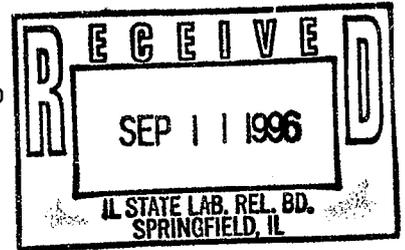


ILLINOIS STATE LABOR RELATIONS BOARD
INTEREST ARBITRATION



In the Matter of the Arbitration)
)
 between)
)
 COUNTY OF LAWRENCE and)
 SHERIFF OF LAWRENCE COUNTY)
)
 and)
)
 ILLINOIS FRATERNAL ORDER OF POLICE)
 LABOR COUNCIL)

Before
HARVEY A. NATHAN,
Sole Arbitrator
ISLRB No. S-MA-96-31
FMCS No. 96-07078

Hearing Held: July 8, 1996

Briefs Received: August 17, 1996

For the Employer: Michael F. Crowe,
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Lawrence County

Norbert J. Goetten,
Director
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Chief Labor Counsel,
State's Attorneys Appellate
Prosecutor

For the Union: Becky S. Dragoo,
Legal Assistant

O P I N I O N A N D A W A R D

I. INTRODUCTION

This is an interest arbitration proceeding held pursuant to Section 14 of the Illinois Public Labor Relations Act (5 ILL 315/14), hereinafter referred to as the "Act," and the Rules and Regulations of the Illinois State Labor Relations Board ("Board"). The parties are the County of Lawrence and the Sheriff of Lawrence County, as joint employers, hereinafter the "Employer," and the Illinois Fraternal Order of Police Labor Council, hereinafter the "Union."

Lawrence County encompasses a rural area located in the Wabash Valley of southeast Illinois. Its principal industries are farming and crude oil production. It covers about 372 square miles and has a population of about 16,000. The county seat is Lawrenceville. The Union was certified on August 21, 1992, as the collective bargaining agent for a unit of full time deputies, correctional officers, dispatchers and the chief deputy. Including the chief deputy, there are presently 5 deputies, 1 correctional officer, 3 dispatchers and 1 dispatch/deputy in the unit. The Employer also has a number of unrepresented part time deputies, although it maintains that the number will decrease because of new training regulations.

The parties entered into collective bargaining shortly after certification. However, they did not reach agreement until May, 1993. While this first contract was effective for the period of December, 1992, through November, 1995, there was no agreement for wages for fiscal 1993 or 1994. The contract contained wage

reopeners for both years. On June 20, 1994, the parties reached agreement for wages for both 1993 and 1994.

Negotiations for a new contract began on November 1, 1995. At this bargaining session the Union presented its proposals on economic and non-economic issues. The second meeting was on December 6, 1995, at which time the Employer, alleging financial difficulties, proposed a wage freeze and no changes in any other terms and conditions of employment. Thereafter the parties agreed to waive mediation and proceed immediately to interest arbitration. A Demand for Arbitration was filed with the Board on January 11, 1996, and the undersigned was notified of his appointment on March 22, 1996. Thereafter the parties agreed to July 8th as the date for the hearing.

At the outset of the hearing the parties presented the Arbitrator with detailed stipulations and ground rules for the conduct of the hearing. In relevant part these stipulations are as follows:

"1) The Arbitrator *** shall be Harvey A. Nathan. The parties stipulate that the procedural prerequisites for convening the Arbitration hearing have been met, and that the Arbitrator has jurisdiction and authority to rule on those mandatory subjects of bargaining submitted to him as authorized by the *** Act, including but not limited to the express authority and jurisdiction to award increases in wages and all other forms of compensation retroactive to December 1, 1995. Each party expressly waives and agrees not to assert any defense, right or claim that the Arbitrator lacks the jurisdiction and authority to make such retroactive award; however, the parties do not intend by this Agreement to predetermine whether any award of increased wages or other forms of compensation should in fact be retroactive to December 1, 1995."

