

IN THE MATTER OF THE ARBITRATION BETWEEN:

**COUNTY OF ROCK ISLAND AND
ROCK ISLAND COUNTY SHERIFF,**

Employer,

and

**ILLINOIS FRATERNAL ORDER OF
POLICE LABOR COUNCIL,**

Union.

Case No. S-MA-94-6

Interest Arbitration

INTRODUCTION

An arbitration hearing between the parties was held in Rock Island, Illinois on August 26, 1994. Each party presented evidence at the hearing, and the record was closed except for the submission of post-hearing briefs and argument. Further, due to a delay in the preparation of the transcript of the proceedings, the date for submission of post-hearing briefs was delayed until December 5, 1994.

The Illinois Fraternal Order of Police Labor Council (the "Union") was represented by Thomas F. Sonneborn, Esq., Legal Director for the Union, and Becky S. Dragoo, Legal Assistant for the Union. The County of Rock Island and Rock Island County Sheriff (the "County" or "Employer") was represented by Arthur W. Eggers, Esq., of Calif & Harper, P.C., Moline, Illinois.

STATEMENT OF FACTS

The County and the Union are parties to a labor agreement that was effective from December 1, 1990 until November 30, 1993. The County and the Union negotiated pursuant to the Illinois Public Labor Relations Act (the "Act"), but they were not able to resolve their differences and agree upon the terms of a new labor agreement. Thus, the Arbitrator was appointed by the parties to resolve the open issues.

Prior to the commencement of the hearing, the parties stipulated to various matters. The parties stipulated:

1. The Arbitrator had the full authority and jurisdiction accorded to him by the Act, including but limited to:

(a) the authority to adopt as his award the final offer of either party as to the issues in dispute, since each is economic in nature; and

(b) the authority to issue an award providing increases in wages and other forms of compensation retroactive to December 1, 1993.

2. All tentative agreements previously reached during the negotiations would be presented to the Arbitrator for inclusion in the Award.

3. The parties waived convening a tri-partite panel and agreed to proceed with a single, neutral to resolve their impasses.

4. Except as modified by the stipulation, the provisions of Section 14 of the Act would govern the proceedings.

ISSUES AND PARTIES' FINAL OFFERS

In summary, there are six economic issues for resolution. The economic issues are wages, Lodge Representatives - Executive Board Leave, vacations, health insurance for retirees, holidays and sick leave. Regarding these issues the Arbitrator must select on an item by item basis the last and final offer of the County or the Union. The parties also presented two non-economic issue for resolution. The issues concern the Union's proposal to change the discipline language, and the County's proposal to change the procedure for selection of shift assignments. As to the non-economic issues, the Arbitrator may choose from the last and final offer of one of the parties, or may select another alternative as the Arbitrator deems appropriate.

The impasse issues presented to the Arbitrator and the parties' final offers as to each issue are summarized as follows:

1. WAGES

County Last and Final Offer - The County offered 3.5% the first year, 3.5% the second year, and 3.5% in the third year.

Union Last and Final Offer - The Union offered 4.0% the first year, 4.0% the second year with an increase in sergeants' and lieutenants' differential of \$300.00 per year, and a wage reopener in the third year.

NOTE: Both parties presented the wage issue as one issue, not three separate issues. Thus, the Union argued that a decision on wages must encompass all three years. The Union further presented to the Arbitrator that its final wage offer specifically called for retroactivity on all hours paid during the period, and a pro rata share of retroactive pay for those individuals in the bargaining unit during the relevant retroactive periods. In its brief to the Arbitrator, the Union referenced the stipulation by the County's counsel at the hearing whereby that under the County's offer, anyone

employed as of December 1, 1993, would be paid a pro rata share of retroactive pay. According to the Union, although the County's stipulation did not address retroactive pay "on all hours paid" during the retroactive periods, by establishing the December 1, effective dates, and otherwise remaining silent, the net effect is to make the County's proposal retroactive on all hours paid. Accordingly, the wage issue will be decided as one issue and encompass all three years, and any retroactive payment will be made on all hours paid.

2. LODGE REPRESENTATIVES - EXECUTIVE BOARD LEAVE

County Last and Final Offer - Maintain the current contract which provides for no paid leave for executive board members.

Union Last and Final Offer - Provide up to twelve days of paid leave each calendar year for one bargaining unit employee who is elected to Union's state executive board. Fourteen days advance notice required for usage.

3. VACATIONS

County Last and Final Offer - No change in current contract.

