



In the Matter of

ARBITRATION

Between

MCHENRY COUNTY AND
MCHENRY COUNTY SHERIFF'S DEPARTMENT

AND

ILLINOIS FRATERNAL ORDER OF
POLICE LABOR COUNSEL, INC.

Before

Charles C. Hines, Arbitrator

In the Matter of the Arbitration)
 Between the County of McHenry)
 and the McHenry County Sheriff,)
)
 and) FMCS No. 90-06579
)
 Illinois Fraternal Order of)
 Police Labor Counsel, Inc.,)
 Lodge No. 61,)

BACKGROUND

The County of McHenry and the McHenry County Sheriff, hereinafter referred to as "County" employ patrol officers, investigators, sergeants and lieutenants in its peace officer unit. The employers form a bargaining unit that is represented by the Illinois Fraternal Order of Police Labor Council, McHenry County, Lodge No. 119, hereinafter referred to as "Lodge".

On February 10, 1988, the parties entered into a collective bargaining agreement covering a period from December 6, 1987, through November 30, 1990. Under the provisions of the agreement officers were placed on a twenty step chart and the officers move up one step on the chart on their anniversary date. Officers receive salary increases as they move up the steps on the chart. The chart is structured such that newer officers receive a higher percentage increase than older officers as they move up the steps.

Ray Blockman, the County's expert witness, testified that under the plan an officer moving from a beginning salary to step 1 receives a raise of 7.625 percent while an officer moving from step 19 to step 20 receives a raise of 0.65 percent. Blockman further testified that as a result of the manner in which the plan is structured, an officer reaches the midpoint in the

overall salary range between steps five and six and that overall the step increases average approximately 2.5 percent.

During the first two years of the agreement, the only raises officers received was as a result of step adjustments on the chart. However, the agreement also gave officers the right to re-open wages for the third year of the agreement. The Lodge opted to reopen negotiations on wages and the parties began negotiating on the issue of wages during the summer of 1989. The parties were unable to reach an agreement and the matter subsequently proceeded to interest arbitration under the provisions of the Illinois Public Labor Relations Act, hereinafter referred to as the "Act" (Ill. Rev. Stat., Ch. 48, 1601 et. seq.).

The impartial Arbitrator was selected from a list submitted by the Federal Mediation and Conciliation Service, Washington, D.C. The hearing was held on August 29, 1990, at the Holiday Inn, Crystal Lake, Illinois.

All parties participated, were represented by counsel, submitted evidence and examined and cross examined witnesses. A transcript of the hearing was made and has been submitted to the Arbitrator. At the conclusion of the hearing, the parties elected to submit post-hearing briefs. Both briefs were received on September 24, 1990.

Prior to the hearing, the parties agreed to stipulate as follows:

(1) That these proceedings are governed by Section 14 of the Illinois Labor Relations Act ("The Act"), 1614, Ch. 48, Ill.Rev.Stat.;

(2) That the Arbitrator has jurisdiction over the subject matter and the parties;

(3) That the parties waive the right to a three member tripartite panel of arbitrators as provided in 14 of the Act;

(4) That the unresolved bargaining subject which the parties are submitting to the Arbitrator for decision is wages for the fiscal year 1989-1990 (December 1, 1989, through November 30, 1990);

(5) That the parties stipulate and agree that the issue concerning wages is economic in nature;

(6) That as to those issues which are economic in nature, 14 of the Act mandates that the Arbitrator select either the final offer of the Union or the final offer of the Employer with respect to each issue in making his award;

(7) That McHenry County has a fiscal year of December 1, through November 30;

(8) That the parties' current labor agreement became effective on December 6, 1987, and extends through November 30, 1990; and that the parties' current labor agreement reopened for the purpose of wage negotiations for Unit 1 Employees for the fiscal year 1989-1990;

(9) That pursuant to Article XXXVIII, Section 4 of the parties' collective bargaining agreement, proper notice was served upon the co-employers; and that negotiations began on or about June 6, 1989, but prior to November 30, 1989;

(10) That the parties engaged in mediation utilizing the services of the Federal Mediation and Conciliation Service on or about July 18, 1989, and again on September 22, 1989;

(11) That the parties hereby stipulate and agree that the Arbitrator has the express authority and jurisdiction to issue an award providing for increases in wages and other forms of compensation retroactive to December 1, 1989.

PARTIES FINAL OFFER

LODGES' FINAL OFFER:

A five percent (5%) increase in base salaries effective December 1, 1989, for all employees in Unit I of the bargaining unit. All retroactive amounts due shall be paid within thirty

(30) days of the Arbitrator's Award.

