



AWARD OF ARBITRATOR

In the Matter of Interest Arbitration

between the

Macon County Board and
Macon County Sheriff

and the

American Federation of State, County
and Municipal Employees, Council 31
and Local 612

Findings of Fact,
Opinion, and Award
by

Arbitrator

Peter Feuille

in

ISLRB No. S-MA-94-70

Date of Award: July 25, 1994

APPEARANCES

For the Employer:

Mr. Timothy Reardon, Attorney
Mr. Lee Holsapple, Sheriff
Mr. Richard L. Bright, Corrections Administrator
Ms. Marilyn A. Riley, Admin. Assistant
Mr. Dave Sapp, County Auditor

For the Union:

Mr. Kent Beauchamp, Collective Bargaining Supervisor
Mr. Dennis Corvin-Blackburn, Staff Representative
Mr. Brad Lumb, Research Technician
Ms. Lisa Bourne, Licensed Practical Nurse
Mr. Daniel K. Makowicz, Correctional Officer
Mr. Harold Hedenberg, Correctional Officer Corporal
Ms. Penny Adam, Correctional Officer

INTRODUCTION

During 1993-94 the Macon County Board and the Macon County Sheriff ("Co-Employers," "Employer," "County") and the American Federation of State, County and Municipal Employees, Council 31/Local 612 ("Union") negotiated for a successor collective

bargaining agreement to replace the 1990-93 contract that expired on December 1, 1993 (Joint Exhibit 2 ("JX 2")). In February 1994 the parties reached tentative agreement ("TA"), but this TA was rejected by the vote of the bargaining unit membership. Consequently, because the unit members are correctional officers, the parties processed their negotiating dispute pursuant to Section 14 of the Illinois Public Labor Relations Act ("the Act"; JX 1). Specifically, the parties selected and the Illinois State Labor Relations Board appointed the undersigned to serve as the interest Arbitrator in this dispute.

The parties and the Arbitrator held a one-day arbitration hearing on May 12, 1994 in Decatur. At this hearing the Arbitrator and both parties' representatives were in attendance, all testimony was taken under oath, and a verbatim stenographic record kept and a transcript ("Tr.") subsequently produced. At this hearing both parties had complete opportunity to present all the information they deemed appropriate on the impasse items.

Either prior to or during the hearing the parties agreed to several stipulations, as follows:

1. That this impasse is limited to the four impasse items of salaries (also referred to as wages), health insurance, hours of work, and secondary employment (Tr. 6);
2. That the salary and insurance items are economic issues within the meaning of Section 14(g) of the Act and that hours of work and secondary employment are not (Tr. 15-16);
3. That the parties waived the tripartite panel arbitration format and agreed that the Arbitrator would have sole authority to decide the issues (Tr. 14);

4. That the Arbitrator shall have the authority of a conventional arbitrator when fashioning an award on the salary issue (Tr. 173-176);
5. That the award on the salary and insurance items shall be retroactive to December 1, 1993, and the Arbitrator shall have the authority to determine the method of implementing these two items (Tr. 21-22);
6. That the parties' next contract, which incorporates the decisions in this Award, shall be a three-year contract expiring on December 1, 1996 (Tr. 6-9), and the Arbitrator's decision on the salary item will be a single decision covering the entire three years (Tr. 23); and
7. Each party's last offers of settlement within the meaning of Section 14(g) of the Act shall be those offers on the arbitral agenda at the close of the face-to-face portion of the hearing on May 12, 1994 (Tr. 13-14), with the Employer's written confirmation of its final offers submitted to the Arbitrator and the Union no later than May 20, 1994 (Tr. 282-289).

The parties submitted post-hearing briefs (which were received on June 28, 1994) and additional correspondence to the Arbitrator. The Arbitrator's final receipt of these post-hearing materials on July 20, 1994 marks the closing date of the hearing.

STATEMENT OF IMPASSE ITEMS

As noted above, by mutual agreement there are four items on the arbitral agenda: salaries (Article XX), health insurance (Article XIV), hours of work (Article VIII), and secondary employment (new article), with the first two of these being economic issues within the meaning of Section 14(g). The parties agree that these items are within the scope of the Arbitrator's jurisdiction. The parties also constructively submitted all of

their tentatively agreed-to items to be incorporated into this Award by reference (Tr. 9, 43).

ANALYSIS, OPINION, AND FINDINGS OF FACT

Section 14 of the Act requires the Arbitrator to base his arbitration decisions upon the following Section 14(h) criteria or 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 these costs.
- (4) Comparison 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 other conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

The Act does not require that all of these criteria or factors be applied to each item; rather, only those that are "applicable." In addition, the Act does not attach weights to these factors, and thus it is the Arbitrator's responsibility to decide how the applicable factors should be weighed.

As a result of the arbitral decision requirements of Section 14(g) and stipulation no. 4 listed above, the insurance item will be awarded via a final offer arbitration decision (i.e., one party's last offer of settlement, unchanged by the Arbitrator), and the other three items will be awarded via conventional arbitration decisions.

1. Salaries (Article XX)

The 1992-93 salaries for unit members are specified in Section A of Article XX as follows:

Date of Hire to 1 Year	\$14,850 per year
Completion of 1 Year	16,350 per year
Completion of 2 Years	17,350 per year
Completion of 3 Years	18,350 per year
Completion of 4 Years	19,350 per year
Completion of 7 Years	20,850 per year
Completion of 10 Years	22,350 per year

The bargaining unit includes 66 Corrections Officers, 8 Telecommunicators, and 2.5 FTE Nurses (LPNs). All unit members are on the same salary scale. The above salary scale was in effect during the entire 1990-93 period of the expiring contract (JX 2).

Position of the Employer. The Employer proposes that the above salary scale will increase by three percent effective

December 1, 1993, four percent effective December 1, 1994, and four percent effective December 1, 1995. In addition, the Employer proposes that, effective December 1, 1993, each unit member's annual salary will increase by either \$252.12, \$532.20, or \$661.32 depending upon the type of health insurance coverage the employee has (employee only, employee plus one dependent, or employee plus two or more dependents, respectively, with these offset amounts added to the December 1, 1993 salaries before the three percent increase is factored in; Tr. 54-55). These additional amounts are in recognition of the fact that the Employer's insurance offer requires that employees increase the share of the insurance they pay--from the current 12 percent to 25 percent, effective December 1, 1993. These three dollar amounts represent the exact amount of the annual increase in premium costs, at the premium rates in effect on December 1, 1993, that employees will bear if the Employer's insurance offer is adopted, so these additional salary amounts are linked to the Employer's insurance offer.