Union Last and Final Offer - Increase vacation leave benefits to allow five weeks of vacation after eighteen years of continuous service. Further, as to sergeants and lieutenants, new contract language would provide that except in emergency circumstances, once a vacation request has been approved, the absence of a lieutenant and/or sergeant scheduled to work will not result in cancellation of previously approved vacation requests.

4. HEALTH INSURANCE FOR RETIREES

County Last and Final Offer - No change in current contract.

Union Last and Final Offer - Reduce the required age for eligibility to continue participation in the insurance program at retirement from age 60 to age 55.

5. HOLIDAYS

County Last and Final Offer - No change in current contract.

Union Last and Final Offer - Employees who work Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day will receive two and a half times their regular rate of pay instead of double time.

6. SICK LEAVE

County Last and Final Offer - No change in current contract.

Union Last and Final Offer - Employees will be permitted to use up to five days of accumulated sick leave to care for members of their immediate family who are ill, provided that the immediate family member resides with the employee.

7. ASSIGNMENTS

County Last and Final Offer - Reduce from two to one the number of times shift assignments are selected annually.

Union Last and Final Offer - No change in current contract.

8. DISCIPLINE

County Last and Final Offer - No change in current contract.

Union Last and Final Offer - All discipline be progressive and corrective. Further, the contract shall provide that the Union may seek review of written reprimands and suspensions through the grievance procedure, and discipline imposed by the Merit Commission shall be subject to review.

STATUTORY CRITERIA

Section 14 (h) of the Illinois Public Labor Relations Act sets forth the criteria that the Arbitrator shall use to determine his findings, opinions and orders. The section provides:

"(h) Where there is no agreement between the parties or where there is an agreement but the parties have begun negotiations or discussions, look into a new agreement or amendment of an 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 on the following factors as applicable:

- (1) The lawful authority of the arbitrator.
- (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 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."

Accordingly, the Arbitrator has considered these factors in rendering this decision.

DISCUSSION

The Arbitrator notes that the parties selected the same six comparable Illinois counties geographically closest to Rock Island County. Each of these counties has a population within 25% of Rock Island County's, excluding the counties in the greater Chicago Metropolitan area. The selected counties include Champaign, Macon, McLean, Peoria, Sangamon and Tazewell.

The Arbitrator has reviewed all the evidence of record and the comprehensive post-hearing briefs. The Arbitrator has studied the lists of comparable communities submitted by the parties and the comparable wage data. The Arbitrator has also reviewed the increase in wages granted to other County employees, considered the bargaining history between the Union and the County, and the cost of living information offered by both parties. The Arbitrator renders this decision after full consideration has been given to the standards for interest arbitration as codified in Section 14 (h) of the Act.

1. WAGES - The Arbitrator adopts the Union's proposal on wages and rejects the County's proposal on wages.

Both parties offered into evidence an extensive, detailed comparative study of salaries paid by the comparable counties. The studies measured first, second and third year increases where applicable. Based on its study, the Union asserted that the current wages of its members are behind the average of the comparables at virtually every step of an officer's career except for a brief period up through an officer's fifth year of employment. The Union declared that it does not seek to be the highest paid, but the circumstances do not warrant the officers being so far below the average.

In its brief, the Union declared that its proposed increase of 4% for 1993-94 still leaves the deputies \$343.00 behind the average top pay, but makes up ground on the other comparables. The lower increase offered by the County for 1994, coupled with no increase in the wage differentials for sergeants and lieutenants, would leave the unit further below in the second year. Moreover, it was clear from the signed contracts in effect at the time of the arbitration that the wages paid to its members would fall further behind the average of those comparables for the contract year 1993-94. Although the wages paid to the deputies exceed the average by \$395.00 for one year of service, the fall below average escalates at virtually every other step increase: \$1,144.00 after 3 years; \$1,904.00 after 5 years; \$2,368.00 after 8 years; \$2,034.00 after 10 years; \$2,245.00 after 15 years; and \$3,422.00 behind the average top pay.

Regarding the sergeants, their average starting wage in 1993-94 is behind the comparables' average by \$3,181.00; the differential at the top pay level is over \$3,600.00. For the contract year 1994-95 this gap widens; a top paid sergeant in Rock Island County is paid \$5,562.00 less each year than the average paid sergeant for the six comparable counties.

As set forth in the Union's brief the average wage schedule for lieutenants is worse. In 1993-94, the top lieutenant pay in the County is \$4,502.00 behind the average of all comparables, and for those bargaining unit employees who have contracts in place for 1994-95, the average top paid lieutenant receives \$7,921.00 more than a lieutenant employed by the County. Given that the vast majority of deputies in the County are in the entry level to five year period of their careers, the wage demand will be significantly less expensive because this is not a senior bargaining unit.