- 2) *** [Concerns hearing date, time and location.]
- 3) *** [Concerns the transcription of the proceedings.]
- 4) *** [Concerns who may attend the hearing.]
- 5) "The parties agree that the following issues remain in dispute and that these issues which are mandatory subjects of bargaining may be submitted for resolution by the Arbitrator. The parties agree that all of the following issues are economic within the meaning of Section 14(g) of the *** Act:
 - "a) What increases in wages will be received by bargaining unit members:

Effective December 1, 1995
Effective December 1, 1996;
 - "b) The language of the Agreement governing the employee share of dependent health insurance premiums;
 - "c) The language of the Agreement governing eligibility for holiday compensation;
 - "d) The language of the Agreement governing the probationary period;
 - "e) The language of the Agreement governing compensatory time (accumulation);
 - "f) The language of the Agreement governing overtime/extra shift opportunities;"¹
- 6) *** [Concerns joint exhibits.]
- 7) "Final offers shall be exchanged at the start of the Arbitration hearing on July 8, 1996. Thereafter, such final offers may not be changed except by mutual agreement of the parties."
- 8) *** [Concerns presentation of the evidence.]
- 9) *** [Concerns filing of briefs.]

¹ During the course of the hearing the parties amended this list of issues to include duration.

"10) The Arbitrator shall base his findings and decision upon the applicable factors set forth in Section 14(h) of the *** Act. The Arbitrator shall issue his award within thirty (30) days after the submission of the post-hearing briefs or any agreed upon extension requested by the Arbitrator."

11) *** [Concerns possible settlement at any time.]

12) *** [Concerns application of the Act and Rules of the Board.]

13) *** [Concerns authority to execute and bind the principals.]

II. STATUTORY REQUIREMENTS

The statutory standards, as contained in Section 14(h) of the Act, to be followed by the Arbitrator in reaching decisions are as follows:

"Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

"(1) The lawful authority of the employer.

"(2) Stipulations of the parties.

"(3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

"(4) 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, and 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 private employment."

III. FINANCES

The costs of operating the Sheriff's Department are paid from the County's General Fund. Except for a modest decrease in 1994, Lawrence County had experienced growing General Fund balances over the last several years. Even in 1994, budgeted revenues were less than actual revenues and budgeted expenses were less than actual expenditures. The growth in the General Fund may be charted as follows:*

| <u>Year</u> | <u>Beginning Balance</u> | <u>Budgeted Revenue</u> | <u>Actual Revenue</u> | <u>Budgeted Expenses</u> | <u>Actual Expenses</u> | <u>Ending** Balance</u> |
|-------------|--------------------------|-------------------------|-----------------------|--------------------------|------------------------|-------------------------|
| 1990 | \$1,025 | \$1,155 | \$1,390 | \$1,155 | \$1,153 | \$1,263 |
| 1991 | 1,276*** | 1,174 | 1,363 | 1,260 | 1,182 | 1,455 |
| 1992 | 1,455 | 1,237 | 1,259 | 1,282 | 1,209 | 1,475 |
| 1993 | 1,475 | 1,214 | 1,366 | 1,302 | 1,260 | 1,542 |

| | | | | | | |
|------|-------|-------|-------|-------|-------|-------|
| 1994 | 1,542 | 1,226 | 1,331 | 1,418 | 1,333 | 1,502 |
| 1995 | 1,502 | 1,343 | 1,492 | 1,528 | 1,431 | 1,584 |

* Charted in thousands ('000 deleted).

** As adjusted for funds transferred to other accounts.

*** As adjusted.

At the close of each fiscal year Lawrence County had negligible current liabilities and no long term (bonded) debt. Its surplus was invested in different interest bearing cash accounts.

The major sources of revenue for the General Fund in 1995 were income tax (28%), sales taxes (24%), permits, fees and service charges (20%), property taxes (13%), other intergovernmental revenue (8%), investments (3%), other (3%). From 1990 through 1995 these percentages varied modestly. Generally speaking, however, the order of importance as sources of revenue has not changed.

The Employer makes much of the closing of the County's largest private employer, and a large source of property tax revenue. However, property taxes for the entire County are a relatively minor source of revenue and the loss of the one employer has been offset by continued growth in the County and the addition of new enterprises which increase the tax base. It should be noted that the County's EAV has been steadily increasing and the tax rate for the General Fund has pretty much remained constant.