The Employer did not present any calculations of the cost of its salary offer. However, when these three annual wage increases of three percent, four percent, and four percent are compounded (which produces three-year increases of 11.4 percent), and when an additional 2.5 percent is added as a reasonable approximation of the average salary value of the Employer's offset amount (the exact percentage will vary from employee to employee in the range of 1.0 to 4.4 percent, depending on the type of insurance coverage

and the employee's current salary), I estimate that the Employer has proposed a three-year salary package that contains an approximate 14 percent increase (exclusive of step movements). If the average salary value of these offsets is larger than I have estimated, my estimated value of the Employer's three-year salary package also should be increased.

The Employer supports its offer with a variety of evidence and arguments. The Employer says that this is the same offer that was rejected by the unit members at their ratification meeting. It also is the same offer that has been agreed to and adopted in three other Employer bargaining units including the deputy sheriffs (Employer Exhibit 11 ("EX 11")), the Sheriff's command staff (which is a meet and confer unit; EX 14), and the circuit clerks (EX 13). In addition, the Employer says that this is the same offer that was implemented with the Employer's nonunion employees. Further, the Employer says that the Employer's highway bargaining unit agreed to different (and larger) wage increases as a result of also agreeing upon the Employer's insurance offer without the salary offset amounts (EX 12). Only the County's clerical employees, who are under a contract that does not expire until December 1, 1994, are not included in this new wage arrangement. The Employer argues that internal comparability is quite important to ensure that different groups of County employees are compensated fairly, and as a result, the instant group should also receive the same wage increases that have been mutually agreed to in other County units. The Employer argues the

internal comparability evidence strongly shows that there is no justification for the Union's unusually large salary offer.

The Employer also presents some external comparability data that compares average correctional officer ("CO") pay in Macon County with average CO pay in nine other comparable Illinois counties (EX 1). The Employer says that this information shows that its average CO salary is comfortably within the range of CO rates paid in comparable Illinois counties, and that this information indicates that there is no pressing need for any sort of catch-up increase of the kind sought by the Union in this proceeding. The Employer also presents comparability information designed to show that the average wage increase for state and local government employees elsewhere has been shrinking substantially during 1993 compared to prior years (EXs 2, 3, 9, 10). The Employer says that these data show that recent average public sector wage increases have been in the 1-2 percent range, and that the Employer's offer is well above that level. As a result, the Employer's offer will enable unit members to improve their pay standing relative to their peers in other jurisdictions.

The Employer presents inflation data which shows that in 1993 the federal government's Consumer Price Index-W increased by only 2.8 percent (EX 5). The Employer emphasizes that its offer provides for wage increases that comfortably exceed the current rate of increase in the cost of living.

The Employer also presents ability to pay data designed to show that it cannot afford to pay for more than its own offer.

The County already levies taxes upon its citizens at a very high rate (EX 6). Even with this high taxation level, the County's difficult financial circumstances are most apparent in its precipitously declining end-of-the-fiscal-year-balance in its general fund (which is the source of salaries for this unit). On November 30, 1990 this fund had a year-end balance of \$2,744,376, and by November 30, 1993 this year-end balance was down to \$324,924 (EX 7). The Employer estimates that the November 30, 1994 balance will be \$306,714 (EX 7), and that this projection assumes that all estimated revenues will be collected and that there will be no unplanned increases in expenditures. The Employer says that this financial information clearly shows that the Employer will have a difficult time paying for its own salary offer, and that it cannot possibly afford the Union's very expensive offer. The Employer strongly objects to the Union's offer on cost grounds.

For these reasons, the Employer asks that its salary offer be selected.

Position of the Union. The Union proposes that on December 1, 1993 that each salary step be increased by an "inequity adjustment" amount ranging from \$1,000 at the entry step to \$745 at the fourth step to \$500 at the seventh (top) step, and then the resulting salary be increased by three percent; on December 1, 1994 that each salary step be increased by another (second) inequity adjustment of \$1,000 to \$500 (depending on the step) plus four percent; and that on December 1, 1995 that each salary step

be increased by yet another (third) inequity adjustment of \$1,000 to \$500 (depending on the step) plus four percent (Union Exhibit 1 ("UX 1")). The Union's offer calls for three-year inequity adjustments ranging from \$3,000 at the entry step to \$1,500 at the top step. In addition, the inclusion of these substantial inequity adjustments means that the four percent increases on December 1, 1994 and December 1, 1995 would be applied to larger salaries, thereby generating more dollars in employee paychecks than the Employer's four percent increases on those same dates. The Union's offer calls for three-year increases totalling \$4,929 at the entry step (or 33.2 percent) to \$4,167 at the top step (or 18.6 percent). The Union calculates that the three-year cost of its salary offer is \$379,995, which figure also includes a total of \$35,750 in step increases for those employees who move up on the salary schedule on their anniversary dates (UX 2).

The Union strongly objects to the Employer's salary offer. The primary Union objection is that the Employer's salary offset amounts would cause employee salaries to vary depending upon their health insurance status (Tr. 54-56). Specifically, the employees strongly object to the impact that these varying salary offset amounts, which are based on the number of insured dependents an employee has, would have on such salary-related dimensions as retirement benefits, holiday pay allowance, and overtime pay. The Union also objected to the Employer's salary offer as being very inadequate.

The Union supports its salary offer primarily on external comparability grounds. The Union's comparisons with 15 downstate Illinois counties show that in May 1994 these counties pay their COs an average of \$20,519 at the entry level and an average of \$25,237 at the top step (UX 3), and that if these comparisons are limited to the 10 counties that are more similar in size to Macon County these salary averages are several hundred dollars higher (UX 4). When these salary averages are compared to the Employer's entry salary of \$14,850 and top salary of \$22,350, the Union says that unit members are being paid several thousand dollars per year less than their most directly comparable peers in other Illinois public jurisdictions. Similar conclusions apply to the pay rates of telecommunicators (UX 4) and LPNs (UX 5). Indeed, the Union says that the Employer recently advertised for an Animal Control Officer at a starting salary of \$16,500 per year (UX 16). In other words, the entry salary for an employee to deal with animals is \$1,650 above the entry salary the Employer pays its beginning COs to deal with human criminals. The Union says that even with the adoption of its salary offer these unit members will still be receiving salaries that are well below the average salaries received by their peers. The Union says that these comparisons show that unit members are being very inequitably paid, and the Union's offer should be adopted to eliminate a portion of this glaring pay inequity.

The Union also says that the working conditions in the jail have worsened over time (UX 15; Tr. 110-115). In addition,

several dozen unit members have resigned--often for more lucrative law enforcement jobs elsewhere--or been fired since February 1989 (UX 14), which the Union says is an indication that salaries in this unit are too low.

