

IN THE MATTER OF ARBITRATION

Between

METROPOLITAN ALLIANCE OF POLICE
WILL COUNTY COMMAND CHAPTER
123

And

COUNTY OF WILL & SHERIFF OF
WILL COUNTY, JOINT EMPLOYERS

] Arbitrator Stanley Kravit

] ISLRB #S-MA-10-002

] IMPASSE ARBITRATION

] Date of Hearing: November 22, 2010

] Briefs submitted: April 7, 2011

] Date of Award: May 16, 2011

Appearances: For the Association: Joseph. R. Mazzone, Esq.

For the Employers: Nicholas E. Sakellariou, Esq.
McKeown Law Firm

OPINION AND AWARD OF THE ARBITRATOR

This is an appeal to impasse arbitration under Section 14 of the IPLRA by the Metropolitan Alliance of Police, Will County Command Chapter 123, hereinafter the "Union" or "Association", and the County of Will and the Sheriff of Will County as co-employers, hereinafter the "County" or "Employer." A hearing was held in Joliet, Illinois, on November 22, 2010, at which time the parties had the opportunity to present witnesses and documents and to present their respective positions as to the issues at impasse. A transcript was taken and briefs were filed on April 7, 2011, at which time the record was closed. References to transcript will be by "TR ___." Exhibits will be referred to by "UN___" and "CTY___." The Arbitrator hereby makes the following findings of fact and award.

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I. BACKGROUND:

The current collective bargaining agreement (CBA) carries an expiration date of November 30, 2009, and is the fifth successive three year contract between the parties. It covers 38 Sergeants and 15 Lieutenants who supervise 188 deputy sheriffs covered by a separate CBA under a contract with another Union. Except for the issues specified *infra*, the parties have agreed that all other present contract provisions shall be incorporated into the award by reference and thereby included in the successor agreement.

At the close of negotiations the Union proposed a three year contract with across the board increases of 2.5% for each year. (Art. 19) This proposal remains the Union's final offer on annual wage increases. The Union also proposed the addition of a new Section to Article 19:

Longevity Pay: Each employee who has completed 20 years of service shall receive a 3% increase which shall be applied each December 1 to the employee's regular annual rate of pay.

Additional economic proposals were made regarding premium pay for changes in work schedules (7.5.3); additional compensation for Field Training Officer (FTO) supervisors (9.6.2); and additional compensatory time for members who work on certain holidays (10.6.5) The Employer, in what it described as its Unconditional Final Offer, rejected the Association's offers in their entirety. (Ex. 3, A. I) The County's sole proposal with regard to wages, was that the current 8 step salary schedules remain in effect with no across the board increases; however, "an additional step 9 shall be added to the schedule(s)" and that "Step 9 shall be 2.5% higher than step 8." (Ex. 3, A, III) This new step would apply to all employees who are on step 8 prior to December 1, 2010. This proposal was made in

conjunction with the Employer's proposal that the term of the contract be one year. (Ex. 3, A, II)

A substantial number of non-economic proposals were made as well, which will be discussed first.

II. NON-ECONOMIC ISSUES – OPINION OF THE ARBITRATOR

The parties have agreed that the following issues are properly before me for resolution.

A. NON-SENIORITY BASED, NON-ECONOMIC UNION PROPOSALS

Section 4.1- Medical Suspension:

The Union has proposed to modify the current Section as follows (proposed change in **bold**):

4.1.1 The Employer shall have the right to suspend, with pay, any Employee ~~who is believed to be~~ **if the Employer has just cause to believe the Employee is** mentally or physically unfit for duty. Prior to placing the Employee on medical leave, the Employer shall notify the affected Employee, in writing, of the reason for the medical leave.

The proposed change is the substitution of **just cause** for 'belief' in line two. The rationale is twofold. The Association has provided documents concerning a grievance alleging a violation of Section 4.1 in that a member was placed on medical leave without the Employer verifying or corroborating the reasons. The present proposal infers that a stronger standard up front could have prevented this grievance, which was resolved in the employee's favor.

Second, the Association points out that the deputies' contract contains a requirement of "cause," rather than simply belief. It avers that, as a matter of internal comparison, the deputies' language is appropriate and superior.

