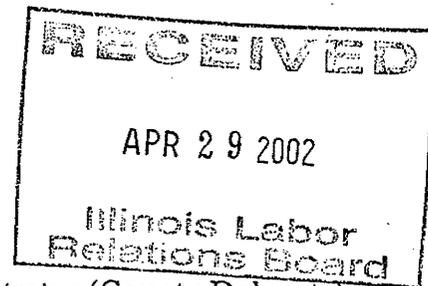


ILRB  
#239

Before  
**PETER R. MEYERS**  
Neutral Arbitrator



**JOHN G. KALCHBRENNER**, Joint Employers' Arbitrator (County Delegate)  
**MICHAEL A. VENDAFREDDO**, Union Arbitrator (Teamster Delegate)

In the Matter of the Interest Arbitration  
between:  
**INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS, LOCAL UNION NO.  
714,**

Union,  
and

**THE COUNTY OF COOK and SHERIFF  
OF COOK COUNTY,**  
Employer.

Interest Arbitration

Case No. L-MA-01-001

### DECISION AND AWARD

#### Appearances on behalf of the Union

Robert Costello--Attorney  
Don R. Jeffries--Local 714 Member  
Judith Dulfer--Local 714 Member  
Daniel J. Dunne--Local 714 Member  
Julia Johnson--Local 714 Member  
Tonia Yany--Local 714 Member  
Charlie Lochard--Local 714 Member

Robert Peluto--Local 714 Member  
Anthony Caputo--Local 714 Member  
Dawn Garcia--Local 714 Member  
Pete Kennedy--Local 714 Member  
John Mazor--Local 714 Member  
Anthony O'Donnell--Local 714 Member  
Terrell Andrews--Local 714 Member

#### Appearances on behalf of the Employer

Joseph E. Tilson--Attorney  
J. Stuart Garbutt--Attorney  
Katherine A. Paterno--Assistant State's Attorney  
John J. Kinnane--Chief of C&S  
Daniel P. Brennan--Sheriff's Office

John J. Kinnane--Chief of C&S  
Daniel P. Brennan--Sheriff's Office  
Charles E. Anderson--Office of the Pres.  
Laura M. Larson--CC HR

This matter came to be heard before Arbitrator Peter R. Meyers on the 5<sup>th</sup> day of June 2001 at offices of Meckler, Bulger & Tilson, 8200 Sears Tower, 82<sup>nd</sup> Floor, Chicago, Illinois. Mr. Robert Costello presented on behalf of the Union, and Mr. Joseph E. Tilson presented on behalf of the Employer.

## **Introduction**

The parties in this matter are the International Brotherhood of Teamsters, Local Union Number 714 (hereinafter "the Union"), representing Cook County Deputy Sheriffs, and the County of Cook and the Sheriff of Cook County (hereinafter collectively "the Joint Employers"). The parties' prior collective bargaining agreement had an effective term from December 1, 1997, through November 30, 2000. The parties have engaged in extensive collective bargaining negotiations in an effort to develop a new collective bargaining agreement, and they have reached agreement on most of the issues they have discussed during their negotiations. Certain issues, however, remain unresolved.

Pursuant to Section 14 of the Illinois Public Labor Relations Act (hereinafter "the Act"), the Union timely filed a request for interest arbitration as to these unresolved issues. Accordingly, this matter came to be heard before a tripartite arbitration panel, with Peter R. Meyers as the Neutral Chair, on June 5, 2001, in Chicago, Illinois. The parties subsequently filed written, post-hearing briefs in support of their respective positions on the issues that remain in dispute.

## **Relevant Statutory Provision**

### **ILLINOIS PUBLIC LABOR RELATIONS ACT 5 ILCS 315/1 et seq.**

**Section 14(h)** Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the

following factors, as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparisons 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:
  - (A) In public employment in comparable communities.
  - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) 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.

### **Impasse Issues in Dispute**

Prior to the hearing in this matter, the parties agreed that the following issues remain in dispute, and that these issues are hereby submitted for resolution by the

Arbitration Panel:

1. Wages
2. Uniform Allowance
3. Hospitalization Insurance
4. Holidays
5. Body Armor

**Discussion and Decision**

The Cook County Sheriff's Office provides police protection and other police services throughout the County. The Sheriff's Office is divided into three main departments: (1) the Sheriff's Police Department, a full-service police agency; (2) the Cook County Department of Corrections ("DOC"), which is responsible for operating the Cook County Jail; and (3) the Court Services Department ("CSD"), which provides security in the County's court facilities and operates as the enforcement arm of the Cook County courts. The Union represents approximately 1,467 Deputy Sheriffs who work in the Court Services Department, and this is the bargaining unit in question here.

Historically, the Sheriff's police officers always have been the highest paid among the three departments, followed by the DOC officers, and then the CSD deputies. The evidentiary record indicates that Sheriff's Police Department is staffed through promotions from the ranks of the other two departments.

The vast majority of the CSD deputies work in the Courtroom Services Division

and hold the "D2" pay classification. These deputies are responsible for maintaining security within the County's twenty court facilities, located throughout the City of Chicago and suburban Cook County. The deputies in this Division fill a variety of functions, from working inside courtrooms, to operating metal detectors at building entrances, to patrolling court buildings, to transporting and escorting jurors. Courtroom deputies typically do not carry weapons, are assigned to work an eight-hour shift five days per week, with a one-hour lunch break. Courtroom deputies at the criminal court buildings take custody of criminal defendants upon their arrival at the court buildings, conduct pat-down searches of each detainee, and escort the detainees between the criminal court lock-ups and the courtrooms.

The evidentiary record shows that most of the rest of the CSD deputies not assigned to courtrooms or court security work in the CSD's Civil Division. The Civil Division has four units: Civil Process Servers; the Warrants, Levies, and Evictions Unit; the Sheriff's Work Alternative Program; and the Child Support Enforcement Division. Pursuant to an agreement between the parties after the last interest arbitration, deputies within the Civil Division carry a higher pay classification, the "D2B" classification, than applies to the deputies in the Courtroom Services Division. These "Street Unit" deputies generally work in less secure environments than do the deputies in the Courtroom Services Division, performing such tasks as serving court orders and legal papers, arresting individuals who are the subjects of outstanding court-issued arrest warrants, and

seizing property pursuant to court judgments.

The evidentiary record also demonstrates that since the Union was certified as the bargaining representative of the CSD deputies in 1987, the parties's relationship has been governed by five collective bargaining agreements. Only one of these five prior contracts has been negotiated and implemented without recourse to interest arbitration; the current proceeding is the fifth interest arbitration in the past eight years that relates to CSD deputies' bargaining unit. In 1994, Arbitrator McAlpin issued an award deciding a wage re-opener for the third year of the parties' second contract. In 1995, Arbitrator Goldstein issued an award determining wages for the parties' December 1994 - November 1997 contract. Arbitrator Goldstein awarded another wage re-opener in third year of that contract, resulting in a third interest arbitration. Arbitrator Berman issued the award in that third interest arbitration, setting wages for the fiscal year ending November 30, 1997. In 1999, Arbitrator Benn issued an award in the most recent interest arbitration proceeding, establishing wages for the parties' December 1997 - November 2000 contract.

In general, these interest arbitrators have indicated that the wages paid to the CSD deputies needed to be brought closer, although not necessarily equal to, the wages paid to the Sheriff's Police officers and DOC officers. Because Cook County engages in "pattern bargaining" with its various unions, the percentage wage increases that have applied to the County's different law enforcement employees typically have been similar, although they do not all receive the same wage rate. Because the interest arbitrators mentioned

above generally found that CSD deputies' wages have lagged behind the wages of the Sheriff's Police officers and DOC officers, however, the CSD deputies have received higher percentage wage increases over the last several years, beginning in 1994, than have the County's other law enforcement employees.

The matter of wages again is at issue in this interest arbitration proceeding, along with the other four issues that also will have an impact on the overall compensation and benefits available to CSD deputies.

Section 14(h) of the Act sets forth eight factors that an arbitrator is to consider in analyzing competing proposals in an interest arbitration. As evidenced by the express language of Section 14(h), however, not all of the eight listed factors will apply in each case, or with equal weight. It therefore is necessary to determine which of the statutory factors do apply to the instant proceeding. Both parties particularly point to the use of internal and external comparables as the most useful of the statutory factors, particularly with respect to the wage issue. The cost of living must be considered, in varying degrees, in connection with most or all of the impasse issues presented here, while continuity and stability of employment, as well as a consideration of overall compensation and benefits, provide foundational principles that must guide this Arbitration Panel's consideration of the issues in dispute. Finally, the public's interest and welfare cannot be left out of any analysis of the issues to be resolved in this proceeding.