IV. COMPARABILITY

The Union has proposed a group of seven counties in its immediate area, in southeast Illinois, as an external comparability group. The Employer has rejected external comparability as a meaningful element in this case because it believes the financial crisis caused by the loss of its largest private employer makes it unique. The Employer misunderstands the purposes of comparability. No two communities have precisely the same characteristics. Every employing entity is unique and each one has its own strengths and weaknesses. Arbitration awards are not the result of some automatic application of relativity scales. Rather, the parties and the arbitrator can better gauge the appropriateness of one offer over another by comparing it against the collective wisdom of parties in demographically and geographically similar communities. Provided that the comparability group is large enough to be statistically meaningful, the marketplace of contract terms is a powerful tool for demonstrating appropriateness.²

The Union's group is comprised of the following:

² A statistically valid group is one large enough that aberrations among individual communities will not skew the averages. In any event, the averages are merely a reflection of the marketplace and should not be slavishly followed without regard to the individual needs of the parties at issue.

| | <u>Population</u> | <u>Area</u> | <u>Home Value</u> | <u>Revenue</u> | <u>Unit #s</u> | <u>Index Crime</u> |
|----------------------|-------------------|-------------|-------------------|------------------------|----------------|--------------------|
| Clay | 14,460 | 469 sq.m. | \$31,900 | \$1,541,259 | 9 | 112 |
| Crawford | 19,464 | 443 | 36,700 | 2,475,343 | 16 | 169 |
| Jasper | 10,609 | 494 | 39,400 | 1,721,814 | 16 | 83 |
| Richland | 16,545 | 360 | 35,800 | 1,606,269 | 16 | 135 |
| Wabash | 13,111 | 223 | 42,200 | 1,372,272 | 8 | 49 |
| Wayne | 17,241 | 714 | 34,500 | 1,920,595 | 10 | 152 |
| White | 16,522 | 495 | 34,500 | 1,963,986 | 14 | 428 |
| Average ³ | 15,422 | 457 | 36,429 | 1,800,220 | 12.7 | 175.4 |
| Lawrence | 15,972 | 372 | 32,800 | 1,491,702 ⁴ | 10 | 203 |

| | <u>(1995) Beginning Gen Fund Bal</u> | <u>Ending General Fund Bal</u> |
|--------------------|--------------------------------------|--------------------------------|
| Clay | \$ 605,961 | \$ 560,338 |
| Crawford | 1,653,260 | 1,616,311 |
| Jasper | 1,050,525 | 862,178 |
| Richland | 232,675 | 299,634 |
| Wabash | 459,250 | 277,410 |
| Wayne | 1,363,155 | 1,477,571 |
| White (94) | 1,560,924 | 1,476,283 |
| Average w/o White | \$1,154,292 | \$ 848,907 |
| Average with White | 1,213,668 | \$ 938,532 |
| Lawrence | \$1,502,173 | \$1,584,279 |

³ Lawrence is not considered in computing the average.

⁴ Lawrence has the lowest property tax revenue but above average sales tax revenue compared with the seven counties.

III. DISCUSSION OF THE ISSUES

A. Wages

1. The Parties' Positions

For the first year of the new contract, the Union is seeking the implementation of a wage progression, or "step plan," based upon years of service and computed on an annual basis. The Employer seeks a wage freeze and the retention of the current language of the Agreement. The current language of Article XXII and the Appendix agreed to during the reopener are as follows:

Section 1. Effective December 1, 1992, all members of the bargaining unit shall receive an additional \$.75 per hour added to their individual hourly rates.

Section 2. Either party may reopen only the Wages Article prior to December 1, 1993, and December 1, 1994. Notice of intent to reopen should be given sufficiently in advance of the budgeting process and in any case no later than sixty (60) days prior to December 1, 1993, and December 1, 1994.

Section 3. Wage Schedule

| <u>Employee</u> | <u>Present Pay</u> | <u>\$.75 Increase</u> |
|-----------------|--------------------|-----------------------|
| Chansler | \$11.06 | \$11.81 |
| Nuttall | 8.71 | 9.46 |
| Davis | 8.78 | 9.53 |
| Mefford | 8.41 | 9.16 |
| Adams | 8.41 | 9.16 |
| Brown | 7.15 | 7.90 |
| Brown | 8.06 | 8.81 |
| Hawkins | 8.06 | 8.81 |
| Foster | 7.15 | 7.90 |
| Brashear | 6.85 | 7.60 |
| Lawson | 7.15 | 7.90 |

Chief Deputy Differential - \$.72 per hour
Deputy Starting Pay - \$8.46 per hour
CO Starting Pay - \$7.25 per hour
Dispatcher - \$7.55 per hour

At present, two employees (Chansler and Nuttall) share duties which were formerly performed by a clerk/secretary in the Sheriff's Department. Their hourly pay differential for performing these duties is \$1.56. If another employee(s) is given these duties, that employee(s) shall receive the same hourly differential as is presently paid.