COUNTY'S FINAL OFFER:

Article XXVI, Section 2.1 shall be added to read as follows:

Section 2.1 Unit 1 Wages Third Year

Effective December 1, 1989 through and concluding with November 30, 1990, employees in Unit 1 shall continue to advance on the compensation schedule set forth in Exhibit 5 (pp. 1-3 inclusive) on their anniversary date in the manner they advanced during the first two years of the agreement. In addition the levels of compensation effective December, 1989 shall be increased by 4.00%.

ISSUE

The issue to be decided by the Arbitrator is as follows: "Whether the Arbitrator should accept the Union or the Company's last offer of settlement".

CONTRACT LANGUAGE

ARTICLE XXVI - WAGES/COMPENSATION/ALLOWANCES

Section 1. Wage Schedules

Employees in the bargaining units shall be compensated according to the separate schedules hereto attached as separate pages of Exhibit #5 and made a part hereof for each unit.

Section 2. Placement and Schedules.

Effective December 6th, 1987, employees in the bargaining units shall be placed on the appropriate compensation chart using their number of years of service from the date of placement in service in their bargaining unit. During the term of this agreement, employees shall then advance on the compensation

schedule on their anniversary date.

Section 4. Pay Schedules.

The attached pay schedules shall be effective as of December 6th, 1987, and any pay increases shall be effective on that date. There shall be no other pay increases during the term of this Agreement.

STATUTORY LANGUAGE

This proceeding is governed by the provisions of the Illinois Public Labor Relations Act. The portions of the Act applicable to this proceeding are as follows:

14 (g) At or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

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 the 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) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceedings 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, and 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.

OPINION

In paragraph 5 of their Stipulation, the parties have stipulated that the issue before the Arbitrator is economic in nature. Under the provisions of Section 14(g) of the Act, the Arbitrator is, therefore, limited to accepting one party's last offer of settlement.

The Act also sets forth eight factors that the Arbitrator may consider in making an award, however, the Act does not

specify the weight that is to be assigned to each factor. The decision as to which factors carry the most weight in this particular dispute is, therefore, left to the discretion of the Arbitrator.

Normally, the overall compensation received by employees is a significant factor to be considered in arriving at a decision on wage issues as the amount of wages received by employees is frequently affected by other forms of compensation such as pension contributions or medical and hospital benefits. In this instance, neither party introduced any evidence regarding the overall compensation received by employees. Consequently, it must be assumed that neither party considered the factor to be significant and the factor will not be given any consideration in this proceeding.

In reviewing the remaining factors that may be considered, the factors set forth in paragraphs 3 through 5 of the Act are the most significant in this instance. During the hearing, the Lodge presented a considerable amount of evidence in support of its contention that the County has the financial ability to meet the cost of the Union's proposed wage increase. The County both during the course of the hearing and in its post hearing brief has stated that it is not raising any issue regarding its ability to pay the increase. As a result of the County's admission that it can pay the cost of the Union's proposed wage increase, there is no need to discuss the Lodge's evidence regarding the County's ability to pay.

The next factor to be considered is a comparison of the wages, hours and conditions of employment between the employees

involved in this proceeding and employees performing similar services in comparable communities. The Lodge contends that McHenry County is comparable to the "collar" counties consisting of the counties of Cook, Du Page, Kane, Lake and Will. On the other hand, the County contends that McHenry County is best described as being situated between a "collar" county and a "downstate" county. Both sides presented considerable evidence in support of their respective positions.

Ray Blockman, Chief Administrative Officer for De Kalb County, Illinois, testified as an expert witnesses on behalf of the County. Blockman presented a number of factors that he contends demonstrate that McHenry County is most comparable to counties situated between "collar" counties and "downstate" counties. Among the factors Blockman found to be most significant were statistics between the rates of crime, rates of pay and the rate of urbanization.

The correlation Blockman found is illustrated as follows:

<u>COUNTY/CITY</u>	<u>RATE(1)</u>	<u>%DIFFERENCE</u>	<u>CRIME RANK</u>	<u>PAY RANK</u>	<u>PAY MIDPNT</u>	<u>PAY DIFF</u>	<u>%RURAL</u>
Wookstock	3657.1	+41%	1	1	14.99	+19.8%	-0-
Crystal Lake	3409.9	+32%	2	2	14.32	+14.5%	-0-
Lake Co.	3319.7	+28%	3	4	13.14	+ 5.0%	20.5
Kane Co.	3119.9	+20%	4	7	11.51	- 8.7%	14.4
McHenry City	3006.8	+16%	5	3	13.69	+ 9.4%	-0-
McHenry Co.	2591.8	-	6	5	12.51	-	37.3
McClellan Co.	2463.1	- 5%	7	6	12.11	- 3.3%	22.4
Boone Co.	2408.2	-7.6%	8	8	10.73	-16.6%	47.0
Kendall Co.	1962.7	-32%	9	10	8.91	-40.4%	69.4