Both of the parties have discussed the Sheriff's Police officers and DOC officers as

internal comparables, and it is appropriate to consider these other two groups of employees for purposes of comparison. It must be noted that any such comparison must account for differences in training, duties, risk, stress, and other such items that apply to these different employee groups. As for external comparables, the parties have presented data from eleven different more-or-less urbanized counties located in states other than Illinois, as well as data relating to the New York State employees who provide court security and from the so-called Collar Counties, which surround Cook County within Illinois.

A thorough review of all of this data from the cited internal and external comparables, in light of the particular issues that remain in dispute between the parties, demonstrates that the internal comparables, comparisons with other employee groups within the Cook County Sheriff's Office, are particularly important. As previously noted, there may be some differences in training, duties, risk, and stress between these different employee groups, but these differences are not so great as to disqualify or invalidate these internal comparisons. The Deputy Sheriffs who work within the Court Services Department frequently must deal with the public in emotionally charged situations, much as their colleagues do who work in the other departments of the Cook County Sheriff's Office. A courtroom often is a dangerous environment, particularly for the Deputy Sheriffs who are charged with keeping order and maintaining security within the civil and criminal courthouses. Moreover, for those Deputy Sheriffs who work within the CSD's

Civil Division, who undertake responsibilities that take them out onto the streets, there is little meaningful difference between the risk and stress that they face each day and what their fellow employees confront as they work in the Sheriff's Police Department and the DOC.

As for the data relating to the external comparables, including the Collar Counties, the large number of counties that provided information presents a representative picture of the range of wages and benefits available to deputy sheriffs working in courtroom and litigation-related settings in metropolitan areas of different sizes from across the country. Although the Joint Employers are correct that the Collar Counties have not always been considered as valid externally comparable communities in earlier interest arbitrations between these two parties, steady development and population growth over the past decade or more in the counties surrounding Cook County have brought all of these communities, but particularly Will and DuPage Counties, within the appropriate demographic range of communities that may be used as valid comparisons here.

The many external comparables together provide a useful broad understanding of the compensation and benefit packages available to deputy sheriffs in metropolitan areas across the country, while the wage and benefit data relating to the Cook County Sheriff's Police and Correctional Officers present more particularized and detailed comparisons.

What follows is an analysis of each of these disputed issues in turn, in light of the applicable statutory factors, the evidence, and the parties' arguments in support of their

respective proposals. It must be noted that all of the remaining issues in dispute are economic in nature. Accordingly, pursuant to Section 14(g) of the Act, this Arbitration Panel is bound to select the position of one or the other party as the appropriate language to include within the parties' new collective bargaining agreement.

## 1. Wages

The Union's final offer with respect to wages is as follows:

Effective December 1, 2000:	5 1/2% across-the-board increase
Effective December 1, 2001:	5 1/2% across-the-board increase
Effective December 1, 2002:	5 1/2% across-the-board increase

The Joint Employers' final offer on this issue is as follows:

Effective December 1, 2000:	3.0% general wage increase
Effective November 30, 2001:	1.0% specialty equity adjustment
Effective December 1, 2001:	3.0% general wage increase

"Me-too" Clause -- if the total wage increase(s) negotiated for the Cook County Correctional Officers' bargaining unit or the Sheriffs' Police Officers' bargaining unit exceeds 3% for Fiscal Year 2002 (12/1/01 - 11/30/02), the Deputy Sheriffs shall also receive the benefit of any higher increase or increases at such time that they are implemented. This would include both general increases and any equity adjustments those units might receive.

Effective December 1, 2002: Wage Reopener

All wages increases will be effective the first full pay period after the date indicated.

As evidenced by the parties' bargaining history and the prior interest arbitration awards, the issue of wages consistently has presented difficulties. As has been the case in prior negotiations between these two parties, wages apparently are the main obstacle to

the completion of the parties' new contract.

The arguments presented by both parties correctly focus on the use of internal and external comparative wage data. As emphasized in all of the prior interest arbitration awards between these parties dealing with wages, the critical means of analyzing competing wage proposals lies in the external comparison of the Deputy Sheriffs with sworn employees in other major metropolitan areas who perform similar duties, as well as the internal comparison of the Deputy Sheriffs with the Cook County Sheriff's Police and the Correctional Officers.

The external comparative data that both of the parties presented is particularly useful, as previously mentioned, in understanding the range of compensation packages available to employees performing similar duties across the country. There is no absolute agreement regarding precisely how to analyze these numbers, with the parties arguing over whether different external employee groups actually perform duties similar to those assigned to the Sheriff's Deputies, and debating what total wages actually are paid to the comparable external groups.

A review of the Union's external comparison data establishes that the Deputy Sheriffs currently are near the bottom of the range of wages paid to similar court services and civil process employees in the major metropolitan counties cited as external comparables. This is in sharp contrast to the position of the Cook County Sheriff's Police Officers relative to their counterparts in these same communities; the Sheriff's Police

Officers are at or near the top of the wage range. This same disparity is revealed in the comparison between Cook County and the Collar Counties; the Deputy Sheriffs are near the bottom of the wage range, while the Sheriff's Police are at the top.

The list of external comparables cited in this proceeding contains most of the very same communities that the parties have cited in prior interest arbitration proceedings. In fact, a review of the external comparative wage data incorporated in Arbitrator Berman's 1997 Award, in which the Deputy Sheriffs' rank nineteenth of twenty-two in starting salary and seventeenth of twenty-two in maximum salary, demonstrates that little has changed. The Union's current external comparative wage data shows that the Deputy Sheriffs' starting salary ranks seventeenth of twenty-four, while the Deputy Sheriffs' ending salary ranks thirteenth out of twenty-four. The Deputy Sheriffs' starting and ending salaries currently rank fourth among five in a comparison with the Collar Counties, apparently the same rank as cited in Arbitrator Berman's Award.

According to the external comparable data cited by the Joint Employers, and presented according to slightly different criteria than used by the Union, the Deputy Sheriffs' wages rank more near the middle of the pack. It must be noted that in making its comparisons, the Joint Employers included within the Cook County salary figures the overall 4% wage increase that it currently proposes for Fiscal Year 2001. Yet, even with the benefit of that proposed 4% increase, the Deputy Sheriffs' overall wages do not favorably compare with those earned by employees performing similar duties in other

major urban counties.

The marked difference in the respective rankings of the Deputy Sheriffs and the Sheriff's Police as to the Union's external comparables also serves to highlight the disparity that appears in connection with the internal comparative data. In the prior interest arbitration proceedings between these parties, the arbitration panels repeatedly have noted that the Deputy Sheriffs' wages lagged behind the wages paid to both the Sheriff's Police and the Correctional Officers. The current internal comparative data reveals that despite repeated efforts to have the Deputy Sheriffs' wages "catch up" to the wages paid these other units, the gap has been narrowed only slightly. Much of the narrowing that has occurred, moreover, is attributable to the creation of the "D2B" wage classification that applies only to the Deputy Sheriffs working in the Sheriff's Civil Division, or "Street Unit." The higher wage rate paid to the D2B classification does not apply to the vast majority of Deputy Sheriffs, who work in the Courtroom Services Division and receive the lower wages associated with the D2 classification.

The question then is whether there has been sufficient narrowing of the wage gap between the Deputy Sheriffs and the other two units within the Sheriff's Office pursuant to the prior interest arbitration awards. The Joint Employers' proposal on the wage issue is, indeed, in line with its argument that the wage gap has been sufficiently narrowed. The Union maintains that the gap must be narrowed still further.

The wage data relating to Deputy Sheriffs, Corrections Officers, and Sheriff's

Police shows that although there has been some slight narrowing of the wage gap, the Deputy Sheriffs' salaries continue to lag behind that of the other two employee groups. The gap is particularly striking for those Deputies in the D2, as opposed to D2B, classification. As noted in prior Interest Arbitration Awards between these two parties, a narrow focus on percentage increase applicable to each employee group does not give a complete picture of the relationship between the different wage structures. It also is necessary to consider the "dollar-to-dollar" increase in each group's wages. The reason for this is obvious. If all three groups receive the same percentage increase, the group with the lowest starting salary actually receives a smaller total dollar increase than do the other two groups.

Consistent with its historical use of "pattern bargaining" with its many different unions, the Joint Employers' wage proposal essentially looks to tie any wage increase for the Deputy Sheriffs, on a percentage basis, to whatever percentage wage increases are awarded to the Sheriff's Police and to the Correctional Officers. Such an approach will not serve to further narrow the wage gap, but the Joint Employers maintain that further narrowing is not justified. Citing such differences as training, job-related risk, and job-related stress, the Joint Employers argue that the higher wages paid to the other two employee groups are appropriate because these other employees occupy higher-risk, higher-stress jobs.