The terms of the Reopener, as signed on June 20, 1994, are as follows:

1. 93/94 Wages: Base wage increase to all present employees of \$.50 per hour, for FY 93/94. Increase to be paid retroactive to December 1, 1993.

2. 94/95 Wages: Base wage increase to all employees equal to the amount paid to either highway department or supervisor of assessments office, whichever is higher, plus \$.10 more. (Example: highway gets \$.35, assessments get \$.30, Sheriff's Department then gets \$.35 plus \$.10, for a \$.45 total.)

3. Remainder of contract, longevity will be \$50 per contract year (measured from December, 1992). Any employee working when the new fiscal year begins will be eligible to receive the \$50 for the year. Anyone now who worked in 1992 will receive \$100 this year and \$150 next year. This longevity will be incorporated into base salaries.

4. Starting salaries will not increase in FY 93/94, but will increase by \$.50 in 94/95.

According to the Union's representative, the bargaining unit employees did not get an increase in the 94/95 fiscal year because the Employer gave the other employees against whom the unit employees were to be gauged an increase at the end of the 93/94 fiscal year and the deputies were not eligible for this increase. In other words, the other of the Employer's employees got two wage increases in 93/94 and none in 94/95. The Sheriff's department received the wage reopener for 1993 and nothing for 1994.

The Union proposes the following changes in Article XXII,
Section 3:

| DEPUTIES | | CORRECTIONS/DISPATCH | |
|---------------------|----------------------|----------------------|----------------------|
| <u>Step in Plan</u> | <u>Eff. 12/1/95*</u> | <u>Step in Plan</u> | <u>Eff. 12/1/95*</u> |
| Start | \$20,000 | Start | \$16,800 |
| Base Pay | 21,400 | Base Pay | 17,200 |
| 2nd Year | 21,800 | 2nd Year | 17,600 |
| 3rd Year | 22,200 | 3rd Year | 18,000 |
| 4th Year | 22,600 | 4th Year | 18,400 |
| 5th Year | 23,000 | 5th Year | 18,800 |
| 9th Year | 23,400 | 9th Year | 19,200 |
| 12th Year | 23,800 | 12th Year | 19,600 |
| 13th Year | 24,200 | 13th Year | 20,000 |
| 14th Year | 24,600 | 14th Year | 20,400 |
| 15th Year | 25,000 | 15th Year | 20,800 |
| 20th Year | -- | 20th Year | 22,000 |

Chief Deputy Differential: \$.72 per hour

D. Nuttal will continue to receive the pay differential of \$1.56 per hour for the additional clerk/secretary work performed. If another employee(s) is given these duties, that employee(s) shall receive the same hourly differential as is presently received.

Eff 12/1/96 each step of the Deputy and Corrections/Dispatch wage schedules in Section A above shall increase by 3%.

*Increases in compensation to be retroactive to December 1, 1995, on all hours paid. Retroactive checks shall be issued within 60 days after the issuance of the Arbitrator's Award.

Any employee having left the employ of the County after December 1, 1995, but prior to the implementation of the salary increase shall receive a pro-rata share of any retroactive amounts due.

The Union makes several arguments in support of its proposal for a step plan followed by a 3% across the board wage increase. It argues that the County has substantial revenue from several sources and that it has a history of receiving more revenues than it spends. The Union points out that the County has the second

highest General Fund balance among the comparable counties, that its balance is greater than the expenditures for an entire year, and that it has no debt. The Union argues that a review of the County Board minutes shows that there was never any discussion of financial problems until bargaining began for this contract. Then, despite numerous warnings about a financial crisis the County again ended up with a surplus for the year. The Union agrees with the Employer's argument that the loss of the largest property taxpayer in Lawrence County represents a loss of \$450,000 in tax revenues. However, the Union points out, that is the sum due all of the taxing entities in the County and the loss to the General Fund will be a small fraction of this amount. The Union argues that the Employer used to have a step plan, but that it was eliminated shortly before the Union became the bargaining agent for the employees in question. The Union also argues that the Employer's proposal would mean no increases for the second year in a row without any assurance that an increase would result from the reopener. Moreover, the Union points out, bargaining for that reopener should already have begun. Given the parties' respective positions it makes more sense to settle the 96/97 fiscal year increases in this proceeding.