The Union also disputes the Employer's ability to pay evidence and arguments. The Union says that its analysis of the County's Comprehensive Annual Financial Reports for FY 1991 and 1992 (UXs 18, 19) show that the County's general fund has a much better ending balance than that provided by the Employer. Specifically, the Union says that this general fund ending balance on November 30, 1992 was \$1,365,334 (UX 11), which amount is much larger than the \$426,871 balance shown by the Employer in EX 7. The Union also says that the auditor's report for March 1994 shows that the 1993-94 general fund budget is essentially in balance for the FY 1994 year. As a result, the Union says that the Employer can afford to fund the salary increase sought by the Union.

For these reasons, the Union asks that its salary offer be selected.

Analysis. We begin by noting that the Employer's salary offer includes the percentage increases specified above (three percent retroactive to December 1, 1993, four percent on December 1, 1994, and four percent on December 1, 1995), plus the salary offset amounts added to their annual salaries depending upon the type of health insurance coverage they receive (\$232.12, \$532.20, or \$661.32), which offset amounts also are retroactive to December 1, 1993 (to be precise, the Employer's offer adds the offset

amounts to the current salaries effective December 1, 1993 and then calculates and adds on the three percent increase). In other words, even though these dollar amounts are designed to offset the cost to employees of increasing their share of the insurance premiums, the fact that these amounts are added to the employees' annual salaries means that these offset amounts are part of the Employer's salary offer (which is closely linked to its insurance offer), and will be treated as such in this proceeding. This conclusion is consistent with the description of the Employer's offers at the conclusion of the May 12 hearing (Tr. 284-288), with the exact wording of the Employer's Article XIV insurance proposal,¹ and in the Employer's discussion of the salary item in its post-hearing brief (Er.Br. 12).

We move to the internal comparability evidence under decision factor (4). This evidence shows that four of the other County employee groups (deputy sheriffs, command staff, circuit court clerks, nonrepresented) received the same three-year salary and insurance package that the Employer has proposed for this unit (which is specified above), and that the highway employees received a large wage increase which was designed, at least in part, to offset the increased insurance cost that employees will bear (i.e., the highway employees received a similar pay and

1. The written submission of the Employer's insurance proposal was attached to a May 17, 1994 letter from Timothy J. Reardon to the Arbitrator with a copy to the Union, and the substance of the Employer's insurance offer was confirmed in a July 19, 1994 letter from Mr. Reardon to the Arbitrator with a copy to the Union.

insurance package). This evidence provides strong support for the selection of the Employer's salary offer.

Looking at the external comparability evidence under decision factor (4), we see that the Employer's COs are paid much less than the COs in the Union's comparison groups, particularly at the entry level (UX 3); that the telecommunicators are paid somewhat less, with the largest gap at the entry level (UX 4); and that the LPNs also are paid less, again with the largest gap at the entry level (UX 5). Further, I find the Union's salary information (UXs 3, 4, 5) to be presented in a more precise and helpful manner than the "average" CO rates presented by the Employer (EX 1). As a result, the salary comparisons that follow are based on the salary information supplied by the Union.

I selected 12 comparison counties from the Union's comparability group that I believe are the most comparable for pay comparison purposes (those listed in UX 3 excluding Madison, St. Clair, and Winnebago Counties). Eleven of these are central Illinois counties in the area bounded generally by Kankakee and Peoria on the north, Springfield on the west, Effingham on the south, and Champaign on the east. These counties fall generally between Interstate-80 and Interstate-70, and they exclude counties in the St. Louis metropolitan area (i.e., Madison and St. Clair). It is well known that pay levels in larger metropolitan areas generally are significantly higher than in other areas, and just as it would be inappropriate to compare Decatur-area salaries with those in the Chicago area, so is it inappropriate to use St. Louis

area jurisdictions. Five of these counties--Champaign, McLean, Peoria, Rock Island, and Sangamon--are larger (i.e., more populous) than Macon, and seven counties--Christian, Coles, DeWitt, Effingham, Kankakee, Knox and Logan--are smaller than Macon. With the exception of Rock Island and Kankakee Counties, these comparison counties are geographically close to Macon County, and these counties include an equitable mix of larger and smaller jurisdictions. These may not be the 12 best comparison counties in the entire state,² but they are the most appropriate comparison counties with precise starting salary and maximum salary information in the record.

Using the salary information in UX 3, I calculate that the annual average CO starting pay in these 12 selected jurisdictions is \$19,424, and the average CO maximum pay is \$24,446. This means that the current CO starting pay in this unit is \$4,574 below the average of this 12-county comparison group, and the current CO maximum pay is \$2,096 below this 12-county average. This analysis clearly shows that the COs in this unit are poorly paid compared to their peers performing the same work in comparable jurisdictions.

Performing the same analysis for telecommunicators gives us eight comparison counties (Christian, Coles, DeWitt, Effingham, Kankakee, McLean, Rock Island, and Sangamon from the 12-county group; the other four counties do not use the telecommunicator

2. LaSalle and Tazewell Counties are strong candidates for use in future external comparisons.

classification; UX 4), I obtain an average starting salary of \$17,755 and an average maximum salary of \$21,433. This indicates that the current telecommunicator starting pay in this unit is \$2,905 below average and the maximum pay is \$917 above average in this eight-county comparison group. In other words, telecommunicator pay in Macon County is much more comparable to these comparison jurisdictions than is CO pay. Expressed another way, the combined CO and telecommunicator salary information indicates that most comparison jurisdictions pay their COs more than their telecommunicators (UXs 3, 4). These comparisons also indicate that the parties' placement of Macon telecommunicators on the same salary scale with COs will make the external salary comparisons more complicated than would otherwise be the case.

The Union's LPN wage survey data comes from throughout Illinois (UX 5)³ rather than from county sheriff's departments (apparently the other Illinois sheriff's departments surveyed by the Union do not employ LPNs; Tr. 93). As a result, it is not possible to perform this same kind of nearby county comparison. However, these LPN survey data show that the Employer's \$7.13 starting hourly rate for LPNs is well below the 1993 LPN starting rates of \$8.03 to \$8.34 elsewhere in Illinois (UX 5). In addition, LPN and unit member Lisa Bourne testified that she has

3. The wage survey information in UX 5 is described as "Illinois" information, which is interpreted here as including wages paid by employers in the Chicago and St. Louis metropolitan areas as well as in other areas of the state.

worked at a local hospital (St. Mary's Hospital in Decatur) for seven years and is paid an hourly rate of \$11.63, and that if she had worked for the Employer for seven years she would be paid \$10.02 (Tr. 139-141).

There is no information in the record about the size of recent salary increases in these occupations in these comparison downstate Illinois counties. There is no dispute that there is a national trend during 1993 and 1994 toward more moderate wage increases for state and local government employees generally (EXs 2, 9, 10), but this nationwide information, much of which comes from large bargaining units (those with 1,000 or more employees), is not particularly helpful for determining appropriate pay increases for this unit in a moderate size central Illinois county. When all the external comparability information is considered, it provides very strong support for the Union's salary offer.