The Panel finds that the Joint Employers' arguments unjustifiably minimize the

responsibilities and risks faced by the Deputy Sheriffs in the performance of their duties. Providing courtroom security in Cook County is no easy task. Maintaining safety and control in any civil or criminal courtroom encompasses the need to confront a wide variety of volatile problems, issues, and personalities. A real possibility of danger and harm are present. For those Deputy Sheriffs who provide services other than in the courtroom, including those Deputies in the D2B classification, the potential dangers are even more apparent to the civilian observer. Although the different duties assigned to Sheriff's Police and Correctional Officers may justify some disparity in wages compared to those of the Deputy Sheriffs, the existing wage gap still is too large and cannot be justified by the proven differences in training, duties, job-related risk, or job-related stress. Although the Joint Employers are correct in asserting the wage gap should not necessarily be eliminated, this Panel finds that, based on the evidence before us, the wage gap nevertheless must be closed still more.

The credible evidence in the record demonstrates that the Union's wage proposal will serve to close the wage gap a little further, while the Joint Employers' wage proposal will operate to essentially maintain the current gap. This Panel finds that the external and internal wage comparison data supports a finding that the Union's wage proposal is the more reasonable and appropriate of the two, and therefore should be adopted.

As for the other applicable statutory factors, these do not point to a different result. The parties paid little or no attention to the County's ability to pay, so this statutory factor

apparently does not mitigate for or against either of the two wage proposals. The public's interest and welfare would be served to some degree, it is true, by carefully controlling costs, but there also is a benefit to the public that is gained by attracting and retaining quality employees through the offering of competitive compensation. The impact of the consumer price index, which usually is a critical factor in this type of wage dispute, is minimized here because of the necessary focus on the wage gap illustrated by the comparable wage data. The overall compensation received by the Deputy Sheriffs is more or less in line with the Sheriff's Police and the Correctional Officers, so this factor does not undercut the importance of further reducing the existing wage gap.

In light of all of these considerations, this Panel orders that the Union's final proposal on this issue therefore is adopted, and it is set forth in the Appendix attached hereto.

## **2. Uniform Allowance**

The Union's final offer with respect to the issue of the uniform allowance is that effective December 1, 2002, the uniform allowance shall increase to \$700.00 per year.

The Joint Employers' final offer on this issue is to maintain the status quo.

As is clear from the parties' arguments on this issue, the Union's proposed increase in the uniform allowance, to take effect in the final year of the new contract, primarily is based on typical increases in the uniform allowance that have been included in prior contracts. Essentially, because the uniform allowance has increased by about \$50.00 per

year in each of the parties' prior contracts, the Union proposes another \$50.00 increase for the final year of the new contract.

Because the parties' prior contracts were settled through interest arbitration proceedings that were completed after the Joint Employers had settled on contracts with their other units, the increases to the uniform allowance in these earlier contracts essentially kept pace with uniform allowances that already had been included in the contracts for the Sheriff's Police and for the Correctional Officers. This is not the situation presented here in that new contracts for the other two units have not yet been finally negotiated. The Employer contends that the Union's proposed increase to the uniform allowance therefore is based upon speculation that the other bargaining units may obtain an increase in this allowance to \$700.00 by the third year of the Deputy Sheriffs' new contract. The Union acknowledges that it is assuming leadership on this issue, highlighting the very strong likelihood that an increase in the uniform allowance to \$700.00 here inevitably will be followed by a similar increase in the other units' contracts, regardless of the relevant circumstances.

Current economic evidence does not support an increase of more than seven and one-half percent in the uniform allowance. Low inflation levels strongly argue against incorporating such an increase to take effect in December 2002. The Union's arguments in favor of an increase therefore are principally based on speculation relating to what may happen during the Joint Employers' negotiations with the other bargaining units, and

speculation is not a valid basis for adopting such an increase. This Panel orders that the Joint Employers' final proposal on this issue shall be adopted, and, accordingly, no new provision shall be added to the parties' collective bargaining agreement relating to the uniform allowance.

### **3. Hospitalization Insurance**

The Union's final offer on the issue of hospitalization insurance is as follows:

The County agrees to maintain the level of employee and dependent benefits and employee contributions toward premium, in effect for County employees on December 1, 2001, during the term of this agreement. The parties recognize the need for flexibility on the part of the County in dealing with issues of hospitalization benefits and accordingly agree that the County may make changes to its current policy with respect to such matter as carriers and cost containment measures provided that such changes do not effectively and substantially reduce the current levels of benefits or increase the current levels of employee contributions to premium.

The Joint Employers' final offer regarding the issue of hospitalization insurance is to add a reopener effective December 1, 2002.

The dispute on this issue centers on whether the parties' new contract will include a reopener. The Union maintains that a one-year lag for increases in the Deputy Sheriffs' contribution rates, if other County employees are required to pay more toward hospitalization effective December 1, 2002, is justifiable in light of the continuing need for catch-up as to wages. The Joint Employers' arguments in favor of the reopener center upon the uncertainty surrounding increases in the cost of health insurance, particularly in light of the fact that the County's contracts with its major employee health insurance

providers expire during the course of this year.

There can be no serious argument about the reality of the spiraling cost of health care and health insurance. The anticipated increases in health insurance costs over the next year or more are not the product of mere idle speculation, but are based on solid economic information relating to the current state of medical care and its costs, as well as documented trends across the industry as a whole. Accordingly, likely changes in the hospitalization provisions in other County labor agreements are an important consideration in conjunction with this issue, while similar arguments properly were discounted in the previous discussion on the uniform allowance issue because of the absence of supporting economic evidence.

The proposed addition of a reopener to the hospitalization provision in the final year of the parties' contract makes sense because it will allow the parties to address the virtually certain changes that will occur in the County's agreements with its health insurance providers, as well as in the hospitalization provisions of other County labor agreements that will be negotiated and settled within the term of the contract at issue here. The importance of having some measure of administrative uniformity in connection with the many health care packages that apply to different County employees adds weight to the arguments in favor of a reopener.

Accordingly, this Panel orders that the Joint Employers' final proposal on this issue shall be adopted, and it is set forth in the Appendix attached hereto.

#### 4. Holidays

The Union's final offer with respect to the issue of holidays is to maintain the status quo.

The Joint Employers' final offer on the matter of holidays is to add the following language:

Section 1(D) - Employees who work on any one off the six (6) major holidays, i.e., New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day shall receive time and one-half (1 1/2) for all hours worked, plus an additional day off with pay.

Employees who work on any of the six (6) minor holidays shall receive straight-time pay for all hours worked plus an additional day off with pay.

The Joint Employers further propose adding the following language to Section 2 -

Eligibility:

Employees needed to work on a holiday will be obtained by volunteers among employees whose regular work schedule coincides with the holiday or, if insufficient numbers volunteer, by reverse departmental seniority within the facility in question. Holiday compensation will not be credited to a sworn member scheduled to work on a holiday if the member is on the medical roll (except IOD) or absent due to sickness.

This holiday pay issue presents a number of complexities that involve both prior arbitration awards and considerations based upon internal comparisons. Under an Award by Arbitrator Goldstein, holidays are included in the computation of "hours of work" for purposes of the overtime compensation threshold. The result is that Deputies who work all of their regular, scheduled shifts during a two-week pay period in which a designated holiday falls, including a shift on the holiday, are credited with at least eighty-eight hours

of work during the pay period.

After the Joint Employers addressed this situation by unilaterally implementing a policy which substituted compensatory time off for Deputies who worked a holiday, Arbitrator Cox issued a decision finding that this policy violated the parties' contract. The Joint Employers' current proposal on the issue of holiday pay is similar to the policy that Arbitrator Cox rejected. The Joint Employers' primary argument in favor of its proposal is maintaining the consistency among the different bargaining units in the treatment of holiday scheduling and compensation. The Joint Employers also point to the practical problems associated with holiday staffing under the current system, urging that its proposal addresses these problems.

The Union maintains that differences between the work schedules of the Deputies and the work schedules of the Sheriff's Police and Correctional Officers have an impact on both the overtime opportunities available to the officers and the Employers' overtime exposure. The Union further argues that the Joint Employers' proposal would result in a decreased overall compensation for the Deputies in both real terms and in relation to the comparables, meaning that the Joint Employers' proposal would not remedy the problem of getting Deputies to report for holiday work.