There may be little or no difference in practice if a belief is, presumptively, a rational, honest conviction based on facts. However, belief sometimes carries a connotation of conviction apart from scrutiny of relevant facts. Cause, on the other hand, carries the connotation of good and sufficient reason. The Association is proposing a concept upon which the parties may well agree: that a fitness exam is a significant and sensitive requirement that should only be imposed where the reasons are clear and persuasive enough for the Employer to initiate the process.

In addition, it may well contribute to the morale of sergeants and lieutenants to know they are held to a standard similar to that which applies to those whom they supervise and for whom they may have to recommend such examinations.

While I agree with the Association's objective, its proposed language carries too much of a disciplinary connotation. Use of the words "**just cause**" suggests a change in focus from a medically based inquiry to the kind of inquiry normally grounded in fault or misconduct. The right to require medical leave and a fitness examination, which is the purpose of such leave, must remain an administrative decision. The right to grieve remains unimpaired. The Union's proposal is accepted as modified; Section 4.1.1 shall read as follows:

The Employer shall have the right to suspend, with pay, any Employee **if the Employer has cause to believe that the Employee is** mentally and or physically unfit for duty. Prior to placing an employee on medical leave, the Employer shall notify the Employee, in writing, of the reason for the medical leave.

Section 5.2 – General Employee Rights

The Union proposes the following addition to the contract:¹

¹ Section 5.2 would be re-numbered as indicated.

5.2.2. The provisions of UPODA shall apply to any and all inquiries, investigations, and/or other similar proceedings, which may be the basis of any disciplinary actions against an Employee, other than that which involves an oral reprimand.

The Union position is that the language it seeks is currently in the Deputies' contract and is current practice for Sergeants/Lieutenants as well. (TR 36-37) The Union produces two memos from sergeants stating that 18 months and 10.5 months, respectively, elapsed between the beginning of their investigations and the imposition of discipline.

The County opposes the expanded application of UPODA on the grounds that the Union has provided no justification for it; comparable contracts do not contain similar language; and UPODA should not apply to informal inquiries that may result in minor discipline.

The County does not explain why the provision appears in the Deputies' contract and concedes that the Sheriff has been following the "practice" although he is not obligated to do so." (TR 188-89) The County also states that this is a new proposal that has "never been discussed or bargained." (TR 188)² The Union does not dispute the absence of negotiations – only the reason. The objective implied in the memos, more timely and efficient administration of discipline, is not guaranteed by its proposal. The Union has not presented sufficient evidence in support of its proposal. The Union's proposal is rejected.

The Union has proposed eleven additional new subsections, 5.2.5 through 5.2.15, which, to some extent at least, are directly related to its proposed 5.2.2, above, and which, for the most part, are rejected for the same reasons. Employees are already protected by

² This is another area where the Union alleges that an absence of bargaining is attributable to the Employer's propensity to simply reject its proposals. (TR 188-89) See, *infra*, under Sections 7.1.1, 8.1.4 and discussion of seniority-based proposals.

UPODA and by Illinois' adoption of *Weingarten* protections during investigations and interviews.

In its 5.2.6, the Union proposes, in part, that an employee may choose to be represented “**by counsel or represented by the Union or its lawfully designated agent** during investigation. The County points out that UPODA already guarantees the right of counsel. UPODA, however, only provides for the presence of a bargaining unit representative if the CBA requires it. (Sec. 3.9) Section 5.2.3 provides for Union representation at “any investigation not subject to UPODA.” To close any gap here, and because the County does not deny that it is present practice, the following will be added to Section 5:

5.2.4. Employees, at their choice, shall have the right to be represented by counsel or represented by the Union or its lawfully designated agent during any investigatory meeting with the Employer.

The remainder of the Union proposals to add new language to Section 5.2 are rejected as either redundant under UPODA or the law, or insufficiently supported by the record.

Section 7.1.1 – the Normal Work Week

The Union has proposed to modify the current Section as follows:

7.1.1 The normal work week ~~may conform with any one of the following~~

- options:
- (1) ~~Five (5) consecutive eight hour days.~~
 - (2) ~~Four (4) consecutive ten (10) hour days.~~
 - (3) ~~Five (5) eight (8) hour days.~~

shall consist of five consecutive eight (8) hour days.

It is the Union's contention that the ten hour day was put in the original agreement because, at that time, the Unit contained corrections sergeants; and, that the proposed language represents the actual schedule for this Unit since those sergeants were placed in a

separate unit in 1992 or 1993. (TR 41-42) The proposed change would make the Sheriff's Sergeants/Lieutenants schedule equivalent to that of the deputies they supervise.