Turning to the ability to pay evidence under decision factor (3), three conclusions are warranted. The first is that the Employer's general fund expenditures have been exceeding revenues in recent years, as seen in the general fund's declining year-end balances (and the general fund is the source of the money to pay these employees). Although the Employer and Union fund balance figures diverge (EXs 7,8; UX 11), there is no dispute about the downward trend. Second, the general fund deficit during FY 1993 (\$146,315) appears to be much smaller than the deficit in FYs 1991 and 1992 (\$483,136 and \$802,148, respectively; UXs 18, 19, 20),

and the projected general fund deficit for FY 1994 is \$25,360 (UX 20). Third, it is difficult to get a precise handle on the Employer's ability to pay due to the absence of final audited budget figures for FY 1993 and also due to the parties' disagreement about the current condition of the Employer's general fund. The available data indicate that the Employer's fiscal condition is improving, but that the Employer is still not in rosy financial health. In other words, the Employer's ability to pay is not as bountiful as the Union argues.

At the same time, we may conclude from the recent settlements in other Employer units that the Employer's ability to pay is not as constrained as the Employer has argued. The Employer has agreed to three-year wage increase packages with four groups (deputies, command staff, circuit clerks, nonrepresented) that call for three-year pay increases of about 14 percent, and in the highway unit the Employer agreed to 1993-96 wage increases of 9.6 percent, 6.5 percent, and 5.4 percent, with these amounts partially offset by insurance savings (Tr. 191-192). It also must be noted that the pay for highway employees comes from a separate funding source (i.e., not from the County's general fund). Pay increases of the magnitude agreed to by the Employer in its other bargaining units are a strong sign that the Employer has a greater ability to pay than suggested by its emphasis upon its recent year-end fund balances. Taken together, the ability to pay information indicates that the Employer could afford to pay

somewhat more than it has offered, but it cannot afford to pay for the outsized increases proposed by the Union.

The consumer cost of living increase, or inflation, information under decision factor (5) in the record provides little useful guidance here. There is no dispute that both parties' offers exceed the recent rate of consumer price inflation (EX 5; UX 17). As a result, the cost of living information has played no role in the salary decision reached here.

The other decision factors in Section 14(h) of the Act do not apply to the evidence submitted in support of the parties' salary offers.

When we pull together all of the pertinent and helpful evidence on the salary issue, we see that the Union has proposed to increase unit member salaries by an excessive amount during the next three years. Because there is no information in the record about the current (i.e., 1992-93) salary cost for this unit, or about where on the salary schedule employees are located, it is not possible to calculate exactly how much--in percentage terms--the Union's \$379,995 salary offer (UX 2) would cost. However, given that the Union is proposing a 33.2 percent increase at the entry salary level and an 18.6 percent increase at the top step salary, a reasonable estimate is that the Union's salary offer represents an approximate 26 percent cost increase during the three-year period under consideration.

No matter how this salary item is analyzed, there simply is insufficient persuasive support in the record for a 26 percent

salary increase during the next three years. There is no question that the members of this unit are paid considerably less than their peers doing the same work in comparable central Illinois jurisdictions. However, it is important to keep in mind that the Employer has paid relatively low salaries to unit members for a very long time, and that the salaries specified in the expiring 1990-93 contract represented a large increase over what they were previously (the Sheriff testified that starting CO salaries prior to the 1990-93 contract were about \$10,000; Tr. 228-231). In addition, the ability to pay evidence indicates that it is not financially equitable or feasible to require the Employer to eliminate these comparative salary underpayments as fast as the Union has proposed during the three-year pendency of this next contract.

Having reached that conclusion, it is equally important to note that the external comparability evidence indicates that the unit members' salary levels are sufficiently low that these levels deserve to be increased by more than the Employer has offered. In other words, it is possible to use this Award to make some significant progress toward correcting the salary underpayment experienced by unit members. At the same time, the internal comparability salary information supplied by the Employer provides a very useful starting point for constructing a salary award covering the next three years.

This salary award incorporates (1) the Employer's three-year percentage increase offer that has been adopted in other Employer

units; (2) the Union's external comparability justification for an equity adjustment; (3) the fact that neither party has proposed any alteration in the shape of the current salary structure; (4) the fact that unit members strongly objected to having their salaries (and subsequent overtime pay and pension benefits) be adjusted by their health insurance status (Tr. 54-56); and (5) the fact that the employees' largest pay gap with their most comparable peers is at the entry level. Taking into account these dimensions, relying on the evidentiary conclusions expressed above, and using the conventional arbitration authority that the parties mutually provided to me pursuant to Section 14(p) of the Act, I find that the appropriate 1993-96 salary schedule for this unit is as follows:

Salary Step	Effective 12-1-93 (+3%)	Effective 9-1-94 (+\$1,600-850)	Effective 12-1-94 (+4%)	Effective 12-1-95 (+4%)
< 1 yr.	\$15,295	\$16,895	\$17,571	\$18,274
1 yr.	16,840	18,315	19,048	19,810
2 yrs.	17,870	19,220	19,989	20,789
3 yrs.	18,900	20,125	20,930	21,767
4 yrs.	19,930	21,030	21,871	22,746
7 yrs.	21,475	22,450	23,348	24,282
10 yrs.	23,020	23,870	24,825	25,818

(these amounts have been rounded off to the nearest whole dollar)

The above amounts were derived by:

- (1) Applying a three percent increase to the 1990-93 salary schedule effective December 1, 1993;

- (2) Applying a sliding scale equity adjustment effective September 1, 1994 that includes a \$1,600 increase in the entry step and an increase for each of the remaining steps that declines by \$125 from the step above, with the result that the seventh and top step receives an \$850 increase (i.e., \$1,600; \$1,475; \$1,350; \$1,225; \$1,100; \$975; and \$850);
- (3) Applying a four percent increase effective December 1, 1994; and
- (4) Applying a four percent increase effective December 1, 1995.

These various amounts were based upon the parties' offers. The three December 1 increases were taken unchanged from the Employer's salary offer. The September 1, 1994 sliding scale equity adjustment concept was taken from the Union's salary offer, though the amounts were changed and only one equity adjustment was applied during the entire contract period. As can be seen, the shape of the current schedule has been continued unchanged, though the dollar differences between steps have been altered slightly.