This Panel finds that the evidentiary record supports the Joint Employers' contention that there are problems associated with holiday scheduling and pay under Arbitrator Cox' Award. Among other things, the Cox Award requires that holiday details

of Deputy Sheriffs be assembled pursuant to the contract's overtime provisions, which is a different system than is used with any of the County's other law enforcement units. This unique approach to holiday scheduling is further flawed in that there is no means for assuring that holiday security details are familiar with the facilities and operations they are assigned to staff. The evidentiary record additionally documents the very real problem of getting Deputy Sheriffs to report for assigned holiday work; a large number of Deputies assigned to work on the most recent Christmas holiday called in sick and did not report.

These and other administrative and operational needs strongly support the adoption of contractual holiday scheduling and pay provisions that are more in line with what applies to the other bargaining units. The need for more contractual consistency across the three departments of the Sheriff's Office is an argument that each party has advanced whenever it has supported one of its proposals. To a lesser extent, increased contractual consistency across all of the County's many bargaining units, where possible, also has been advanced as an important goal. We find that in connection with holiday pay and scheduling, such consistency is, indeed, a meaningful consideration.

The Joint Employers' proposal attempts to resolve the existing problems associated with holiday scheduling and pay. The proposed addition to Section 1, for example, guarantees overtime pay for employees who work on any of the designated "major" holidays, a guarantee that does not currently exist under the terms of the Cox Award,

which provides for overtime compensation only if a Deputy Sheriff who works on a holiday is credited with more than eighty hours of work during the relevant two-week pay period. This guarantee of overtime compensation for work on a major holiday balances any reduction in compensation for work on one of the minor holidays that might occur under the Joint Employers' proposal, although it is not certain that any such reduction necessarily will occur. Overall, the Panel finds that the evidentiary record does not support the Union's claim that the Joint Employers' proposal would result in decreased overall holiday compensation for the Deputy Sheriffs.

The scheduling provisions contained in the Joint Employers' proposed addition to Section 2 addresses the scheduling problems and inconsistencies that are associated with the use of the overtime provisions to assemble holiday work details. The proposed addition to Section 2 provides for the assembly of holiday details in a manner consistent with what applies to the other units in the Sheriff's Office, while the final sentence directly confronts the issue of getting Deputy Sheriffs to report for holiday work. The Joint Employers' proposal on the issue of holidays does promise needed improvements without significant reductions in the Deputy Sheriffs' holiday benefits.

Consequently, we find that the Joint Employers' proposal does not represent the type of significant alteration that may be characterized as a "breakthrough." Instead, the Panel finds that the Joint Employers' proposal makes the holiday scheduling and pay system that applies to the Deputy Sheriffs more consistent with that which applies to the

other units in the Sheriff's Office, while attempting to resolve documented scheduling and staffing problems that have occurred under the current system. This Panel finds that the evidentiary record provides a sound and reasonable basis for adopting the language proposed by the Joint Employers, and the Joint Employers' proposal represents the most equitable solution to the disputed holiday issue.

The Joint Employers' final proposal on this issue is therefore adopted. However, pursuant to its authority under Section 14 of the Labor Act and the Submission Agreement, and for purposes of clarification, the Panel will modify the proposal in accordance with the discussion herein. The final language is set forth in the Appendix attached hereto.

## **5. Body Armor**

The Union's final offer on the issue of body armor is as follows:

In the event the Employer requires any employee to wear body armor, the Employer shall provide such body armor at no cost to the employee.

The Joint Employer's final offer on this issue is a side letter that states as follows:

The Employer shall continue to provide initial bulletproof vests to all Street Unit employees, based on the availability of funds. These employees will be required to wear vests at all time while on the street.

The evidentiary record on this issue establishes that the Deputy Sheriffs working on the Street Unit first received bulletproof vests in 1995, and this initial issue of the body armor was at no cost to the employees; instead, a federal matching funds program, which no longer is available, applied to the initial purchase of these vests. During 2000,

replacement vests were provided to these employees, again at no cost to them, so that the Street Unit Deputy Sheriffs had vests that were under manufacturer's warranty. At the time the replacement vests were issued, a written memorandum also was released that informed the Deputies that any future replacements would be at the Deputies' expense. The Street Unit Deputies apparently are required to wear protective body armor while in the field, while no such requirement applies to the Sheriff's Police.

In support of its proposal on this issue, the Union asserts that these incidents amount to a past practice that its proposal memorializes. However, this Panel finds that under the particular circumstances established by the record, the initial issuance of vests and the one instance of their replacement by the Employer does not constitute a past practice. Special funding circumstances existed at the time of the initial issue that allowed for the provision of vests at no cost to the Street Unit Deputies; because the federal funding that made this possible does not currently exist, the initial issuance of vests at no cost to the Deputies cannot properly serve as evidence of past practice now. As for the 2000 replacement of the vests at no cost to the employees, the evidentiary record demonstrates that the County never promised free replacement of the vests, but instead specifically informed the Street Unit Deputies that any future replacements would be at their expense.

Under these circumstances, it is evident that there never has been a mutual understanding that future replacements would be at no cost to the employees. The 2000

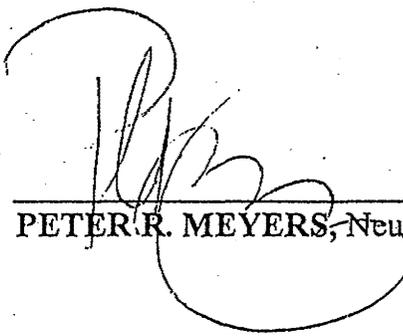
replacement openly was treated as a unique event that would not be repeated. There is no evidentiary basis for finding that any practice exists between the parties on the issue of the replacement of body armor.

It is significant that there are no contractual provisions relating to any other County law enforcement units that entitle employees to bullet-proof vests, whether as an initial issue or as a replacement, at no cost to the employee. By providing for the initial issuance of vests to those employees required to wear them at no cost to the employees, so long as funds are available to cover the County's costs in procuring the vests, the Joint Employers' proposal accurately reflects what has occurred in the past in connection with the issuance of body armor and provides a basis for the employees to anticipate similar treatment of this issue in the future. Consequently, we find that the Joint Employers' final proposal on this issue therefore is adopted, and it is set forth in the Appendix attached hereto.

### **Conclusion**

After a full consideration of the arguments of the parties and the evidence presented by both side, this Arbitration Panel has determined that the language set forth in the Appendix hereto shall be incorporated into the parties' collective bargaining agreement, which shall remain in effect for three years from the effective date of that

agreement.

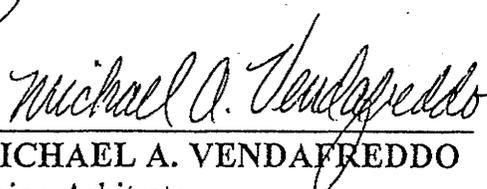


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PETER R. MEYERS, Neutral Arbitrator

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JOHN G. KALCHBRENNER  
Joint Employers' Arbitrator



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MICHAEL A. VENDA FREDDO  
Union Arbitrator

DATED: \_\_\_\_\_

DATED: November 16, 2001

## APPENDIX

(To Interest Arbitration and Award)

As set forth in the Decision and Award dated October \_\_\_\_\_, 2001, in the Matter of the Interest Arbitration between the Teamsters Local Union No. 714 and County of Cook/Sheriff of Cook County, this Appendix to said Decision and Award sets forth the provisions that shall be incorporated into the collective bargaining agreement between the parties, which shall be effective from December 1, 2000, through November 30, 2003.

### **ARTICLE \_\_\_\_ - WAGES**

Effective December 1, 2000:	5 1/2% across-the-board increase
Effective December 1, 2001:	5 1/2% across-the-board increase
Effective December 1, 2002:	5 1/2% across-the-board increase

### **ARTICLE \_\_\_\_ - HOSPITALIZATION INSURANCE**

Reopener effective December 1, 2002

### **ARTICLE \_\_\_\_ - HOLIDAYS**

**Section 1(D)** - Employees who work on any one off the six (6) major holidays, i.e., New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day shall receive time and one-half (1 1/2) for all hours worked, plus an additional day off with pay.

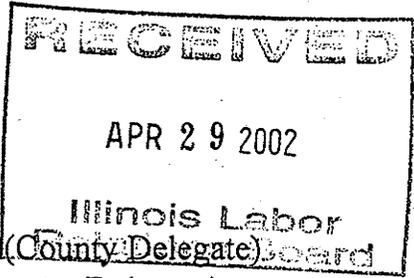
Employees who work on any of the six (6) minor holidays shall receive straight-time pay for all hours worked plus an additional day off with pay.

#### **Added to Section 2 - Eligibility:**

Employees needed to work on a holiday will be obtained from among employees assigned to work within the facility/unit/shift in question whose regular work schedule coincides with the holiday, first by volunteers selected on the basis of departmental seniority and then, if insufficient numbers volunteer, by mandatory assignment in reverse order of departmental seniority. Holiday compensation will not be credited to a sworn member scheduled to work on a holiday if the member is on the medical roll (except IOD) or absent due to sickness.