The Union asserts that all of the sheriff's departments in the comparability group have step plans and that deputies in these other departments are paid substantially more than the unit

employees in this case.⁵ With regard to dispatchers, some of the comparables do not have contracts which cover them. But among the four that do, the Union asserts, the Employer is below average and falls further behind as seniority increases.⁶ Finally, the Union avers that even with its proposed increases, employees in this department will still be below average among similarly situated officers in the comparable counties.

As for internal comparability, the Employer asserts that no other County employees have been paid increases for 1995/96. The Union contends, however, that the Employer is simply waiting for the results of this case and no employees have been told that they will definitely not receive wage increases for 1995/96. The Union also makes much of the disparity in wages between deputies of the Employer and police officers working for the City of Lawrenceville. According to the Union, between employees of similar experience an officer in Lawrenceville will earn between 15% and 24% more than a Sheriff's deputy even after the Union's proposed step plan is initiated. The Union points out that two deputies left the Employer this past year in order to work as police officers for the City. While the Employer asserts that the Union's proposal would give some employees double digit increases, the Union suggests that

⁵ According to the Union's exhibits, the Employer's starting salary for deputies is slightly below average but in line with the County's respective size. However, the more senior a deputy is in Lawrence the more he falls behind the average.

⁶ However, according to the Union's exhibits, the starting salary for the correctional officer is competitive among the comparables. A comparison beyond this is difficult because the Employer has only one correctional officer.

its proposal would cost the Employer and additional \$18,000 in the first year and an additional \$12,000 in the second year.

2. Conclusions

A decision on this issue is not easy because the parties' respective positions are so far apart. On the one hand the Union wants to change the salary structure as well as give employees relatively large increases. On the other hand, the Employer offers nothing in the first year and only a reopener in the second year. On the one hand, the Union seeks to accomplish in only its second contract what it may have taken other units several contracts to establish. On the other hand, the Employer has a history of General Fund surpluses and has enough money in the bank that it could abate a property tax for the General Fund for everyone in the County without risk of financial ruin. Contrary to the alarm raised by the loss of the largest taxpayer, the impact on the Fund which pays for this unit is minimal.

An examination of the statutory criteria reveals as follows:

1. The Employer has the authority to enter into the collective bargaining agreement as awarded by the Arbitrator.

2. The parties have stipulated to the Arbitrator's jurisdiction generally in this case, and to his authority to award retroactivity.

3. The Employer has the financial ability to meet the costs of paying the Union's proposal for wages. Among the considerations reviewed above, the Arbitrator notes that "the surplus in the General Fund for just this past year could fund the proposed wage

increases for more than two years. The Arbitrator notes the growth of the economy in Lawrence County, notwithstanding the loss of a large private employer. Because of its relatively modest impact on the budget as a whole, the interest and welfare of the public would not be harmed by the awarding of the Union's offer for wages. On the other hand, to sustain the Employer's offer risks the welfare and interests of the public because continued low wages could lead to other experienced employees leaving the Department for employment in the better paying surrounding counties or in the City.

4. The wages paid to the employees involved in this case are substantially below those paid to other public employees performing the same or similar tasks.

5. The Consumer Price Index, or cost of living, supports the Employer's proposal more than it does the Union's. Inflation, as measured by the CPI, has been below 3% for some time and there is no indication of an increase over 3% through the end of 1996.

6. The overall compensation received by these employees is modest in relation to the importance of their job duties and the personal risks they take. Their insurance benefits, as will be discussed in more detail below, are comparable but modest. The opportunity for overtime, the continuous nature of the operation of a sheriff's department, job stability and other fringe benefits are not factors which seriously affect the outcome on this issue. Taken as a whole, this Arbitrator finds that these employees will not receive disproportionate overall compensation should the

Union's wage proposal be accepted.

7. The parties have not advised the Arbitrator of any changes in circumstances since the hearing was held which would affect the outcome of this case.

8. Other factors, particularly bargaining history, demonstrates the Union is unlikely to obtain a step plan at the bargaining table on its own. The Arbitrator is reasonably convinced that this common structure for the payment of wages must come through arbitration if it is to come at all.

Accordingly, I award the Union's proposal for wages.

B. Probation Period

Article XV (Seniority), Section 2. Probation Period, now provides that a new hire is a probationary employee for the first 12 months of employment or until the completion of mandated state training, "whichever is longer." Probationary employees do not have access to the grievance procedure and do not accrue seniority. The Union proposes the deletion of the words "whichever is longer." The Employer seeks to retain the current language.