The County agrees that it has not used current subsections (2) or (3), although no specific time frame is referred to. I infer that the county does not disagree with the Union's time frame of approximately 18 years. In the only reference I can find in the record, the County rejects the Union's proposal solely because it does not want to give up the flexibility of the current language.

It has often been held that impasse arbitration is an extension of the bargaining process in the sense that the arbitrator should not impose a solution substantially different than that which the parties might well have reached if their negotiations had been more effective. Here the record indicates a distinct lack of bargaining on the issue beyond a general rejection by the County.

It is axiomatic that a party seeking a change in long-standing language has the obligation to go forward with evidence in support of the change. When such evidence is presented, the party denying the change must state a rationale for disagreeing. There is no reward in arbitration for a "wish list" approach or in just saying, "No." The County's statement at the hearing is not a satisfactory response in collective bargaining *or* in impasse arbitration.

It is a valid purpose of collective bargaining to confirm long-standing practices which have become part of the expectations of the unit. Here, the unexpected imposition of a non-consecutive work week after 18 years, or a ten hour day, would disrupt employee

expectations and family life. In addition, the internal comparable of the Deputies contract weighs in favor of the Union's proposal which is granted.³

Subsections 9.1.3, 9.1.4 and 9.1.5 to be added to 9.1 – Posting of Vacancies

This Section covers the posting of all newly existing or newly created permanent vacancies. It currently contains only a posting location seven days prior to being filled and an opportunity for Unit members to express interest. **The Union proposes that a non-applicant may not be considered or forced to fill such vacancies unless the junior employee is required to do so; and that vacancies must be filled within 30 days after the last day of posting or required to be re-posted.**

The Union presented a series of memos in support of its proposals from members who has been transferred to new assignments, in some cases whether they were posted or not or whether the employees desired the changes or not. (TR 53-56) The County's opposition comes from its desire to maintain its present managerial freedom based on the need to match individuals to particular responsibilities. (TR 218-219)

It is not clear to me how these new subsections would be melded with the Union's proposal on transfer requests (9.2.3) *infra*; or even with the current language on this subject. Do such requests take precedence regarding filling of vacancies? These are matters on which more detail and information would be needed before an impasse arbitrator can be expected to respond positively, even absent the issue of seniority.⁴ The Union's proposal is denied.

³ I assume that Section 9.5 – Job Assignment to Another Agency, would not be inhibited by this ruling and that, if such agency required a different work schedule, this would be known to the unit member in advance. Therefore, Subsection 9.5.2(4) would not be governed by the change in 7.1.1 herein granted.

⁴ I am treating these three proposals as non-seniority-based because they could be implemented apart from the rest of Article 9. The relationship between vacancies and transfer requests, regarding which the Union has made a seniority-based proposal under its 9.2.3, would have to be clarified.

B. SENIORITY-BASED, NON-ECOMONIC UNION PROPOSALS

Section 7.2.2; 7.2.3 – Overtime for Sergeants/Lieutenants in Patrol Bureau (New)

Section 7.2.2 is a new proposal that ‘overtime for Sergeants assigned to the Patrol Bureau shall be filled by Sergeants assigned to the shift by rank seniority.’ **Section 7.2.3 is a similar proposal for Lieutenants “on a rotating basis.”** That is, overtime would be offered on a voluntary basis by shift; if no sergeant volunteers, the overtime is filled by rank seniority among remaining sergeants in the Patrol Bureau. (TR 200)

At present, Section 7.2 simply mandates overtime for hours in excess of a 40 hour work week and does not address the assignment of overtime.

The Union contends that its position reflects the Sheriff’s procedure for the past eight years. (TR 44) It avers a “significant similarity” to the deputies’ contract.

The County contends that it assigns shifts and overtime on the basis of management’s right to “assign people as it sees fit using their skills and ability” – with the sole exception that sergeants are allowed to pick patrol shifts by seniority.(TR 198) Present overtime procedure is a matter of discretion rather than past practice, it argues. (TR 199) The County rejects being locked in to the Union’s proposal no matter how often it may be used. (TR 203)

In the case of Lieutenants, the County points out that there is only one watch commander per shift. In the case of sick leave, e.g., replacement by rank seniority may be difficult or impossible and, in any case is undesirable as mandatory requirement. (TR 206) The Union has not persuaded me that its proposals are warranted. The argument regarding

past practice is not as compelling as under 7.1.1. The distinction between sergeants and lieutenants merits further negotiations. The Union's proposal is denied.