### **SIDE LETTER - BODY ARMOR**

The Employer shall continue to provide initial bulletproof vests to all Street Unit employees, based on the availability of funds. These employees will be required to wear vests at all time while on the street.



Before  
**PETER R. MEYERS**  
Neutral Arbitrator

**JOHN G. KALCHBRENNER**, Joint Employers' Arbitrator (County Delegate)  
**MICHAEL A. VENDAFREDDO**, Union Arbitrator (Teamster Delegate)

In the Matter of the Interest Arbitration  
between:  
**INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL UNION NO. 714,**  
Union,  
and  
**THE COUNTY OF COOK and SHERIFF  
OF COOK COUNTY,**  
Employer.

Interest Arbitration

Case No. L-MA-01-001

**SUPPLEMENTAL DECISION**

**Appearances on behalf of the Union**

- |                                     |                                 |
|-------------------------------------|---------------------------------|
| Robert Costello--Attorney           | Robert Peluso--Local 714 Member |
| Don R. Jeffries--Local 714 Member   | Matt Manion--Local 714 Member   |
| Judith Dulfer--Local 714 Member     | John Condon--Local 714 Member   |
| Pete Kennedy--Local 714 Member      | Albert Pence--Local 714 Member  |
| Julia Johnson--Local 714 Member     | Ted Chatmon--Local 714 Member   |
| Anthony O'Donnell--Local 714 Member | Steve Abrams--Local 714 Member  |
| Terral Andrews--Local 714 Member    | Arthur Wright--Local 714 Member |
| Joseph Taliaferro--Local 714 Member | Mark Moder--Local 714 Member    |
| Tonia Young--Local 714 Member       | Benjamin Ware--Local 714 Member |
| Richard Shore--Local 714 Member     |                                 |

**Appearances on behalf of the Employer**

- Joseph E. Tilson--Attorney
- J. Stuart Garbutt--Attorney
- Jennifer M. Mc Mahon--Attorney
- Joseph Murphy--Assistant State's Attorney
- Charles E. Anderson--Attorney
- Richard S. Sperling--Hay Group, Expert Witness

This matter came to be heard before Arbitrator Peter R. Meyers on the 8<sup>th</sup> day of January 2002 at the offices of Meckler, Bulger & Tilson, 123 North Wacker Drive, Chicago, Illinois. Mr. Robert Costello presented on behalf of the Union, and Mr. Joseph E. Tilson and Mr. J. Stuart Garbutt presented on behalf of the Employer.

## **Introduction**

This is a supplementary proceeding in the interest arbitration between the International Brotherhood of Teamsters, Local Union Number 714 (hereinafter “the Union”), representing Cook County Deputy Sheriffs, and the County of Cook and the Sheriff of Cook County (hereinafter collectively “the Joint Employers”). The parties’ most recent collective bargaining agreement had an effective term from December 1, 1997, through November 30, 2000. Pursuant to Section 14 of the Illinois Public Labor Relations Act (hereinafter “the Act”), the parties submitted five unresolved issues in a hearing before this tripartite Arbitration Panel, with Peter R. Meyers as the neutral chair, on June 5, 2001. The parties thereafter submitted written, post-hearing briefs, and this Panel issued its Decision and Award in mid-November 2001. In December 2001, the Cook County Board of Commissioners rejected the Decision and Award, and this matter again was presented to this tripartite Arbitration Panel for supplementary hearing on January 8, 2002. The parties submitted written briefs in the wake of this supplementary hearing.

## **Relevant Statutory Provisions**

### **ILLINOIS PUBLIC LABOR RELATIONS ACT 5 ILCS 315/1 et seq.**

**Section 14(h)** Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the

following factors, as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparisons 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:
  - (A) In public employment in comparable communities.
  - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) 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.

...

**Section 14(n)** If the governing body affirmatively rejects one or more terms of the arbitration panel's decision, it must provide reasons for such rejection with respect to each term so rejected, within 20 days of such rejection and the parties

shall return to the arbitration panel for further proceedings and the issuance of a supplemental decision with respect to the rejected terms.

**Section 14(o)** If the governing body of the employer votes to reject the panel's decision, the parties shall return to the panel within 30 days from the issuance of the reasons for rejection for further proceedings and issuance of a supplemental decision. All reasonable costs of such supplemental proceedings including the exclusive representative's reasonable attorney's fees, as established by the Board, shall be paid by the employer.

### **Impasse Issues in Dispute**

In connection with the original hearing in this matter, the parties submitted a total of five issues that remained in dispute between them for resolution by the Arbitration Panel. These issues were:

1. Wages
2. Uniform Allowance
3. Hospitalization Insurance
4. Holidays
5. Body Armor

Only the issue of wages remains in dispute in this supplementary proceeding. The Cook County Board's rejection of the earlier Decision and Award apparently does not extend to the other four issues resolved therein, and as to which the Arbitration Panel adopted the Joint Employers' proposals.

## Discussion and Decision

### Procedural Issues Raised by the Union

Before there can be any discussion and analysis of the parties' respective positions on the substantive merits of their continuing dispute over wages, this Arbitration Panel first must consider the Union's objections to what it characterizes as the Joint Employers' offer of new testimonial evidence and new proposals on wages. During the supplementary hearing, the Joint Employers did offer the testimony of Richard Sperling as an expert witness on the subject of compensation. Sperling discussed his own treatment and interpretation of the wage data that previously had been entered into evidence during the course of the original hearing before the Arbitration Panel. It is important to note that the Joint Employers did not introduce any new wage data into evidence during the supplementary hearing; the only "new evidence" was Sperling's explanation of his approach to the data that was already part of the record.

We find that the fact that Sperling's expert testimony essentially was confined to offering his own interpretation of the wage data that already was in the record, this expert testimony actually was more in the nature of argument than evidence. Neither party has argued or cited any source that suggests a prohibition on the presentation of new arguments developed by an expert witness based on previously admitted evidence during a supplementary hearing under the Act. Indeed, if such a prohibition existed, there would not be much point in allowing for supplementary hearings. We find that the Joint

Employers used Sperling's expert testimony as an additional means of voicing its argument that this Panel did not properly analyze the wage data entered into the record during the original hearing. Because this testimony was primarily argument, rather than true evidence, this Board need not resolve the parties' dilemma over whether new evidence may be introduced during a supplementary hearing.

It must be noted, nevertheless, that the Act does not establish any procedural rules to govern such matters as the introduction of evidence during supplementary hearings in interest arbitration proceedings, nor have the parties themselves developed any sort of procedural framework that might apply to this type of hearing. Similarly, there appear to be no decisions from the Illinois Labor Relations Board or the Illinois courts that address the question of the proper procedure in supplementary hearings. Although both sides have cited previous arbitral opinions in support of their differing positions regarding whether new evidence properly may be introduced during a supplementary hearing, neither side has established the existence of a firm rule on this particular issue.

In short, we find that nothing in the record or the governing statutory provisions appears to absolutely preclude the Joint Employers from presenting Sperling's expert testimony, which was based entirely on wage data that already was a part of the evidentiary record, during the supplementary hearing before this Arbitration Panel. Accordingly, we find that this testimony must be deemed a proper part of the total record before this Panel. That portion of the Union's objections relating to the Joint Employers'

presentation of Sperling's expert testimony during this hearing therefore is hereby denied.

The other aspect of the Union's procedural objections relates to the Joint Employers' assertion, which it did not mention at any point in this proceeding until after the Cook County Board rejected this Panel's original Decision and Award, that this Panel could have, and should have, separated the parties' final wage proposals on a year-by-year basis. The Union argues that by advancing this claim for the first time in connection with the supplementary hearing, the Joint Employers actually are making an untimely, and therefore inappropriate, new proposal on the issue of wages. The Union points out that the Act specifies, moreover, that in connection with economic proposals, including those on the issue of wages, an interest arbitrator is bound to select the final proposal offered by one or the other of the parties, and cannot fashion any sort of compromise resolution.

The Joint Employers do not characterize their assertion about splitting up the parties' competing wage proposals as a new final offer on the issue of wages. Instead, the Joint Employers treat this assertion as one reason for the County Board's rejection of this Panel's original Decision and Award: splitting up the wage proposals on a year-by-year basis, according to the Joint Employers, is an option that was available to the Panel, and the Panel should have utilized this option in resolving the disputed wage issue. This Panel agrees with the Joint Employers that in making this claim, they are not necessarily

offering a new final offer on wages. Instead, the County Board's stated reasons for rejecting the original Decision and Award includes the specification that the Panel improperly assumed that the parties' final wage offers were three-year "packages," and were to be accepted or rejected as such. We find that this assertion is not a new final offer on wages, but instead must be understood as one of the Joint Employers' arguments in favor of a revised award on this issue. Accordingly, this particular assertion shall be analyzed in connection with this Panel's substantive consideration of the County Board's fifth stated reason for rejecting the original Decision and Award.