I calculate that this awarded salary schedule will produce the following dollar and percentage increases during the three-year life of this next contract:

<u>Salary Step</u>	<u>1992-93 Salary</u>	<u>1995-96 Salary</u>	<u>3-yr. increase (\$ / %)</u>
< 1 yr.	\$14,850	\$18,274	\$3,424 / 23.1%
1 yr.	16,350	19,810	3,460 / 21.2
2 yrs.	17,350	20,789	3,439 / 19.8
3 yrs.	18,350	21,767	3,417 / 18.6
4 yrs.	19,350	22,746	3,396 / 17.6
7 yrs.	20,850	24,282	3,432 / 16.5
10 yrs.	22,350	25,818	3,468 / 15.5

As these calculations indicate, the total dollar increases at each step are similar, but the percentage increases are much larger at the lower steps where the pay gap with comparable jurisdictions is the largest.

It is not possible to calculate the precise average increase in this unit because there is no information in the record about where unit members are located on the salary schedule, but I estimate that the awarded salary schedule will provide an average increase in listed salaries of about 18 percent during the three years of the contract's term. This amount compares with the approximate 14 percent increase offered by the Employer (including the insurance-linked salary offsets) and the approximate 26 percent increase offered by the Union. Actual increases received by employees during this three-year period will be even larger than 18 percent when step movements are included.⁴

Because there is no way to know how much salaries will increase in comparison bargaining units during the next two or three years, it is not possible to perform a precise external salary comparison for this unit for the 1995-96 period. However,

4. For instance, an employee hired on January 1, 1994 at \$14,850 will move to the third step on January 1, 1996 at \$19,989, thereby receiving a dollar increase of \$5,139 and a percentage increase of 34.6 percent during this two-year period.

Also, a sixth step employee who completes 10 years of service during this contract will move from \$20,850 currently to \$25,818 at the seventh step during 1995-96, which is a dollar increase of \$4,968 and a percentage increase of 23.8 percent during the life of this contract.

there can be no doubt that the awarded salary schedule will make significant progress in closing the gap with the average salary earned by their central Illinois peers in nearby counties, for it is extremely unlikely that the comparison bargaining units will see their listed salaries increase by an average of 18 percent during the 1993-96 contract term. Expressed another way, at the expiration of their 1993-96 contract unit members will be significantly closer to the average salary received by their comparison peers than they were when this proceeding began.

It is vitally important to keep in mind that the salary increases awarded here are not meant to reduce the importance of the salary agreements the Employer has reached with its other units. As noted above, I have adopted the Employer's offer of three percent, four percent, and four percent during the three years of this contract. I have included the September 1, 1994 equity adjustment only because of the very large gap in salaries between COs in Macon County and COs in comparable central Illinois counties. This unit-specific equity adjustment has no bearing on any other Employer unit, and as a result it is cannot properly be used as justification for pay increases by other groups of Macon County employees.

At the same time, this salary award is designed to reflect the Employer's financial condition. Most of the cost of this salary decision is accounted for by the Employer-proposed increases of three percent, four percent, and four percent, which when compounded produce a three-year increase of 11.4 percent in

listed salaries. In addition, the September 1, 1994 equity adjustment is provided in place of the salary offsets proposed by the Employer (i.e., there are no offset dollars as such provided anywhere in this Award), so the net cost to the Employer of this equity adjustment is reduced by the amount of the Employer's salary offset proposal. Moreover, this equity adjustment is delayed until the last three months of the 1994 fiscal year in order to reduce the immediate financial impact upon the Employer. There is no question that there will be some additional annualization costs in FY 1995 that are associated with this equity adjustment, but the absence of any retroactivity element in this adjustment will help the Employer absorb this increase in its budget.⁵

There is inadequate information in the record with which to calculate the precise cost of this salary decision. For instance, there is no information about the number of employees at each of the salary steps, so it is not possible to calculate the precise cost of the equity adjustment. The Union calculated that the three-year cost of its salary offer is \$379,995 (UX 2), but there is no information in this Union exhibit that enables me to do a

5. If we assume that the current average salary in this unit is about \$19,500 (see EX 1), and if we assume that the average equity adjustment received by the average unit member is \$1,100, the equity adjustment represents an average 5.6 percent salary increase. The fact that this equity adjustment will be in effect only during the final quarter of the 1993-94 fiscal year means that the 1993-94 cost of this adjustment is about 1.4 percent. However, there will be significant annualization costs of this equity adjustment in FY 1995.

precise cost analysis of the salary schedule being awarded here. The Employer submitted no calculation of the cost of its salary offer. As indicated above, I estimate that the total cost of this salary award will be about 18 percent during the three-year period (exclusive of step increases).

In sum, the 1993-96 salary schedule specified above represents a persuasive balancing of the competing Employer and Union interests expressed on the salary issue, and this salary schedule is consistent with the pertinent salary evidence under the various Section 14(h) decision factors.

Finding. For the reasons expressed above, and using the conventional arbitration authority provided to me by the parties pursuant to Section 14(p) of the Act, I find that the totality of the evidence on the salary issue supports the adoption of the 1993-96 salary schedule specified on page 21 rather than the selection of either party's final salary offer.

2. Insurance (Article XIV)

Article XIV presently provides for health insurance for employees and their dependents. Among other things, Article XIV requires that the Employer pay 88 percent of the premium for single (employee only) and family coverage, and thus the employee must pay the remaining 12 percent. Article XIV also specifies that the insurance coverage benefits shall be equal or better than the coverage benefits in effect on July 1, 1985. Article XIV further requires the Employer to provide \$50,000 in accidental

death life insurance for each employee, at the Employer's expense. As will be seen below, there is no dispute about life insurance during the 1993-96 contract term.

Position of the Employer. The Employer proposes that Article XIV be modified to require the County to pay for 75 percent of the premium cost of single and family coverage effective December 1, 1993, and to specify that the level of coverage benefits shall be equal or better than those provided as of July 1, 1993.

The Employer supports its insurance offer primarily with internal comparability evidence. The Employer says that the heavy majority of other County employees have been covered by this new insurance arrangement effective December 1, 1993. Specifically, the Employer says that the deputy sheriffs, command staff, highway, and circuit court clerks' bargaining units, plus the nonunion County employees, have been covered by this revised 75 percent Employer-paid insurance arrangement since December 1, 1993 (EXs 11-14). The Employer says that only the County clerical employees, who are covered by a contract that does not expire until December 1, 1994, are still under the 88 percent Employer-paid insurance arrangement.

The Employer says that it would be highly inequitable for the instant unit to be able to continue under the 88 percent system while other County employees pay much more for the same insurance coverage. The Employer also emphasizes that it offered the employees a three percent first-year salary increase plus a permanent salary offset designed to cushion the employees'

insurance cost increase (the \$232.12, \$532.20, and \$661.32 amounts mentioned above as part of the Employer's salary offer), and that it would be extraordinarily unfair to allow the employees to pocket this salary money and then simultaneously allow them to retain the previous 88 percent insurance system. The Employer says that its salary and insurance offers are tied together, and that it would be highly improper to allow this unit to receive the parts of the Employer's salary and insurance offers that are advantageous to the employees and reject the rest.