Section 8.1.4 – Retention of Rank While in Exempt Position (New)

This is a new proposal by the Union, however, it represents a modification of present Section 8.1.3. This Section allows employees assigned to exempt positions outside the bargaining unit to retain “merit Commission” rank and continue to accrue *both* department and rank seniority while in such positions.

The change proposed by the Union would freeze rank seniority until the employee returns from such assignment. (UN 15)

The County opposes the change on the basis that it would discourage employees from accepting additional responsibility. (TR 211) The Union contends that employees in exempt positions may act in opposition to bargaining unit interests and, in effect, do not deserve to accumulate rank seniority when not in the Unit. (TR 51)

During the discussion, the Union repeated its contention that there was inadequate bargaining and the absence of “intelligent discussion or debate” on a number of issues, including this one. (TR 212) Whether this is true I do not know, but the record contains no evidence of how often such assignments occur, how long they last, whether any conflicts of interest have resulted or other facts persuasive enough to overturn present language. The Union's proposal is denied.

C. UNION PROPOSALS INVOLVING THE APPLICATION OF SENIORITY

Section 8.2 – Application of Seniority (New)

Beginning with Section 8.2 – Application [of seniority], the Union has made a series of new proposals based on what is called a ‘relatively equally qualified’ seniority clause. (TR 51) The present 8.2: “Seniority shall be used only where specifically provided in the Agreement,” is proposed to be removed and replaced by the following:

8.2.1 In all applications of seniority, the ability of Sergeants shall mean the qualifications of a Sergeant to perform the required work.

8.2.2 Where ability or qualifications (sic are) among the Sergeants concerned are similarly equal then rank seniority shall prevail.

The County rejects any change in the present contract, partly on the basis that previous impasse arbitrators have done so. (TR 214) **On the basis of the proposals highlighted above, the Union has also proposed the following changes and additions to the contract:**

Section 8.3.2 – Reductions in Force (New)

Rank seniority is currently defined as continuous full-time employment in rank, including time spent in an exempt position. **The Union proposes to eliminate this and substitute pure rank seniority.** (The Union’s proposal to eliminate time in exempt positions was rejected under Section 8.1.4, *supra*.)

Section 9.2.3 – Transfers (New)

The current contract provides that, while vacancies are posted (9.1) and employees may apply for transfers (9.2), transfers “may be made at the sole discretion of the Sheriff except as provided in Section 9.” (9.2.1) I believe the exception means *Article 9*.) Section

9.2.3 provides that the Sheriff's discretion is based on employee qualifications and operational needs. **The Union proposes the following change:**

The Employee's transfer request shall be considered based on the employee's ~~Sergeant's~~ qualifications and ~~operational considerations as deemed by the Sheriff or his designee.~~ **and seniority as determined in Article VIII...**

Section 9.5.2 – Assignments to Requesting Agencies (New)

The Union proposes that such assignments shall be made in accordance with "Article VIII." (TR 58)

Sections 9.7 – Temporary Assignments (New)

The Union is proposing a 60 day limit on such assignments subject to posting; and that such assignments be filled by rank seniority. Part of the rationale for these proposals is that, while the contract is silent on the subject, such assignments are made with some frequency. (TR 61-62) The posting requirement appears in the deputies contract. The County argues that it requires the authority to make such assignments and that a similar proposal has previously been rejected in impasse arbitration. (TR 225)⁵

Section 9.8 – Emergency Assignments (New)

There is presently no section on emergency assignments in the contract. **The Union proposes that such assignments, due to leaves, disability, training or increased workload, be initially filled by rank seniority.** The County sees no need for this provision and rejects the application of seniority as well.

⁵ If, as the Union contends, temporary assignment is a frequent practice, the parties might consider separating the issues since I sense that it is the imposition of rank seniority to which the Employer is most resistant. In addition, I am not sure I could distinguish a temporary from an emergency assignment.

D. COMBINED DISCUSSION OF SENIORITY-BASED PROPOSALS

It is true that previous impasse Arbitrators McAlpin (1998) and Benn (2002) have considered and rejected Union proposals which appear from the respective awards to be similar in nature to those before me. That is, a heavy emphasis was placed by the Union upon seniority and by the Employer on managerial discretion.