### **The Substantive Issues**

Turning to the substance of this supplementary proceeding, the main focus of this Panel's inquiry must be the stated reasons for the County Board's rejection of the Panel's resolution of the disputed wage issue. These reasons are as follows:

1. The Award concludes that the bargaining unit of Deputy Sheriffs should receive larger percentage wage increases than any other unit of the Joint Employers' law enforcement employees, even though there is a well-established pattern of the Joint Employers' law enforcement employees receiving roughly the same percentage increases each year. The Award justifies the larger percentage increases for this unit on a need to bring the unit's wages closer to those of the Joint Employers' other law enforcement employees who traditionally have been paid more. However, the evidence establishes that the Deputies are *already* paid in proper relation to the Joint Employers' other law enforcement employees.

2. The Award fails to give due consideration to the collectively bargained creation of a new and higher paid classification for the Deputies who perform "street unit" functions. The creation of that higher grade eliminated the primary basis on which other interest arbitrators concluded that the Deputies' wages should be increased (i.e., because *some* of them -- the "street unit" personnel --

perform police-like functions more comparable to those of some of their Cook County law enforcement colleagues). Thus, considerations of "internal" comparability do not warrant continuing to give the Deputies larger increases throughout the term of this new agreement.

3. The Award mistakenly reasons that the demonstrably larger percentage wage increases that the Deputies have received during the past several years have not brought the Deputies meaningfully closer in compensation to their higher-paid law enforcement colleagues. Instead, the Award suggests, insufficient "catch up" has been accomplished because, on a "dollar-for-dollar" basis, the Deputies' increases have not been much larger than the other employees'. The larger percentage increases that the Deputies have received necessarily *have* decreased, substantially, the percentage by which their wages trail those of their colleagues, thus bringing the Deputies significantly closer in pay relative to the others. In fact, the Deputies' wages went from about 76 percent to more than 87 percent of the wages of Cook County Correctional Officers during the time the Deputies have been receiving the larger percentage increases. At the same time, the Deputies' wages went from 64 percent to nearly 75 percent of the wages of the Sheriff's Police. The apparent focus on narrowing the absolute dollar difference in pay between the Deputies and the internal comparables is inappropriate and will lead to irrational results.

4. The Award also fails to accord sufficient weight to the evidence reflecting that the Deputies no longer lag behind the majority of "externally" comparable employees. That the Sheriff's Police may be paid nearer the top of their external comparables does not mean that the Deputies' wages should also be paid closer to the top of their external comparables.

5. Finally, the Award assumes that the parties' final wage offers were three-year "package" offers that had to be accepted or rejected in toto, rather than analyzed on a year-by-year basis. The parties did not tender their wage offers to the Arbitrator on a "package" basis, and thus did not preclude the Arbitrator from selecting the most reasonable offer for each year of the agreement individually. By failing to treat the wage offers as severable on a year-by-year basis, the Award does not address whether, even if the Deputies are deemed to merit further "catch up" increases in the first year of the new agreement, such larger increases are *not* due in the later years.

### Standard of Review

For clarity's sake, each of these stated reasons for the County Board's rejection of this Panel's earlier Decision and Award must be considered in turn. Unfortunately, though, the question of what standard of review is appropriate appears to be no closer to settled than do the previously discussed questions of whether new evidence and new final proposals may be introduced at a supplementary hearing. In the absence of a settled standard, it is necessary to consider the standards used by other arbitration panels during supplementary proceedings, particularly those involving the same two parties.

In his June 1996 Supplemental Opinion and Award involving these two parties, Arbitrator Goldstein described how both parties pointed to Arbitrator Sinicropi's statement, in *Peoria County and AFSCME, Council 31*, Case No. S-MA-86-10 (1986, Sinicropi), that an employer "must show significant error in the initial decision before asking for changes," and that "an employer who seeks to overturn an initial award must come forward with 'significant reasons' showing that the award was either procured as a result of some manifest error, the award, if implemented, will cause extreme hardship." *In re Teamsters Local Union No. 714 and County of Cook and Sheriff of Cook County*, at 15, 18 (1996, Goldstein) (*citing Peoria County*). Arbitrator Goldstein apparently followed Arbitrator Sinicropi's reasoning when holding that the Employer had the burden of showing that the rejected provisions of his earlier Award were the product of manifest error and/or that compliance with such provisions will result in extraordinary

hardship.

Contrary to the Joint Employers' assertion that Arbitrator Goldstein devoted only one sentence to the question of what standard applied to a supplemental hearing, after devoting several pages to resolving whether new final offers were admissible, Arbitrator Goldstein explained his adoption of this standard in conjunction with his lengthy discussion of whether new final offers were admissible. Goldstein correctly conceptualized these two issues as being closely related and requiring resolutions that were consistent with one another. These two issues must be dealt with in a consistent fashion because the standard of review and proof that applies to a supplemental hearing will determine whether new final offers are admissible.

We find that the rationale that Arbitrator Goldstein sets forth is well-reasoned and convincing. A cohesive understanding of Section 14 of the Act suggests that its general provisions governing interest awards must be construed to offer recourse to employers, via a supplementary hearing, where necessary to protect them from arbitral excess or error. Section 14(n) therefore must be understood as a means of addressing "substantial error" by arbitrators or awards that might cause extreme hardship for the public. As Arbitrator Goldstein put it, Section 14(n) is not intended to provide employers with the ability to reject awards "simply to seek a better deal in a new hearing." *In re Teamsters*, *supra*, at 28.

The Joint Employers have emphasized Arbitrator Malin's decision, in *Illinois*

*Fraternal Order of Police Labor Council and Village of Fox Lake* (Malin 1999), that rejects the *Peoria County* approach favored by Arbitrator Goldstein in *In re Teamsters*, *supra*, in favor of a focus on the employer's stated reasons for rejection of an arbitrator's award. As the Joint Employers acknowledge, however, Arbitrator Malin did not settle on a standard for reviewing the original award. In light of this, we find that the *Fox Lake* decision does not actually contradict the *Peoria County* approach, but instead finds that it is not necessary to address the question of a proper standard of review under the circumstances of the particular case.

In this Panel's view, the *Peoria County* emphasis upon substantial arbitral error and extreme hardship must be based upon a careful consideration of the stated reasons for rejection of an arbitral award; the manner in which *Fox Lake* and *Peoria County* each handle the problem of an employer's rejection of an arbitral award actually are two parts of the same complex analysis. Under the Act, an employer must articulate its reasons for rejecting an interest arbitration award and seeking a supplementary hearing. Under an appropriate standard of review, such as the one articulated in *Peoria County*, the employer's stated reasons then must satisfactorily establish a basis for revising the original award. It is not enough, as the Joint Employers appear to suggest, that the reasons for rejection are simply "well taken." We agree that an employer's reasons for rejecting an interest arbitration award must establish some substantial error or other similarly significant reason, such as extreme hardship upon the public, in order to justify

the making of one or more major revisions to an interest arbitration award.

Applying this standard to the instant matter, we hold that the Employer is charged with demonstrating that this Panel's resolution of the disputed wage issue in its original Decision and Award is an instance of substantial arbitral error or might cause extreme hardship to the general public of Cook County, Illinois. Of the five stated reasons for the Cook County Board's rejection of the wage portion of the earlier Decision and Award, none of them suggest this Panel's resolution of the parties' wage dispute would work any hardship upon the general public. Instead, the Joint Employers appear to be asserting that this Panel made one or more substantial errors. Whether or not the Joint Employers have established that such an error or errors actually appear in the original Decision and Award therefore shall be the focus of the remaining portion of this discussion.

#### **The Employer's Reasons Rejection**

- The first of the stated reasons for the Cook County Board's rejection of the Panel's resolution of the disputed wage issue -- referring to a "well-established pattern" of the different categories of law enforcement employees receiving roughly the same annual percentage increases and asserting that the evidence shows that the Deputies already are paid in proper relation to the Joint Employers' other law enforcement employees -- quite simply mischaracterizes and misapplies the credible evidence in the record. First, contrary to the Joint Employers' premise, there is no "well-

established pattern” of the different law enforcement employees receiving roughly the same annual percentage increases. It is true that the Joint Employers want to follow such a system, but the wage data for the period governed by the parties’ prior collective bargaining agreements reveal that such a “pattern” has not been followed, particularly in connection with the Deputies. The Joint Employers themselves refer to the “demonstrably larger percentage wage increases that the Deputies have received during the past several years,” in their third stated reason for the rejection of the wage portion of the prior Decision and Award. Moreover, the evidentiary record leaves no doubt that in the various interest arbitration awards between these two parties, the Deputies generally have received higher percentage wage increases than the Joint Employers’ other law enforcement employees because, among other things, of the different arbitrators finding that the Deputies have not been paid in proper relation to these other employees.