Lee Co.	1571.8	-65%	10	9	<u>9.92</u>	-26.1%	50.4
			Average n-10		12.18		

Blockman also considered the number of law enforcement officers that left the department from December 1987, to the date of the hearing. The evidence indicated during that period of time, of the six officers that left the County, only one officer left to pursue another job in law enforcement. Based upon this evidence, Blockman concluded that the salary paid by the County was competitive with the salary paid by other employers in the local labor market. However, Blockman also testified on cross examination that law enforcement employment is unique and that he was not familiar with the frequency with which law enforcement officers leave the employment of one department to move to another department. Blockman further testified that he was aware that departments have a maximum age for initial testees.

In considering the evidence as a whole, there is a serious question as to whether or not the lack of officers leaving the County to pursue employment with other law enforcement departments in the local labor market is an accurate indication as to the competitiveness of the wages paid by the County. A number of employees are automatically barred from testing for such employment by virtue of the fact that they exceed the maximum age requirements. Further, a number of factors other than wages could affect an employee's decision not to transfer to another department. The factors include the loss of seniority rights, nontransferability of pension credits and an employee's reluctance to relocate his family to a new community.

The Lodge presented evidence establishing that McHenry County is located in immediate geographical proximity to the collar counties. The evidence further indicates that McHenry County ranks third in the State of Illinois in terms of per capita income; sixth in total assessed value and twelfth in total tax revenues. The rural population of the collar counties varies from one percent for Cook County to approximately 21 percent for Lake County. While McHenry County is currently 37 percent rural it is also urbanizing at a substantial pace. Blockman testified that McHenry County is typically included in governmental statistics as one of the collar communities.

The pay received by McHenry County officers trails the pay received by officers employed by the collar counties. Depending upon the officer's position and years of service, the difference ranges from minimal to as much as 32.5 percent. Conversely, McHenry County officers pay ranks toward the top when compared with the pay record by officers working in counties with similar rates of urbanization and crime.

The parties also presented conflicting evidence regarding the relationship between salaries and changes in the cost of living. Blockman testified that he compared the percentage increase in the cost of living to the percentage increase in officers' salaries between the years 1984 and 1989. Blockman found that during the six year period, the cost of living increased between 17.5 percent and 20.4 percent depending upon the consumer price index used, while during the same period of time officers' salaries rose an average of 34.975 percent.

The Lodge presented a number of exhibits regarding changes

in the cost of living between February, 1988, and July, 1990. Overall, the exhibits showed a loss of purchasing power of approximately 11 percent. The County contends that the Lodge's exhibits should not be given any weight as the Lodge failed to call any witnesses to testify as to the accuracy of the Lodge's figures. The County, however, stipulated to the admission of the Union's exhibits into evidence. Absent some evidence that the Lodge's exhibits are inaccurate, the County cannot now argue that the exhibits should not be given any consideration because of the Lodge's failure to lay a foundation for their admission.

In reviewing the evidence presented by each of the parties regarding changes in the cost of living, it must be found that neither parties' evidence overwhelmingly demonstrates that this factor is in its favor. It would appear as though there were some mathematical errors in Blockman's computations in connection with the consumer price index and the raises employees received between 1984 and 1989. Further, Blockman failed to convert the salaries in his exhibits to constant dollars.

The Lodge, on the other hand, limited its evidence to the period of time between February, 1988, the date of the officers' last pay raise, and July, 1990. The Lodge did not give any consideration to the fact that the collective bargaining agreement entered into on December 1, 1989, provided for chart adjustments based upon an officer's years of service. The chart adjustments provided for wage increases that averaged approximately 2.5 percent, although it must also be recognized that the increases also amounted to as little as 0.65 percent for some officers. While the chart increases were technically

raises, they cannot be totally ignored in comparing officers' wages to changes in the cost of living.

AWARD

While there are legitimate arguments that the factors support the final offer of each of the respective parties, it is the finding of Arbitrator that on balance, the factors more strongly favor the Lodge's final offer and the offer is hereby accepted. The County and Lodge are directed to attempt to reach an agreement as to the amount payable under this award. Any unresolved disagreement may be submitted to the Arbitrator at the request of either party for which sole purpose jurisdiction is reserved.

DATED: October 12, 1990



Charles C. Hines, Arbitrator