The County made it clear at the hearing and in its brief to the Arbitrator that financial ability to pay was not an issue in this case. The County emphasized that the basis for its offer was that the members of the bargaining unit were entitled to a reasonable increase in pay regardless of the County's financial ability to pay the Union's proposed wage increase. The wage increase proposal selected should be the more reasonable increase applying the remaining criteria set forth in the Act.

The County further argued that its offer is the more reasonable offer. The percentage increase last offered by the County falls within the range of settlements for the counties to which the comparison is being made. In fact, the percentage increases sought by the Union represent a breakthrough, and would place the members of the bargaining unit at the very top of the wage settlements for the comparable counties -- a position unsupported by the evidence. In further support of its position, the County presented various charts to the Arbitrator depicting the County's position in relation to the comparable counties as to population change; median family income and household income; house and property values for the comparable counties; property value per capita and change in property value from 1984-1993; and number of residents per sworn officers. In summary, the County is experiencing a very gradual recovery from the severe economic recession, as evidenced by the County's negative change in property value of 8% over the last ten year period of time, and accordingly, the information furnished to the Arbitrator clearly supported the County's more reasonable wage proposal.

The County further argued that it is important to emphasize those areas in the wage schedule where the largest number of employees are affected and to put comparatively less emphasis on those areas in the wage schedule where relatively few employees are affected. Since there are seventeen deputies that are at the hire step, it is important to note that the County's proposal would place those employees in third position of the seven counties being compared, with only Sangamon County and McLean County paying more than the County.

For example, at the hire step under the new agreement Sangamon County is the highest paying comparable at \$26,342.00. With a 3.5% increase, a new hire deputy for the County would earn \$24,356.13, the third highest paying county, after McLean County at \$24,380.00. With a 4.0% increase, the deputy would earn \$24,473.00 and vault ahead of McLean County.

At the five year level during the first year of the contract, with a 3.5% increase under the County's proposal resulting in a salary of \$29,641.13, Sangamon County is still the highest paying comparable at \$29,662.00. With a 4.0% increase, the wage scale for the County increases to \$29,785.00. However, at 10, 15 and 20 years of service, regardless of a 3.5% or 4.0% increase, the County's ranking to the comparables does not change.

The County also encouraged the Arbitrator to look at the internal comparability. At 3.5% each year for three years, employees in the subject bargaining unit are in a tie for

the highest percentage increase of any County employee over the three year period of time in question. According to the County, the Union's proposal of 4% for the first two years of this three year period would put the employees in the subject bargaining unit far ahead of other County employees, resulting in serious disruptions and problems in future negotiations for those bargaining unit employees. Thus, the County argued that internal wage comparability clearly supported the County's position.

The Arbitrator finds the County's position is not compelling and the actual salary comparison provided by the Union more persuasive. The wage information for the comparable bargaining units illustrates a significant wage discrepancy between the members of the County's bargaining unit and the comparable counties' bargaining units. However, it is the Arbitrator's opinion that the economic, social and geographical differences between the counties do not merit a below average wage scale for the Union's bargaining unit members where the job responsibilities are similar to and perhaps more demanding than the other counties. Thus, after reviewing the parties' arguments, and recognizing that one of the two proposals must be adopted as submitted, the Arbitrator finds that the Union's proposal is the more equitable and well-founded proposal.

The Arbitrator also finds no merit to the County's argument concerning internal wage comparability as the controlling factor for two reasons. First, there was no evidence of job similarities between the other County bargaining units and the subject bargaining unit. Second, as previously referenced in this decision, the Union's wage proposal is 4% for two years with a wage reopener for the last year. It is highly probable that the total percentage increase for the three years will be higher than 8%, but the provision for a wage reopener is no guarantee that the percentage increase for the third year of the agreement will be 4% or higher. If the percentage increase for the last year is not resolved through negotiations and the matter proceeds to interest arbitration again, the Arbitrator is confident that the more reasonable percentage increase selected by an arbitrator will be based on the most current contract and salary information, consistent with the wage comparables, reflecting the parties' bargaining history, and with consideration given to the parties' previous Last and Final Offer as discussed in this decision.

2. Lodge Representative (Executive Board Leave) - The Arbitrator adopts the County's proposal to maintain the current contract and rejects the Union's proposal to amend Article 14 by the addition of a new Section 5. Labor Council Executive Board Leave.