The Union explains its proposal as a limitation on the Employer's ability to retain an employee in probationary status by not sending him for training. The Union's intent in making this proposal is to require that an employee be sent for training before the first year is completed. It argues that to retain the present language presents too great of a temptation for the Employer to avoid its responsibilities to the new employee. The Union's evidence shows that three comparable counties have 12 month

limitations for probationary periods, that one has a 6 month or training, which is ever is longer, provision, and that the other three have requirements the same as or similar to those in Lawrence County.

The Employer argues that the Union's proposal would require that after a year a new employee be taken off probation even when he has not been able to pass the necessary training courses. It also argues that an employee who successfully completes training shortly after hiring would not have been employed long enough for the Sheriff to properly evaluate him for permanent employment. The Employer points out that there is no real comparability support for the Union's proposal.

The Union's proposal must be rejected for several reasons. First, the Union has offered no evidence that the Employer has delayed sending employees for training so that they are forced to remain on probation for more than one year. Second, it is unclear whether an employee might come on board fully trained, which would give him (or her) instant seniority. Third, some employees may, through no one's fault, be unable to complete the necessary training within the first year of employment. Under the Union's proposal the Sheriff might be required to terminate the new employees' employment rather than risk permanent status for someone who has not yet been properly observed by the Employer.

The present Holidays provision reads as follows:

Section 3. Qualifying Work

In order to qualify for holiday pay, all employees shall work their last regularly scheduled work day before the holiday and their first regularly scheduled work day after the holiday.

The Union proposes adding the following to this sentence:

"unless on approved paid leave."

The intent of the Union's proposal is to allow an employee to collect holiday pay if he were on sick leave or vacation, etc. immediately prior to or after a holiday. The Union argues that, in one form or another, every comparable sheriff's department has provisions allowing for holiday pay before or after excused absences.

The Employer argues that the present language is standard language which the parties freely negotiated in their first contract. The Employer asserts that the purpose of this language is to reward employees with additional pay in weeks in which they have performed a full complement of hours. It likens the underlying concept to that for overtime under the Fair Labor Standards Act: One earns overtime pay based upon actual hours worked. The Employer also argues that granting holiday pay immediately before or after approved days off would encourage employees to be off around holidays so as to have a mini vacation.

Among the statutory standards, the only one which clearly tilts toward the Union is that of comparability. That is not enough. Without some indicia of fairness or equity, not present

enough. Without some indicia of fairness or equity, not present in a profession where employees know upfront that the work is a continuous operation, the issue appears to be simply extra pay when working a short week. There is no compelling need to award this proposal to the Union. Given the relatively large wage increases which this Award provides, there is little financial compulsion to grant this new benefit. It would be nice to have, but it should be obtained at the bargaining table.

D. Hours of Work/Overtime - Compensatory Time

The Union seeks to increase the amount of compensatory time they can accumulate from 24 hours to 80 hours. The new language would read as follows:

Employees may protect up to **eighty (80) hours** of compensatory time from mandatory use. Compensatory time over the aforementioned may be bought out by the Employer, at the rate of one hour of pay for one hour of comp time.

The Union argues that among the comparables only White County has less contractual comp time accumulation than Lawrence. The Union argues that the workload/department size ratio for the Employer is about the same as that in the comparable counties. The other counties have managed to operate allowing their employees to have greater compensatory time off. There is no reason why Lawrence County cannot do the same. The Union also asserts that comp time saves the County money because giving employees time off is less expensive than paying them.

The Employer argues that the Union has not stated any good reason why the employees need an expansion of comp time

not accrue the maximum comp time allowed. The Employer also argues that expanding comp time would cause the Sheriff to pay other employees overtime rates to cover for the employees taking the comp time.

It is interesting that each side argues that its proposal is less costly. Abusive use of comp time in a tightly staffed department can be expensive because positions need to be filled and the only employees left to fill the assignments would be working on overtime. However, in most employment settings, comp time is scheduled by employers as a money saving device because the employees taking the time off would otherwise be working overtime. Comp time is usually a tool used by employers to adjust work schedules so as to avoid overtime. In the case of this unit, it appears that the Employer's access to a part time work force nearly as large as the complement of regular, full time employees, allows it some flexibility in assignments without incurring excessive overtime. Indeed, the part timers work at a substantially lower hourly rate than regular employees.