The fact that nine or 13 years ago the Union was not persuasive is not a bar to any seniority issue being raised in subsequent negotiations *based on experience with contract language and the impact of such experience*. Nor is there a bar to raising such issues in impasse arbitration, *provided* that the Union has made its case – first in negotiations and then in arbitration.

There are a number of statements in the record alleging that negotiations on seniority were limited because the County simply rejected the seniority-based proposals itemized above – chiefly on the grounds that its negotiators had heard these ideas before and maintained their former objections. However, the Employer's anticipated or actual rejection of any proposal is not a bar to a detailed, effective presentation by the Union in whatever negotiations *do* take place.

Ideally, negotiations are an opportunity for agreement. But over the course of a contract, not to mention several contracts, the Union acquires all of the anecdotal evidence that prompts its repeated efforts to secure greater consideration for seniority in management decision making. Its proposals and rationales become part of the record in negotiations, potentially reinforced by testimony in arbitration. It is first attempting to bring about agreement based on shared experience, at least to the degree possible. It is true that such effort may only be a prelude to arbitration, but when arbitrators refer to the absence of a

showing in the record of a demonstrated need for change, this is what they are talking about. This demonstration begins at the bargaining table; evidence should not originate in arbitration if negotiation is to have any chance to succeed or if an arbitrator is to be convinced that the Union's or the Employer's *bargaining* position has the greater merit.

On the record before me, the Union has not made a persuasive case for the modifications and changes it seeks. While Sergeants and Lieutenants have every right and opportunity to bargain under the law, they do as supervisors. The great virtue of seniority is that it is neutral. Where classifications are relatively small, and where a level of managerial discretion is part of the job descriptions, it is more difficult to determine, e.g., who is relatively equally qualified. The Sheriff believes he needs a greater degree of discretion than the Union's seniority-based proposals would allow.⁶ Even allowing for the possibility that this is, to a degree, an instinctive reaction, reasonable weight must be given to the opinion of the individual who has been selected to bear a broad burden of important responsibility in a growing urban community unless a reasonably convincing case can be made to redress the balance between seniority and discretion.

The Union proposals designated 8.1.4, 8.2, 8.3.2, 9.2.3, 9.5.2, 9.7 and 9.8 are rejected.

III. ECONOMIC ISSUES – OPINION OF THE ARBITRATOR

Beginning in mid-April, at my request, Counsel for both parties and I engaged in a series of executive session discussions. The parties subsequently agreed that they would waive the last-best-offer provision of the Act regarding economic issues. In accordance with that decision, I hereby render the following award on wages, longevity and four other economic issues. In so doing, I draw on an extensive record and analysis of cost of living, available

⁶ See, e.g., the testimony of former Sheriff Ward before Arbitrator Benn in 2001. (CTY 37)

external comparables, the internal comparative information cited, the County's concerns regarding economic conditions, and the fact that, had I made a decision at the close of the hearing, it would have been good for 8 days!

Section 7.5 – Work Schedule Posting

Section 7.5.1 requires the posting of work schedules 10 days in advance. Section 7.5.2 states:

Such schedules may be changed, from time to time, to suit varying conditions. However, indiscriminate or unnecessary changes shall not be made in such schedules, and changes deemed necessary shall be made known to Employees not less than ten (10) calendar days prior to such change, excluding emergency situations, as defined by the employer.

The Union has proposed a new Section 7.5.3 to provide that, “If the Employees’ duty hours or days off are changed unnecessarily or indiscriminately, or without the required ten (10) day notice,” the Employee would be paid time and one-half for all affected hours. The Union points out that this proposal mirrors Section 7.6 of the Deputies contract. In addition, as it stands, the clause provides a right without a remedy. (TR 209-210) The County responds by arguing that there has been no problem under the current language.

I believe there is a relationship between the sections in this Article that define the work week, provide for overtime in excess of 40 hour work weeks and (in 7.4) provide for determination of the work schedule. If the Union can prove that a schedule change was “indiscriminate” or “unnecessary” I believe that a grievance arbitrator could impose a time

and one-half penalty within the affected work week.⁷ If the County is right that there are no problems under the current language of 7.5.1 and 7.5.2, there should be no disadvantage in a reasonable penalty being added for violations. This may serve to stabilize the waiver of the 10 day notice requirement, especially since emergencies are excepted. (See memos in Union Ex. 14) The following shall be added to Section 7.5.2:

For violations of this Subsection Employees shall be paid time and one-half for time worked differently than their previously scheduled duty or hours, within the affected work week.