The Employer also points out that the County is facing a major increase in its health insurance premiums as of July 1, 1994, which increase will be in the range of 28 to 37 percent (depending upon whether or not a preferred provider arrangement is adopted; Tr. 254; EX 16). The Employer says that even under its insurance offer the Employer will continue to be liable for the lion's share of the increased insurance cost burden.

The Employer also presents external comparability information from six other downstate Illinois counties (EX 4). Three of these counties (Kankakee, Rock Island, and Champaign) continue to pay 100 percent of the employee and family premiums, one county (Peoria) pays 100 percent of the employee premium and 50 percent of the family premium, one county (Sangamon) pays 100 percent of the employee premium and requires the employee to pay \$87.80 per pay period toward the family premium (and there is no information about the percentage of the family premium that this dollar amount represents), and one county (McLean) pays 69 percent of the

employee premium and 34 percent of the family premium (EX 4). The Employer says that its insurance proposal is more generous for the employees than some of the insurance arrangements in these comparison counties, and that the Employer provides other fringe benefits that are at least as good as those provided in these counties (EX 4).

Position of the Union. The Union proposes that the current 88 percent insurance arrangement continue unchanged (i.e., that Article XIV be renewed unchanged), except that the date specified in Section B of Article XIV be changed from July 1, 1988 to July 1, 1993.

The Union supports its insurance proposal primarily on employee cost grounds. The Union says that the employees already pay a significant share of their premiums, and that their cost will more than double if the Employer's insurance offer is adopted. The Union agrees that the Employer's salary offer contains dollar offset amounts equal to the premium increase the employees will face as of December 1, 1993, but the Union says that the evidence indicates that these premiums will increase over time and employees will end up paying much more for their insurance (EX 16; Tr. 253-261). The Union also objects to such an outcome in light of the comparatively low salaries received by the members of this unit. The Union says that there is inadequate justification for an insurance "giveback" of the kind proposed by the Employer, and therefore the Union's status quo insurance offer should be selected.

Analysis. The Employer is the party that is proposing the change from the status quo on the insurance issue, and as the moving party the Employer has the heavier burden of persuasion on this issue. A careful examination of the insurance evidence indicates that the Employer has met that burden, and the central feature of that burden is the role of internal comparability with other employee groups of this Employer. As I have indicated in other Section 14 interest arbitration awards (City of Elmhurst and Illinois FOP Labor Council, July 2, 1993, pp. 40-41; City of Peoria and Peoria Fire Fighters, IAFF Local 544, September 11, 1992, pp. 29-33), internal comparability is often the primary decision factor on the health insurance issue. In the instant impasse, the evidence indicates that internal comparability is the dominant decision factor (i.e., this part of factor (4) deserves more weight than all the other decision factors combined). There appears to be no dispute that the Employer has maintained a County-wide insurance system for its employees. In recent years, this has meant that the Employer paid 88 percent of the premiums and employees paid 12 percent. However, during the 1993-94 bargaining four other County bargaining units (deputy sheriffs, command staff, highway, circuit court clerks) agreed to the new insurance arrangement whereby the Employer's share of the premiums will be 75 percent and the employees will pay 25 percent (EXs 11-14), and three of these units (deputy sheriffs, highway, and court clerks) are AFSCME units (EXs 11-13). In addition, the County's nonunion employees are working under the 75-25 arrangement.

Relying upon my experience as a Section 14 interest arbitrator, I take judicial notice of the fact that Illinois public employers with multiple groups of employees generally attempt to provide the same health insurance arrangements to their different groups of employees. In that regard, the Employer's desire for County-wide insurance uniformity is nothing unusual. In light of the fact that the heavy majority of County employees are now covered by the Employer's proposed 75-25 insurance arrangement, there is no persuasive reason why the instant employees are entitled to noticeably preferential insurance treatment compared to other County employees. Indeed, after awarding the employees the generous increase in salaries provided in the previous section, it would be extraordinarily unfair to the Employer to award the employees a significantly more generous insurance arrangement than other County employees receive-- particularly the County employees in other AFSCME-represented bargaining units. In sum, the internal comparability evidence provides extremely strong support for the Employer's insurance offer and no support at all for the Union's offer.

On the external comparability dimension, the evidence shows that both the Employer and Union proposals are within the insurance comparison patterns from six other downstate counties (EX 4). As a result, neither proposal is seeking to establish some sort of pioneering insurance arrangement. In turn, the external comparability evidence does not provide strong support to either insurance offer.

In sum, the pertinent insurance evidence provides much more support for the Employer's offer than for the Union's offer.

Finding. For the reasons expressed above, I find that the totality of the evidence on the insurance issue provides more support for the Employer's offer than for the Union's offer.

So that there can be no mistake about what the selection of the Employer's offer means, the parties will note that the Employer's insurance offer does not contain salary offset amounts. The Employer's salary offer contained those offset amounts to be added to employee salaries, but these offsets were not selected by the Arbitrator. As a result, the selection of the Employer's insurance offer means that the Employer's proposed Article XIV is adopted (which language was attached to the Employer's May 17, 1994 letter to the Arbitrator with a copy to the Union). The parties will note that there are no salary offset amounts expressed in the Employer's Article XIV contract language.

Under the Section 14(g) final offer decision rule, I am without authority to revise the Employer's proposed Article XIV that is being selected. If I had such authority, I would delete Section E from the Employer's Article XIV language. That section addresses how the salary offset amounts (which are not specified in Article XIV) will be treated if an employee changes insurance coverage. Given that no salary offset amounts have been adopted, Section E is moot. Therefore, I recommend that the parties delete that section, and relabel the remaining two sections in Article XIV.

In addition, at the hearing the parties stipulated that the Arbitrator would have the authority to prescribe a method to implement the retroactive portions of the salary and insurance offers that are selected (Tr. 16-22). The Arbitrator's salary offer awarded above calls for employee salaries to be increased by three percent retroactive to December 1, 1993, and the Employer's insurance offer awarded above calls for the employees' share of the insurance premiums to be increased to 25 percent retroactive to December 1, 1993 (Tr. 20). Accordingly, the Employer's payroll personnel will need to go back and (1) recalculate the employee wage rates during the period from December 1, 1993 to the present, being mindful of any step increases during that period; (2) recalculate the employee share of the insurance premiums from December 1, 1993 to the present, being mindful of any insurance premium increases on July 1, 1994; and (3) calculate the difference in these amounts for each employee. Then, those employees who are owed money (i.e., those whose retroactive wage increase amount exceeds their retroactive increased insurance contribution amount) will be paid this net retroactive amount during the month of September 1994 (i.e., no later than September 30, 1994).