This is a proposal which more closely fits the statutory criteria than most of the Union's other offers. It is supported by the comparables, by financial considerations, and the public interest in that employees who work excessive overtime are not as efficient as those with regular schedules. In the area of public safety, this is particularly important. While this Arbitrator is reluctant to award changes in structural aspects of a collective bargaining agreement without a clear showing of need, the parties'

bargaining history, the Employer's stated concerns about economy and public policy generally towards comp time persuades me that the Union's proposal is appropriate and should be granted.

E. Hours of Work/Overtime - Overtime Opportunities

The Union has proposed a new section in the Overtime article entitled "Overtime Opportunities." It would read as follows:

Whenever overtime or an extra shift becomes available, it shall be first offered to full-time bargaining unit employees. Should no bargaining unit employee elect to work the overtime offered, it may then be offered to part-time employees.

The Union argues that "this is another issue that is mainly driven by the standard or norm set in comparable jurisdictions." In fact, however, only four of the seven comparables provide preferential overtime opportunities for regular employees. While this is some support for the proposal, it is an overstatement to say that the issue can be "driven" by the comparables. Moreover, comparables alone do not justify the awarding of one proposal or another. Each unit must be examined in light of its individual needs.

In the present case, additional compensatory time accumulation was awarded in large measure because the Employer has access to a part time staff to cover openings and avoid excessive overtime. It would be hypocritical to ignore this reasoning and award additional overtime opportunities solely because 4 of 7 comparables have better provisions than Lawrence. The Employer's proposal of no change in contract language is awarded.

F. Insurance and Benefits - Health Insurance Coverage

Prior to the parties' first agreement, the Employer paid the cost of individual health insurance and 50% of the cost of dependent coverage. During collective bargaining in 1992, the Employer sought to eliminate its contributions for dependent coverage. When the parties completed their negotiations the Union had agreed to the elimination of dependent coverage payments by the Employer subject to grandfathering all present employees. The Union now seeks to undo that agreement and restore 50% dependent cost coverage for employees hired after December 1, 1992. The Union argues that the cost of dependent coverage without the Employer's contributions is so high that no employee can afford to purchase it. It contends that it is more in line with public policy for employees to have dependent coverage than to go without health insurance.

The Union also argues that the comparables support its position. In fact, a close reading of the provisions in other jurisdictions reveal a "mixed bag." Some jurisdictions contribute toward dependent coverage and some do not. Some jurisdictions require employees to pay part of their individual premiums. Lawrence does not. It should also be noted that the cost of medical insurance in most of the other jurisdictions is less than what it is in Lawrence. The total amount paid by the Employer comports with the average of the total dollars spent by other counties.

The Employer argues, and the Arbitrator agrees, that the current insurance coverage was bargained at the table and should not be changed by the Arbitrator unless there is a very good reason to do otherwise. Undoing voluntary agreements does damage to the collective bargaining process. The Union is not without options on this issue. When it next returns to the bargaining table it can propose creative ways to address the need for new employees to get dependent coverage. The Union's request for expanded dependent health insurance coverage is denied.

G. Duration

The length of this contract is more a matter of housekeeping than it is a real issue. The question was settled with the award of wage increases for two years. The Union's proposal, with which the Employer does not object, for a two year contract is accepted. The new contract shall be in force and effect from December 1, 1995 through November 30, 1997.

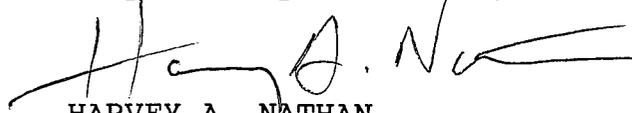
H. Resolution of Impasse

The parties have stipulated to the new language Article 10 - Resolution of Impasse. This stipulation is accepted and adopted as part of this Award.

A W A R D

1. The Union's proposal for Wages is accepted.
2. The Employer's proposal for Seniority - Probation Period is accepted.
3. The Employer's proposal for Holidays is accepted.
4. The Union's proposal for Hours of Work/Overtime - Compensatory time is accepted.
5. The Employer's Proposal for Hours of Work/Overtime - Overtime Opportunities is accepted.
6. The Employer's proposal for Insurance and Benefits - Health Insurance Coverage is accepted.
7. The Union's proposal for Duration is accepted.
8. The parties' stipulated settlement for Impasse Resolution is accepted.

Respectfully submitted,



HARVEY A. NATHAN

September 9, 1996