single criterion to determine the most appropriate "Final Offer", the Arbitrator was compelled to consider the real impact of the dollar settlement

resulting from "roll up" over the duration of the Agreement and in comparison to the other rates of wage increase cited. Simply stated, the Association wage proposal must be characterized as comparatively high, and the key remaining factor in the competing "offers" is the difference in duration of the Agreement as proposed by the Parties.

The Record indicates the Employer has attempted to achieve a two (2) year contract cycle for a combination of reasons related to the "continuing stress" associated with one (1) year bargaining requirements, where it has already been requested to begin bargaining with this unit for 1997, and to avoid expiration in the election year for the Sheriff position. The Record cited above references the degree to which the Employer has been successful, and the Association failed to refute the latter contention for readily discernible reasons. Further, the Record indicates a two (2) year agreement cycle is characteristic of all comparables including the disputed Winnebago County, with the singular exception of Waupaca County where a unit clarification matter allegedly resulted in only a one (1) year Agreement for 1995, and the Parties prior two (2) Agreements have been for the two (2) year period. Accordingly, a two (2) year agreement is clearly typical of both the comparables and the Parties, and also reflected in the Award.

Therefore, the Arbitrator was impressed with the basic

rationale of accepting the desirability of the longer-term Agreement given its retroactive effective date, the date of the Award and the Parties previous voluntary settlement pattern. Further, the Parties concede, the "real" impact of the wage increases offered and Awarded over the duration of a two (2) year Agreement exceed the fixed percentages stated above.

Accordingly, the Arbitrator is sufficiently compelled by the simple reality the Employer is offering to "pay" for the extension of the Agreement and its operational effect, in a manner not inconsistent with that already achieved with the other units cited above, and in a manner typical of the process of compromise and concession characteristic of collective bargaining. Further, the Record was void of any longevity structure, etc. for those other internal units to permit a more detailed evaluation of their alleged comparability as differentially contended by the Parties and partially addressed above.

Similarly, while the Association concedes its proposal may be "high" and offered considerable justification for such, the simple fact is such includes two (2) separate increases of 2.5% each during 1996, without accounting for necessary "roll up" as addressed above that must be included. Accordingly, as cited above, such was perceived as disproportionately high and less than the most reasonably appropriate when adjudged against the

multiple criteria addressed and the general pattern of negotiated wage increases in both the public and private sectors.

Accordingly, the Arbitrator was compelled by the "Final Offer" criterion for the Award to literally select either the "most reasonable" or "least unreasonable" of the well-developed positions, given the procedure precludes his "fashioning" of an Award through modification of either to address specific inequities/needs justified by a combination of the multiple criteria above in a manner intended to better address the "real needs" of the Parties as if a continuation of the bargaining process.

Therefore, the Award shall be characterized as rendered on the basis of the multiple criteria of the statute, including due consideration of the applicable internal and external comparables, the comparative level of "reasonableness" associated with each of the "Final Offers", and to realistically address the needs of both Parties to the extent possible. While none of the individual variables/comparables was adjudged singularly dispositive of the matter, the Award is premised upon the marginally compelling rationale of the Employer, shall preclude the necessity for the Parties immediate re-engagement in the bargaining process, and bring a predictable stability to both the Parties relationship and the lives of unit employees.

Accordingly, given the analysis and conclusions cited above,

the Arbitrator is compelled to render the Award.

AWARD

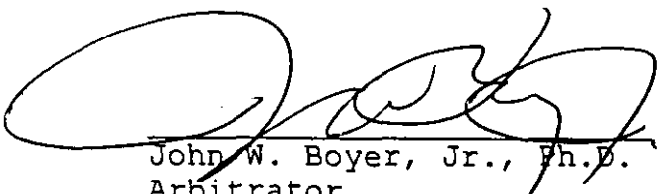
The decision of the Arbitrator is to select the "Final Offer" of the Employer. The effect of the Award is to direct the following:

1) Wage rates in Appendix A shall be increased 3.5% plus \$.05 per hour effective January 1, 1996 and 3.5% effective January 1, 1997.

2) That all tentative agreements previously reached by the Parties shall be included.

3) That Article 32 - DURATION shall provide the effective dates of the Agreement shall be January 1, 1996 through December 31, 1997.

The Arbitrator assumes and appreciates the desire of the Parties to cooperate in implementation of the Award, but shall retain jurisdiction to resolve any matters associated with implementation or administration of the Award.


John W. Boyer, Jr., Ph.D.
Arbitrator

Dated: 8/30/96