Section 9.6 – Temporary Assignment Pay – Field Training

Section 9.6.1 presently provides that employees assigned as Field training Officer Supervisors receive a minimum of four hours compensatory time per week spent in such assignment. **The Union proposes that FTO Supervisors who ride with *trainees* receive a minimum of two hours compensatory time per day for these assignments.**

The Union stated at the hearing that this has been the practice since a meeting with the Sheriff in January of 2009. (TR 61) After trainees have ridden with the FTO's they then ride with sergeants for two weeks. (TR 222-223) There is no duplication in this practice. The County concedes this is present practice, albeit by virtue of management's discretion. (TR 61) The Union's proposal is accepted. The following shall be added:

9.6.2 FTO Supervisors shall be compensated at a minimum of two (2) hours of compensatory time per day when riding with trainees as FTO Supervisor.

Section 10.6 – Holiday Pay Status

Under Subsection 10.6.1 Employees who work on a holiday are paid double time for their regular shift. **The Union proposes that an employee who works on New Years Day,**

⁷ I emphasize this point because I have no intent to apply the change I am approving beyond its terms.

Independence Day, Thanksgiving and Christmas shall receive an additional four hours of compensatory time.

The only support offered in the record is the fact that LPNs who work at the Rehab Center get this benefit. The County points out that these employees earn a much lower wage scale and the County's costs would allegedly be an additional \$10,000. The Union's proposal is denied.

ARTICLE 19 – WAGES - LONGEVITY

The Union originally proposed a three year agreement with across the board increases of 2.5% per fiscal year. This agreement would be effective December 1, 2009 through November 30, 2012. The Union argued that Term of Agreement here cannot be separated from wages and is a directly related economic issue.

The Union also proposed the addition of a new longevity plan under which eligible members would receive a 3% increase after 20 years service. The Union states that the Deputies' contract has contained this provision for 20 years.

In support of both proposals, the Union cited external comparables which, in some cases, were presenting increases above 2.5% for at least one year of multi-year agreements.⁸ The Cost of Living Index was presented as well, indicating a continuing rise projected through the next two years from the negative position of a year ago.

The County initially offered a one year agreement for FY 2009-10 with no across the board increase, but with an additional Step (9) added to both pay scales at 2.5%. County

⁸ Although the issue of external comparables was discussed at the hearing, I find no basis at this time to change the historic comparisons between Will County and the Counties of DuPage, Kane, Lake and Winnebago counties.

Exhibit 6 shows that 5 Sergeants and 9 Lieutenants would have benefited from this proposal in 2009-10. The County has nine additional bargaining units. By the end of March, 2010, five of these had agreed to extend their contracts for one year with no increase in wages; two others also extended for one year with 2.5% wage increases for 2009-10, however, these units have a different wage structure; and two others involving units with access to impasse arbitration were either in mediation or at impasse.

The County argued that internal and external comparables, as well as the cost of living, supported its position. It cited uncertain economic conditions and anticipated revenues. Its health care plan, which applies to more than 2,000 employees would have to be re-evaluated due to federally mandated changes and this could not be completed until mid-2011.

On March 25, 2011 I was advised that the Deputies contract had been resolved as follows: Effective Dec. 1, 2009 = a \$906 increase added to each step; effective Dec. 1, 2010 = 2.5% across the board increase.

The FY 2011 budget has already been passed. The County will shortly begin working on the FY 2012 budget. For collective bargaining to work it is my opinion that the bargaining and budget cycles have to be coordinated so that employment costs, always a large proportion of government expense, can be sensibly taken into account, with wages and benefits determined according to the factors provided in Section 14(h) *in a timely manner as anticipated by the Act.*

By waiving the last-best-offer provision, the parties have authorized me to use my discretion in a manner that reflects consideration of all of the relevant factors of section 14(h) and will provide a period of approximately 13 months before the FY 2012-13 bargaining-budget cycle begins.