The Union failed to provide any compelling reason or comparable information to support its proposal. Moreover, as explained to the Arbitrator by the County's witness at the hearing, a bargaining unit member on the Union's executive committee is able to use his paid time off, or vacation or comp time to receive paid time off, to attend such meetings.

3. Vacations - The Arbitrator adopts the County's proposal to maintain Article 22 of the current contract and rejects the Union's proposal concerning vacations.

Based on the information of record, the Arbitrator agrees with the County that the Union has given no compelling reason to increase the vacation benefit to five weeks of vacation after eighteen years of continuous service. The current vacation schedule is not deficient when considered with the other paid holidays. Further, in view of the evidence of record, and the fact that the Arbitrator must select the last and final offer of one party, the Arbitrator is not persuaded by the Union's proposal to restrict the County in determining when lieutenants and sergeants are to take vacations.

4. Health Insurance for Retirees - The Arbitrator adopts the County's proposal to maintain the current contract and rejects the Union's proposal concerning health insurance for retirees.

After reviewing the evidence it is the Arbitrator's opinion that the record does not support the Union's proposal. The County's current insurance program is not deficient, and no compelling reason exists for the increased benefit. Moreover, there is no comparability information to support the acceptance of the Union's proposal.

Further, in deciding this issue, the Arbitrator sustains the County's objection to the introduction of the report prepared by the County's insurance committee reviewing the Union's insurance change proposal where such report was prepared at the request of the parties during negotiations.

5. Holidays - The Arbitrator adopts the Union's proposal to amend Article 25, Section A of the current contract and rejects the County's proposal to maintain the current contract.

The Arbitrator finds that the evidence of record supports the Union's proposal to pay employees who work Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, two and a half times their regular rate of pay instead of double time.. The amendment to Article 25 is not excessive and consistent with the benefits granted to the respective bargaining unit members in Champaign, McLean, Sangamon and Tazewell Counties.

6. Sick Leave - The Arbitrator adopts the County's proposal to maintain the current contract and rejects the Union's proposal to amend Article 27 - Sick Leave to include a new section E.

Although there is merit to the Union's proposal, the Arbitrator recognizes the County's argument and finds that there must be additional safeguards to prevent any abuse of this benefit. It is the Arbitrator's opinion that such safeguards must be made part of the contract language proposed by the Union. Thus, the proposal to amend Article 27 is rejected as the new section E is now written.

7. Assignments - The Arbitrator adopts the Union's proposal to maintain the current contract and rejects the County's proposal concerning Assignments.

It is clear to the Arbitrator that the County offered no compelling reason to change the current contract. Thus, no changes will be made to Article 26, Section 2 of the Agreement.

8. Discipline - The Arbitrator adopts the Union's proposal to amend Article 7, Sections 1, 4 and 5, and rejects the County's proposal to maintain the current contract.

The County argued that the Union's proposal changes the jurisdiction of the Merit Commission. Further, there should be no change in the discipline system absent the showing of a compelling reason. The Union argued that it is seeking the right to grieve discipline. The Union cited statutory authority, various court decisions and prior arbitration awards in support of its position on this issue.

The Arbitrator has reviewed the statutory authority and court and arbitral decisions cited by the Union. It is clear to the Arbitrator that public employee bargaining laws are favored over local civil service rules when faced with a conflict between the two. In this case, it is the Arbitrator's understanding that right to grieve discipline is a proper issue for bargaining, and the contract language proposed by the Union is appropriate. Moreover, the Arbitrator notes that the County presented no specific argument in opposition to the proposed language. Thus, after reviewing the evidence and testimony of record, it is the Arbitrator's decision to adopt the Union's proposal as submitted and amend the pertinent sections to Article 7.

Last, the Arbitrator incorporates into and made part of the decision by reference the tentative agreements reached by the parties during the course of their negotiations.

AWARD

The Arbitrator's decision is summarized as follows:

1. Wages - The Arbitrator adopts the Union's final offer on wages.

2. Lodge Representatives - The Arbitrator adopts the County's final offer concerning Executive Board Leave.
3. Vacations - The Arbitrator adopts the County's final offer.
4. Health Insurance for Retirees - The Arbitrator adopts the County's final offer.
5. Holidays - The Arbitrator adopts the Union's final offer.
6. Sick Leave - The Arbitrator adopts the County's final offer.
7. Assignments - The Arbitrator adopts the Union's final offer.
8. Discipline - The Arbitrator adopts the Union's final offer without modification.



Alan J. Fisher
Arbitrator

Dated: August 21, 1995