As appears to have been the case in many of the prior interest arbitration proceedings between the parties, the Joint Employers here have failed to submit reasonable, sufficient evidentiary support for its claim that the wage “gap” between the Deputies and the other law enforcement employees should be maintained as it presently exists, or even that the “gap” should exist at all. This Panel has already rejected the Joint

Employers' contention that differences in training and duties justify maintaining the current wage differential between the Deputies and the other law enforcement employees. Instead, the evidence adduced at the earlier hearing shows that whatever differences do exist in training and duties, the Deputies face as many difficulties and potential dangers as do the Joint Employers' other law enforcement personnel. The Joint Employers have failed to establish any reasonable basis for the current wage gap, and the bare fact that such a differential has been in place is not a sufficient reason for continuing its existence.

On the evidentiary record compiled here, this Panel is not willing to absolutely abolish the existing wage differential between the Deputies and the Joint Employers' other law enforcement personnel, but it nevertheless remains true that the Joint Employers have failed to submit convincing evidence for why such a differential should exist and be maintained in its current state. Although the wage data makes clear that the existing wage gap has been somewhat closed as a result of the larger percentage increases that have been awarded the Deputies in prior interest arbitration proceedings, we hold that the evidentiary record in this case supports a further closing of the gap.

Based on the competent and credible evidence in the record, we find

that the Joint Employers' first stated reason for the Cook County Board's rejection of that portion of the original Decision and Award in this proceeding that deals with wages does not provide any sound basis for revising the findings of this Panel. The first stated reason for rejection does not show any substantial arbitral error or other sufficient grounds for revising the original Decision and Award.

- The Joint Employers' second stated reason for rejection is that the original Decision and Award fails to give due consideration to the creation of the new, more highly paid classification of Deputies who perform "street unit" functions. The Joint Employers contend that the creation of this new classification eliminated the basis on which other interest arbitrators concluded that the Deputies' wages should be increased, and that internal comparables therefore do not warrant continuing to award larger increases to the Deputies throughout the term of the new agreement.

The Joint Employers are correct that the creation of the new "street unit" classification means that the Deputies in that classification are paid at a higher rate that brings them nearer to the Joint Employers' other law enforcement personnel. In making this particular argument, however, the Joint Employers ignore the fact that the vast majority of Deputies remain in the original "D2" pay classification. Moreover, an internal comparison of

each of these Deputy classifications with the Joint Employers' other law enforcement personnel reveals that both the D2 and the D2B classification remain underpaid when compared with their colleagues. As noted in connection with the Joint Employers' first reason for rejection, this Panel rejects the assertion that differences in training and duties justify this wage gap, and the Joint Employer has not established any other reasonable basis for continuing the wage gap in its current state. Instead, the evidentiary record demonstrates that although there may be some differences in training, duties, risk, and stress between the different groups of law enforcement personnel within the Cook County Sheriff's Office, these differences are not so great as to justify the maintenance of the wage disparity that continues to exist between the Deputies and their colleagues.

The internal comparison between the Deputies and the Joint Employers' other law enforcement personnel is an appropriate part of the analysis of the parties' competing wage proposals, and we find that that internal comparison supports this Panel's finding that the existing wage gap between the Deputies and their colleagues must be closed still further. Because the Union's final proposal on wages serves to further close the gap, while the Joint Employers' proposal serves to actually increase the gap on a dollar-for-dollar basis -- despite the fact that it offers the same

percentage increases that the Joint Employers anticipate will be given its other law enforcement personnel -- we find that the Joint Employers' second stated reason for rejection does not provide any basis for revising this Panel's decision to adopt the Union's wage proposal.

- The Joint Employers' third stated reason for rejection is that the Panel mistakenly reasons that the larger percentage increases that the Deputies have received in recent contracts has not brought them meaningfully closer to their higher-paid colleagues. The Joint Employers argue that the Deputies' wages, on a percentage basis, have become meaningfully closer to the wages of the Joint Employers' other law enforcement personnel, and the Joint Employers further contend that the Panel inappropriately focused on the dollar value of the difference in pay between the Deputies and their higher-paid colleagues. It is in connection with this stated reason for rejection that Sperling's expert testimony comes most directly into play.

Sperling's explanation of his analysis of the wage data in the record demonstrates that giving the same percentage wage increase to jobs having different wage rates will maintain any existing wage differential, while the differential will be narrowed if the same dollar increase is given to these jobs or if a larger percentage increase is given the lower-paying job. *E.g.*,

January 8, 2002, Transcript at 67-8. Sperling admittedly did not study the training, duties, risks, and other factors associated with the Deputy position, nor did he compare this position with the Joint Employers' other law enforcement personnel in order to determine what, if any, wage differential was appropriate. *Id.*, at 73-4. Sperling therefore was unable to offer any opinion regarding whether the existing wage differential between the Deputies and the Joint Employers' other law enforcement personnel was appropriate and should be maintained, or if it should be changed.

Sperling's testimony serves to illustrate an effective means for maintaining a wage differential that is deemed appropriate, as well as how to narrow that gap when such a course is found to be correct. As repeatedly emphasized here, this Panel has found that although the wage gap at issue has been narrowed as a result of the wage increases awarded in prior interest arbitration proceedings, we are convinced that the gap must be closed even further. Sperling's testimony, as well as the general compensation formulas that he discussed, support this Panel's finding that the existing wage gap still is too large. Sperling indicated that the typical wage relationship between a "feeder" job and the next higher job in the promotional sequence involves a differential of between five and twelve percent. *Id.* at 76-8.

The evidentiary record here demonstrates that the Deputy position does have one factor in common with "feeder" positions, in that Deputies can be promoted to positions as Department of Corrections ("DOC") officers, and then to positions as Sheriff's Police officers. The evidence, however, does not establish that the Deputy position properly may be characterized as a "feeder" position, as that term is used in the area of employment compensation and benefits. Nevertheless, if the wage differential range that Sperling indicated typically exists between a "feeder" position and the next higher-paying job in the promotion sequence is applied here, the wage differential between Deputies and DOC officers should be somewhere from five to twelve percent. The Joint Employers' own wage numbers suggest that the Panel's adoption of the Union's wage proposal will mean that the Deputies in the D2 wage classification will be making approximately 92 percent of a DOC officer's wages by the end of their new contract, *e.g., id.*, at 24, placing this wage differential squarely within the range that Sperling testified is typical. The higher-paid D2B classification will be a little closer to the DOC officers' wages, but this "street unit" classification should be considered as closer to the Joint Employers' other law enforcement positions than is the typical "feeder" position to the next-higher job in a promotional sequence.

All of this assumes, of course, that the DOC and Sheriff's Police officers will be receiving annual increases of three percent during the course of their new contracts. It must be noted that although the Joint Employers apparently have proposed three percent increases for both DOC officers and Sheriff's Police officers, *id.*, it is by no means certain that the Joint Employers' current wage proposals will be incorporated into the new contracts for these other two employee groups. If either or both of these groups receive wage increases in excess of 3%, then the wage increases that this Panel has adopted may not bring the D2 Deputies' wages within five to twelve percent of the DOC officers' wages.

Sperling's testimony that one way of narrowing a wage differential is to give same-dollar increases, *id.* at 67, supports this Panel's determination to consider the parties' competing wage proposals on *both* a percentage and dollar-for-dollar basis. Because this Panel has found that the wage differential between the Deputies and the Joint Employers' other law enforcement personnel still is too great, this Panel correctly considered both the percentage and dollar-for-dollar impact of the parties' wage proposals.

As for the Joint Employers' arguments based on Sperling's testimony of the relative impact of percentage increases and dollar-for-dollar

increases over twenty years' time, this portion of Sperling's analysis is not particularly relevant to the instant proceeding. This Panel is not charged with setting wage rates for the next twenty years, but rather must determine which of two competing wage proposals is more appropriate for the three-year term of the parties' new contract. Any speculation about possible wage increases during the period after the expiration of this new contract has absolutely no bearing in this proceeding. Moreover, the fact that this Panel has adopted the Union's proposal, which awards larger annual percentage increases to Deputies than what the Joint Employers anticipate its other law enforcement personnel will receive, does not mean that Deputies will, or even should, continue to receive larger increases than will their colleagues in future contracts. Those determinations will be made at the appropriate time, based upon the then-existing relevant circumstances.