At the same time, those employees who owe the County money (i.e., those whose retroactive wage increase amount is exceeded by their retroactive increased insurance contribution amount) will have this net retroactive amount deducted from their paychecks during the month of September 1994 (no later than September 30,

1994).⁶ By having these net retroactive amounts added to or subtracted from the employee paychecks after the September 1, 1994 effective date of the salary equity adjustment awarded above, this implementation method should reduce the number of employees who experience an absolute decline in their take-home pay as a result of deductions for retroactive amounts owed. In addition, requiring that these net retroactive amounts be paid during the month of September gives the Employer time to arrange its finances to avoid cashflow hardships due to these retroactive amounts.

Regarding the adjustment of current employee paychecks to reflect their new pay rates and insurance deductions, the Employer is directed to make these payroll adjustments no later than September 1, 1994.

Consistent with the parties' stipulation (Tr. 16-22), I will retain jurisdiction to resolve any payroll implementation disputes over the handling of these retroactive amounts. I cannot overemphasize that this retention of jurisdiction is strictly limited to payroll implementation matters only. Moreover, nothing in this implementation method prevents the parties from mutually agreeing upon an alternate implementation method.

3. Hours of Work (Article VIII)

Article VIII currently contains several sections that address such topics as the work day, overtime, meal and rest periods,

6. Assuming employees will receive two paychecks in September, these net retroactive amounts (positive or negative) should be allocated equally across the two September paychecks.

call-back pay, etc. Section A addresses the work period, and Section C addresses work schedules, as follows:

- A. **Work Period:** The regular scheduled work period shall consist of twenty-eight (28) consecutive days and a maximum of one-hundred and sixty (160) hours. The work periods shall begin on the first (1st) day of the pay period of the Budget Year.
- C. **Work Schedules:** Work schedules showing the employee's shifts, assignments and work days shall be posted on all department bulletin boards on the 28th of the month for the succeeding month. All shifts shall have regular starting and quitting times and employees must be at their assigned positions and ready to perform duties at the established starting time of their work shift.

There shall be squad meetings at the beginning of each shift consisting of fifteen (15) minutes in length.

As the wording of these two sections implies, there is nothing in Article VIII that specifies the content and length of the days-on/days-off work cycle, nor is there anything that specifies the starting and quitting times of the various shifts.

Position of the Union. The Union proposes to add the following language to the existing language in Section A and Section C (UX 9):

- A. **Work Period:** . . . The work schedule shall consist of six (6) days of work and two (2) days off followed by six (6) days of work and three (3) days off. Thereafter, the schedule shall repeat.
- C. **Work Schedules:** . . . There shall be three shifts with regular starting and quitting times. First shift will be from 06:30 - 14:45, second shift will be from 14:30 - 22:45, and third shift will be from 22:30 - 06:45.

The Union supports its offer with a variety of evidence and arguments. The Union says that the current work period follows a 49 day cycle whereby each employee works six days on followed by two days off, six on and two off, six on and two off, six on and

two off, six on and three off, and five on and three off (i.e., 6-2/6-2/6-2/6-2/6-3/5-3), and then the cycle repeats. The Union objects to this 49 day cycle as giving employees too few three-day periods off. The work period portion of the Union's offer would give employees three days off during every 16 day work cycle (which actually is 17 days), which would result in less stress for each employee. Further, the Union says that its proposed 6-2/6-3 cycle would result in almost the same number of weekly and annual work hours, and it would result in essentially the same level of staffing on each shift as exists currently (UX 9). The Union also says that the external comparability evidence supports the selection of the Union's offer. This evidence shows that in 15 downstate Illinois counties, no other county sheriff's department has as complicated a work cycle as Macon County (UX 10). There are a variety of work cycles in these comparison counties, and none of them has a 49 day cycle. Most of these other counties have a work cycle that is similar to what the Union is seeking.

Regarding the starting and quitting times of various shifts, the Union wants to have these times specified in the contract so that all employees on a shift will be equitably subject to the same work hours. Currently, some of the day shift employees can be assigned to work as court officers. The normal day shift hours are 6:30 a.m. to 2:45 p.m., but the hours for court officers are 8:00 a.m. to 4:30 p.m. The Union argues that it is unfair for employees to bid on a shift and then have their starting and quitting times changed from the regular hours for that shift.

Further, hearing testimony established that these court officers sometimes are interchanged with COs working in the jail (Tr. 74-75, 162-164, 127-128). The Union says that this testimony indicates that it is not as necessary to have these different work hours for court officers as the Employer has argued.

Position of the Employer. The Employer proposes that Article VIII continue unchanged. The Employer objects to the work period portion of the Union's proposal by noting that the adoption of this proposal would result in (1) three more days off each year for employees (Tr. 171), (2) a decline in average weekly work hours from 40 to 39.5, (3) imbalanced staffing for a few days each month, and (4) some automatic overtime for some employees during each 28 day work period specified in Fair Labor Standards Act rules that regulate the hours and pay requirements of law enforcement employees.

Regarding the Union's starting and quitting time proposal, the Employer says a recent grievance arbitration award (Macon County/Sheriff and AFSCME Council 31, July 2, 1992, Arb. George R. Fleischli) clearly specified that the Employer has the contractual right to establish hours for court officers that are different from the regular day shift hours. The Employer also says that the court officers' hours are tied to the daily courtroom schedule, and that court sessions do not normally end by 2:45 p.m. As a result, the adoption of the Union's proposal would mean that court officers' quitting time might interfere with the smooth functioning of the courts. The Employer argues that judges would

not appreciate having to take breaks during afternoon court sessions just to change court officers. The alternative is to allow court officers to work past the 2:45 p.m. end of the day shift, which would create a significant overtime expense for the Employer.

Analysis. The Union is the party that bears the heavier burden of persuasion on this item, for the Union is proposing two significant changes in the hours of work article. A careful examination of the evidence indicates that the Union has not met its burden. On the work period or work cycle portion of this item (Section A of Article VIII), the Union has offered no persuasive justification for why employees need to have a different days on-days off schedule. My analysis of the work cycle evidence shows that employees presently receive 104.3 days off per year, and the Union's proposal would provide employees 107.3 days off per year (Tr. 168-171). There is not a scrap of evidence to show why the employees are entitled to receive three additional days off each year. Expressed in alternative units of time, there is not a scrap of evidence to show why the employees are entitled to a reduction in their average weekly work hours from the current 40 to about 39.5. The Union has supplied no persuasive evidence that employees experience any more stress than would ordinarily be expected in a workplace that must be staffed 24 hours per day for 365 days per year. Further, Corrections Administrator Richard Bright testified that the adoption of the Union's offer would mean

the Employer would need to hire another CO to make up for the work hours lost via the Union's proposed work cycle (Tr. 239-24).