I therefore make the following award:

Article 19 – Wages:

**FY 2009 – 10 = \$775 added to each of the current 8 steps
for Sergeants and Lieutenants;**

FY 2010 – 11 = 2.5%

FY 2011 – 12 = 2.5%

The parties will now have approximately 13 months before they negotiate a successor agreement and, hopefully, integrate negotiations into the 2012-13 budget cycle, giving the County adequate time to assess economic conditions and any changes necessary to its health insurance plan.

Article 19 – Longevity:

The Union's proposal is rejected on the grounds that the wage award above presents sufficient additional cost to the County for this contract.

Article 20 – Term and Effect

As indicated above, the term of this Agreement is an integral part of the economic issues and is resolved as three year agreement extending from December 1, 2009 through November 30, 2012.

Section 5.3 – Disciplinary Appeals-Employee Choice of Disciplinary Forum

The parties have agreed to the proposal submitted by the County at the hearing.⁴

5.3.1 Contesting Discipline - Oral and Written Reprimands

Oral reprimands shall not be subject to the grievance procedure. Written reprimands shall be subject to the Grievance Procedure Article of this Agreement but shall not be subject to arbitration.

5.3.2 Contesting Discipline – Suspensions, Disciplinary Reduction in Rank and Termination

(1) In General

Prior to imposing discipline, involving a suspension, disciplinary reduction in rank or termination, the Sheriff will conduct a pre-disciplinary meeting as provided in Section 5.4. At the employee's request, the employee shall be entitled to Union representation at that meeting. After the conclusion of said meeting, the Sheriff or his designee will issue a Decision to Discipline, in writing, as to the proposed discipline ("Decision to Discipline"), to the affected employee and the Union. At the employee's option, disciplinary action against the employee may be contested either through the arbitration procedure of this Agreement or through the Will County Sheriff's Office Merit Commission (WCSOMC), but not both. The election of one forum shall be deemed to be a waiver to contest discipline in the other forum. In order to exercise this option, an employee must execute an Election, Waiver and Release form ("Election Form" attached as Appendix __). The Election Form shall be given to the employee by the employer, at the time the employee is formally notified of the Decision to Discipline. The employee shall have five (5) calendar days upon receipt of Election Form to tender the executed Election Form to the Sheriff or his designee.

(2) Suspensions of Ten (10) Days or Less

If the discipline is a suspension for 10 days or less, the Sheriff or his designee may impose the suspension immediately upon the issuance of the Final Decision. If the employee elects to contest the suspension through the grievance/arbitration procedure, the Employer shall bear the burden of showing that the suspension was reasonable. If the employee elects to contest the suspension through the grievance/arbitration procedure, the Election Form shall constitute a grievance, which shall be deemed filed at Step 3 of the grievance procedure.

⁴ See Union letter of Feb. 10, 2011; County letter of Feb. 14th; and Union email of Apr. 1st. The County's offer is inserted herein as p. 7, consisting of pages 4-8 in its original offer.

(3) Termination, Disciplinary Reduction in Rank or Suspensions of More Than Ten (10) Days; Arbitration

For discipline involving suspensions in excess of 10 days, disciplinary reduction in rank or termination, if the employee elects arbitration, the Sheriff or his designee has the authority and discretion to impose discipline immediately upon the receipt of the Election Waiver and Release Form. In such cases, the Election Form shall constitute a grievance, which shall be deemed filed at the arbitration Step. In such cases where arbitration has been selected, the Union shall also file with the Sheriff its notice of intent to arbitrate the case ("Arbitration Notice"), not more than five (5) calendar days following the issuance of the Decision to Discipline.

(4) Termination, Disciplinary Reduction in Rank or Suspensions of More Than Ten (10) Days; Merit Commission

For discipline involving suspensions in excess of 10 days, disciplinary reduction in rank or termination, if the employee elects to have the case heard by the WCSOMC, then the Sheriff or his designee must file the appropriate charges before the WCSOMC.

(5) Failure to File the Election Form or Arbitration Notice

If an employee or the Union fails to timely file the Election Form or the Arbitration Notice, such failure shall be deemed a waiver of the right to contest or appeal the Decision to Discipline in any forum.