We find that the Joint Employers' third stated reason for rejecting this Panel's original Decision and Award does not establish that this Panel committed a substantial error that justifies revising that Decision and Award.

The Joint Employers' fourth stated reason for rejection asserts that this Panel failed to accord sufficient weight to the evidence indicating that the Deputies no longer lag behind the majority of externally comparable

employees. Again, there are several reasons why this stated ground for rejection fails to convince this Panel.

Initially, the evidentiary record does not absolutely support the Joint Employers' claim that the Deputies no longer lag behind the "majority" of externally comparable employees. The Union and the Joint Employers presented significantly different pictures of the external comparability data, with the Union's data analysis suggesting that the Deputies remain at or near the bottom of the wage range for employees performing similar duties elsewhere in the country. The Joint Employers' data analysis suggests that the Deputies are more near the middle, but even this analysis does not support the Joint Employers' sweeping assertion that the Deputies no longer lag behind the "majority" of externally comparable employee groups. Instead, we find that all of the external comparable data, when reviewed as a whole, demonstrates that the Deputies' wages are, in fact, lagging behind.

The inequity of this situation is illustrated by the evidence, which this Panel highlighted in its original Decision and Award, showing that the Sheriff's Police wages are at or near the top of the wage range among externally comparable employee groups. The reason why this is significant is that Cook County is one of the most populous and urbanized counties in the country. The impact of this County's demographic realities upon the

duties, risk, and stress that face all of Cook County's law enforcement personnel cannot be denied. Quite simply, the Joint Employers' Sheriff's Police deserve to be at or near the top of the externally comparable wage range because they face the greater problems and dangers that almost inevitably are associated with law enforcement work in one of the nation's major metropolitan areas, and this same consideration applies to the Deputies. Because they work in Cook County, the Deputies face greater risks than do most of their externally comparable colleagues in other parts of the country. The evidence does not suggest that there is a reasonable basis for the Deputies' wages to lag behind those of any of the external comparables.

Like the internal comparisons, the wage evidence relating to the external comparables supports this Panel's adoption of the Union's wage proposal. The Deputies' wages have improved relative to the external comparisons, but we have held further "catching up" remains necessary. We find that the Joint Employers' fourth stated reason for rejection therefore does not establish that this Panel committed a substantial error that would justify revising its original Decision and Award.

The Joint Employers' fifth, and final, stated reason for rejecting this Panel's Decision and Award suggests that this Panel improperly assumed

that the parties' final wage proposals were three-year "package" proposals that had to be accepted or rejected in toto. The Joint Employers maintain that these proposals were not presented as "packages," and that the Panel therefore was not precluded from individually selecting the most reasonable offer for each year of the contract.

In making this argument, the Joint Employers acknowledge the arbitral authority holding that, in multi-year agreements, interest arbitrators must treat each party's wage proposal as an indivisible multi-year package, but it asserts that this Panel nevertheless could have treated the parties' competing wage proposals as separate proposals for each year. As support for this assertion, the Joint Employers point to the recent interest arbitration decision between these same two parties in which Arbitrator Yaffe chose the Joint Employers' wage proposal for the first two years of the contract, and the Union's wage proposal for the final year of the contract; the Joint Employers maintain that Arbitrator Yaffe split up the parties' wage proposals even though the parties had not agreed to do so. The Joint Employers additionally emphasize that these same two parties have, in the past, agreed to allow their wage proposals to be treated as separate proposals for each year.

There are several problems with the Joint Employers' claims on this

point. Although Arbitrator Yaffe may have chosen to split the parties' wage proposals on a year-by-year basis in the absence of an agreement between the parties to do so, it appears that he is out there alone and that no other arbitrator has done so. In every other cited proceeding in which interest arbitrators have split up wage proposals on a year-by-year basis, including Arbitrator Goldstein's June 1995 Interest Arbitration Award, it is evident that the parties either expressly or implicitly agreed to such a treatment. Without access to the full record before Arbitrator Yaffe, it is not possible for this Panel to sufficiently comprehend the reason or reasons for Arbitrator Yaffe's decision to depart from all of this arbitral precedent, if, in fact, he did so. Moreover, it certainly is not possible for this Panel to rely upon the Joint Employers' summary of Arbitrator Yaffe's decision to similarly depart from the overwhelming weight of arbitral authority that allows for a year-by-year handling of competing wage proposals only where the parties expressly or implicitly have agreed to such a treatment.

As for the contention that these parties have agreed to a year-by-year treatment of their wage proposals in the past, that is not relevant to the instant proceeding. The manner in which issues are submitted to an interest arbitration panel is not a question of past practice, but rather one that is founded upon whatever submission agreement is developed for that

particular proceeding. The proper handling of the parties' current wage proposals depends upon whether they have agreed to allow this Panel to follow a year-by-year selection process. We find that the overwhelming weight of arbitral precedent establishes that this Panel may adopt a year-by-year approach to the parties' competing wage proposals only if the parties expressly or implicitly have agreed to this method.

In the matter at issue, there is absolutely no evidence that the parties reached any agreement that would allow this Panel to treat their wage proposals on a year-by-year basis. The joint Submission Agreement, where any such agreement should have been documented, refers to the issue of wages in the very same way as it refers to the other impasse issues: as a single issue that should be addressed in the context of the entire term of the collective bargaining agreement, and not on a year-by-year basis. The manner in which each party drafted their final proposals on the wage and other issues confirms their intent to treat wages as a single issue for the term of the contract, rather than as three separate issues that each apply to a single year of the contract's term.

Given the parties' extensive experience with the interest arbitration process, it is reasonable to find that if the parties intended to allow this Panel to consider the issue of wages on a year-by-year basis, then they

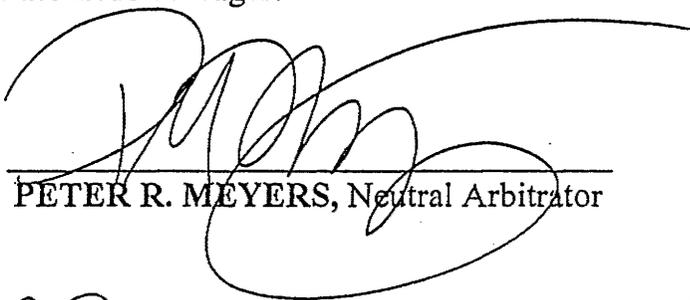
would have clearly stated their agreement to do so. Instead, the evidentiary record leaves no doubt that the parties intended for this Panel to consider each of their wage proposals as an indivisible package. Significantly, prior to the issuance of the original Decision and Award herein, the Joint Employers never mentioned to this Panel that it believed the Panel could treat the parties' wage proposals on a year-by-year basis. Instead, in accordance with the intent expressed by the parties' construction of their wage proposals, and with the Act's requirement that interest arbitrators choose between the parties' final proposals on economic issues, we find that this Panel appropriately handled the parties' final wage proposals in this proceeding as three-year "packages," rather than as individual, year-by-year proposals.

This Panel therefore declines to adopt the Joint Employers' somewhat tardy suggestion that the Panel should have treated the parties' wage proposals on a year-by-year basis. The Joint Employers' fifth stated reason for rejection does not establish that this Panel committed any substantial error when it handled the parties' final wage proposals as three-year packages to be accepted or rejected in toto.

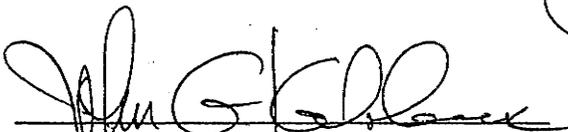
### **Conclusion**

Upon a full consideration of the Cook County Board's reasons for rejection of that

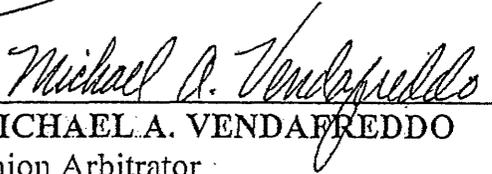
portion of this Panel's Decision and Award herein that deals with wages, as well as the parties' respective arguments and all of the evidence and testimony in the record, this Arbitration Panel finds that the Joint Employers have not demonstrated that the Decision and Award contains one or more substantial errors, or would cause a significant hardship to the citizens of the County, so as to justify any revision or modification of that Decision and Award. Accordingly, this Panel's November 2001 Decision and Award in this matter is hereby reaffirmed on the issue of wages.



PETER R. MEYERS, Neutral Arbitrator



\* JOHN G. KALCHBRENNER  
Joint Employers' Arbitrator



MICHAEL A. VENDAPREDDO  
Union Arbitrator

DATED: 22 April 2002

DATED: Apr 4-16-02

\* DISSENTING