Moreover, the Union's external comparability evidence from other counties provides no support for its proposal. This evidence shows that sheriff's departments across these 15 comparison counties have a wide variety of work cycles (UX 10). Eight of these counties have five days on-two days off cycles, and the other seven counties have different arrangements (including some with 12 hour shifts). There is absolutely nothing in this evidence that indicates that the 6-2/6-3 cycle proposed by the Union is widely used. In fact, none of these comparison counties use such a cycle (UX 10).

Turning to the starting and quitting times portion of the Union's offer (Section C of Article VIII), there is no evidence of any kind to support its adoption. Indeed, the Employer's efforts to have court officers' shift hours parallel the times when courts are most likely to be in session is an efficient use of staff for those positions. Further, there is absolutely nothing unfair to employees about making court officers' hours be different from the regular day shift hours. There is not a scrap of evidence that the employees assigned to court officer duty have suffered any hardship as a result of working different hours than their day shift colleagues assigned to the jail.

The record also indicates that the Union tried and failed to obtain a limitation on court officers' starting and quitting times via the grievance arbitration process (the Fleischli Award). As

indicated above, there is nothing in the record that justifies awarding this starting and quitting time limitation to the Union via the interest arbitration process.

As noted, the party proposing the change on this important issue bears the burden of persuasion. On this issue, the Union has not come close to offering a persuasive body of evidence and argument showing why its hours of work offer should be adopted. In contrast, the Employer has offered several persuasive reasons why neither portion of the Union's offer should be adopted. Article VIII will continue unchanged.

Finding. For the reasons expressed above, I find that the totality of the evidence on the hours of work issue provides more support for the Employer's offer than for the Union's offer.

4. Secondary Employment (new article)

The contract currently does not address employees' secondary employment (or "outside work"). Instead, the Sheriff has a rule that provides that secondary employment, or outside work, is limited to 20 hours per week and is subject to the Sheriff's approval.

Position of the Union. The Union proposes that a new article, titled "Miscellaneous Provisions," be included in the contract, and that the content of this new article will read: "There shall be no restrictions on secondary employment." (UX 7). The Union argues that how employees allocate their nonwork time is no business of the Employer. As long as there is no conflict of

interest, an employee's secondary employment is none of the Employer's business. In addition, the Union says that its external comparability evidence from the 15 comparison counties used above indicates that Macon County's outside employment policy is the most restrictive of all 16 of these jurisdictions (UX 8; Tr. 95-96).

Position of the Employer. The Employer proposes that the status quo continue unchanged (i.e., that no secondary employment language be added to the contract, and that the longstanding Sheriff's rule continue to regulate this subject). The Employer argues that the Union is attempting to obtain in arbitration what it could not obtain in bargaining, and that such an attempt should not be rewarded. The Employer argues that the Sheriff needs to have the authority to regulate employees' secondary employment to avoid any conflicts of interest and to avoid absenteeism and fatigue problems that may arise if too much time is devoted to working another job. In particular, the Employer points out that the Sheriff's testimony shows that he has found it necessary to discipline employees because their secondary employment interfered with the performance of their Department jobs (Tr. 245). In addition, the Sheriff's testimony shows that he has approved every secondary employment request he has received (Tr. 244-245), so there is no evidence that this rule has caused any problems for any employee. The Employer also notes that the Union's external comparability evidence indicates that most other comparison

counties have a similar policy that regulates secondary employment by the employees in those sheriff's departments (UX 8).

Analysis. As with the hours of work item, the Union bears the heavier burden of persuasion on this secondary employment item, for the Union is the party proposing the change. A careful examination of the evidence indicates that the Union has not met its burden. The Sheriff testified that he has approved every secondary employment request he has received (Tr. 244-245), and his testimony was not rebutted. In addition, there is no evidence that employees have been prevented from obtaining particular types of secondary jobs because of the Sheriff's rule. In particular, the Sheriff's testimony establishes that no employee has requested his approval for outside work that is incompatible with his/her position in the Department (Tr. 244), and his testimony was not rebutted. As a result, there is no evidence that any problems have arisen with the limitation on the amount of time that an employee can work in a second job, or with the limitation on the type of secondary work that an employee can perform. In other words, the Union has not shown that the Sheriff's secondary employment rule has interfered with any employee's occupational pursuits. If the Union had persuasively demonstrated that the Sheriff's rule unreasonably interfered with employees' livelihoods, then the outcome of this issue might well be different. However, there has been no showing of any such interference.

Under the factor of internal comparability, the Sheriff's testimony indicates that this same rule applies to the deputy sheriffs and the other employees in the Sheriff's Department (Tr. 247). As a result, the members of the instant unit are not being invidiously affected by this rule.

Similarly, the external comparability evidence provides no persuasive support for the adoption of the Union's proposal. Among the sheriff's departments in these 15 comparison counties, 10 have policies that specify that outside employment is subject to the approval of the sheriff, and three more specify that such employment is permitted as long as it does not prevent a conflict of interest (UX 8). The Union is correct that only two other counties specify an explicit hours limitation in these policies (UX 8), but the absence of such explicit limitation in the other counties cannot be interpreted to mean that these other departments allow their employees to work an unlimited number of hours in second jobs. Further, the Union's information suggests that most of these other outside employment policies are not specified in the collective bargaining agreements in these comparison departments (compare the sources of information described at the bottom of UX 8 with those at the bottom of UXs 3 and 4; Tr. 95-96). As a result, the Union's evidence shows that Illinois sheriffs' secondary employment policies generally reserve to the sheriff the right to approve or disapprove employees' second jobs. At the same time, the Union has not shown that the Macon County secondary employment rule is unduly burdensome

compared to such rules in other Illinois sheriff's departments, or that such rules in Illinois sheriff's departments customarily are specified in collective bargaining agreements.

As noted, the party that is proposing the change on this issue bears the burden of persuasion. The evidence indicates that the Union has not met its burden. As a result, there is no persuasive basis for awarding new contract language that would regulate secondary employment for the members of this unit.

Finding. For the reasons expressed above, I find that the totality of the evidence on the secondary employment issue provides more support for the Employer's offer than for the Union's offer.

AWARD

Using the authority vested in me by Section 14 of the Act and by the parties' arbitral stipulations, I select the following offers as more nearly complying with the applicable Section 14(h) decision factors:

1. Salaries (Article XX)

The Arbitrator's offer, presented on p. 21, is selected.

2. Health Insurance (Article XIV)

The Employer's offer is selected, and, as explained on pp. 34-35, the Arbitrator retains jurisdiction over the method of implementation of the retroactive portions of the salary and insurance decisions.

3. Hours of Work (Article VIII)

The Employer's offer is selected.

4. Secondary Employment (new article)

The Employer's offer is selected.

Respectfully submitted,



Peter Feuille
Arbitrator

Champaign, Illinois
July 25, 1994