APPENDIX___ (Discipline)

THE EMPLOYEE IS TO EXECUTE ONE, BUT NOT BOTH, OF THE FOLLOWING OPTIONS IN ORDER TO ELECT THE FORUM IN WHICH TO CONTEST DISCIPLINE:

OPTION 1: ELECTION TO USE THE GRIEVANCE/ ARBITRATION PROCEDURE:

ELECTION, WAIVER AND RELEASE TO USE GRIEVANCE/ARBITRATION WITH REGARD TO DISCIPLINE WHICH WOULD OTHERWISE BE SUBJECT TO THE JURISDICTION OF THE WILL COUNTY SHERIFF'S OFFICE MERIT COMMISSION

I, _____, being proposed for discipline by the Sheriff (including suspension from duty with or without pay, disciplinary reduction in rank or termination of employment) hereby elect to pursue a grievance over such discipline according to the appropriate provisions of the collective bargaining agreement between the County of Will/Will County Sheriff, and the Metropolitan Alliance of Police. I agree that such grievance shall be my sole remedy to the exclusion of other remedies available to me under Illinois law, including, but not limited to, the Sheriff's Merit System Law (55 ILCS 5/3-8001 et seq.), as amended

I acknowledge that by making this election of remedy I am waiving the rights and remedies of any alternative review or appeal procedure available to me, such as provided for under any Illinois law, rule or regulation, including, but not limited to, the Sheriff's Merit System Law (55 ILCS 5/3-8001 et seq.), as amended, in favor of the rights and remedies afforded to me under the provisions of the collective bargaining agreement between the County of Will/Will County Sheriff, and the Metropolitan Alliance of Police. Furthermore, I acknowledge and agree that execution of the Election, Waiver and Release shall be a prerequisite to processing of any grievance concerning the proposed discipline of me by the Sheriff. By selecting the grievance process alternative, I acknowledge my understanding that the Sheriff has the right to unilaterally impose the proposed discipline immediately, subject to possible later modification or reversal by an arbitrator should I or the Union choose to pursue a grievance through arbitration.

By election to file a grievance over my suspension or discharge, I hereby release the County of Will, Will County Sheriff, the Will County Sheriff's Office Merit Commission and the Metropolitan Alliance of Police, as well as their officers, directors, agents, employees, attorneys, and other representatives from any and all liability which flows as a consequence of my election.

Signed this _____ day of _____, 20__.

By: _____

Subscribed and sworn to before me this _____
day of _____, 20__.

Notary Public, Illinois
My commission expires _____

Received by the Sheriff's Office: _____, 200__

**OPTION 2: ELECTION TO HAVE A HEARING BEFORE THE WILL
COUNTY SHERIFF'S OFFICE MERIT COMMISSION AND TO
WAIVE GRIEVANCE/ ARBITRATION:**

**ELECTION, WAIVER AND RELEASE TO HAVE A HEARING BEFORE THE
WILL COUNTY SHERIFF'S OFFICE MERIT COMMISSION AND TO WAIVE
THE GRIEVANCE/ARBITRATION PROCEDURE**

I, _____, being proposed for discipline by the Sheriff
(including suspension from duty with or without pay, disciplinary reduction in rank or
termination of employment) hereby elect to have a hearing over such discipline before
the in accordance with their rules and the laws of the State of Illinois. I agree that such
hearing shall be my sole remedy to the exclusion of other remedies available to me,
including but not limited to, the grievance/ arbitration procedures of the collective
bargaining agreement between the County of Will/Will County Sheriff, and the
Metropolitan Alliance of Police.

I hereby acknowledge that charges will be filed with the requesting my
suspension without pay or my termination with the Will County Sheriff's Office Merit
Commission.

By election to have a hearing before the Will County Sheriff's Office Merit
Commission over my suspension or discharge, I hereby release the County of Will, Will
County Sheriff, the Will County Sheriff's Office Merit Commission and the Metropolitan
Alliance of Police, as well as their officers, directors, agents, employees, attorneys, and

other representatives from any and all liability which flows as a consequence of my election.

Signed this _____ day of _____, 20__.

By: _____

Subscribed and sworn to before me this day of _____, 20__.

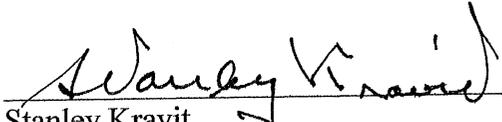
Notary Public, Illinois
My commission expires _____

Received by the Sheriff's Office: _____, 200__

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VI. ALL OTHER CONTRACT TERMS RETAINED

The parties have agreed that all other provisions of the 2006-2009 contract which are not modified by this Award remain in effect and will be continued in the 2009-2012 contract.


Stanley Kravit
Arbitrator

May 16, 2011