

IN THE MATTER OF ARBITRATION

BETWEEN

COUNTY OF WILL & SHERIFF OF WILL
COUNTY, JOINT EMPLOYERS

AND

METROPOLITAN ALLIANCE OF
POLICE WILL COUNTY MANAGEMENT
CHAPTER #123

ARBITRATION AWARD:

ILLINOIS STATE LABOR
RELATIONS BOARD CASE NO.

S-MA-98-11

WILL COUNTY. SHERIFF'S SERGEANTS
AND LIEUTENANTS

Before Raymond E. McAlpin,
Neutral Arbitrator

APPEARANCES

For the Union: Thomas P. Polacek

For the Employer: Nicholas E. Sakellariou

PROCEEDINGS

The Parties were unable to reach a mutually satisfactory settlement of their negotiations covering the period December 1, 1997 through November 30, 2000 and, therefore, submitted the matter to arbitration pursuant to the Illinois Public Employee Labor Relations Act. Following a partially successful June 2, 1998 mediation effort, a hearing was held in Joliet, Illinois on June 23, 1998. At this hearing the Parties were afforded an opportunity to present oral and written evidence, to

examine and cross-examine witnesses, and to make such arguments as were deemed pertinent. The Parties stipulated that the matter is properly before the Arbitrator. Briefs were received on August 24, 1998.

The Parties entered into a Labor Agreement for the period December 16, 1993 through November 30, 1997. During the negotiations for a successor contract, the Parties reached a number of stipulations and tentative agreement including the time period for a successor contract, that being December 1, 1997 through November 30, 2000. Those stipulations and tentative agreements are hereby made part of this award.

ISSUES

The following represents those issues upon which the Parties have been unable to reach agreement:

1. Eligibility for permanent assignment.
2. Postings.
3. Transfers.
4. Shift schedules and memorandum of understanding regarding 9.3.
5. Schooling and training.
6. Temporary assignment pay/field training.
7. Temporary assignments.

8. Emergency assignments.
9. Management/administrative leave.
10. Retired employees and legal dependents.
11. Uniform cleaning allowance.
12. Wage retroactivity.

With the exception of issue #12, the first 11 issues are proposed new language by the Union. Regarding #12, the Union has asked for wage retroactivity for all employees that were on the payroll from December 1, 1997 through the date of the award, and the Employer has offered retroactivity only for current employees, i.e. those on the payroll as of the date of the award.

STATUTORY CONSIDERATIONS

The following represent the statutory considerations that an arbitrator must consider in an interest arbitration under the Illinois Public Employee Labor Relations Act:

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:

1. In public employment in comparable communities.
2. In private employment in comparable communities.
5. The average consumer prices for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
7. Changes in any of the foregoing circumstances during the pendency of the Arbitration proceedings.
8. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, Arbitration or otherwise between the parties, in the public service or in private employment.

UNION POSITION

The following represents the arguments and contentions made on behalf of the Union:

The Union recognizes the statutory mandate that the Arbitrator consider the factors listed

above, but there is no requirement that each factor be given the same weight. It is the Union's position that certain factors are not relevant in this proceeding and should be accorded less consideration by the Arbitrator.

Firstly, no issue was raised as to the lawful authority of the Employer. Secondly, there were no substantial changes in the circumstances of the Employer or the Union during the pendency of the arbitration. Thirdly, despite the Employer's attempt to introduce evidence of the cost of living, an analysis of those figures shows that the CPI has not had any substantial impact on salary increases or other economic benefits for the employees of Will County for the past few years. Therefore, cost of living is not of primary concern. Fourthly, the Employer's ability to pay, as noted by arbitrators, is an affirmative defense to be utilized by the Employer against wage and benefit increases supported by other statutory criteria. This does apply to uncertainty or adversity that may be caused by funding the Union's economic proposal that is its current financial ability to meet those costs. The Employer presented no evidence to justify an argument that it has an ability to pay. Therefore, the Union contends that the Arbitrator should focus on the four remaining statutory factors. The Parties have reached a tentative agreement concerning a number of the non-economic and economic issues. Those should be made part of the award.

Regarding comparability, comparability is generally the most important factor in interest arbitration cases. This includes both internal and external comparability. The Union would note that in northern Illinois very few counties have organized sergeants and lieutenants. Of the four agreed to comparable counties, only one has Union representation, i.e. Kane County and, there, only the

sergeants are organized. Therefore, the economic and non-economic benefits received by the Will County sergeants and lieutenants developed in a different environment than those other counties. Obviously, those non-represented employees do not have access to the arbitration procedures as do the employees covered by this Agreement. Therefore, the Will County sergeants and lieutenants have more in common with their subordinates than with officers holding similar ranks employed by other counties. Therefore, it is the internal comparables that are most important to this case.

With respect to overall compensation, although the Employer presented numerous exhibits, a thorough review of the data negates the argument that a measurement of overall compensation favors the Employer's proposals. Direct comparison of the non-wage as well as economic benefits supports the Union's position in this case when compared to the Will County deputies' contract.

Regarding catchall factors, the Arbitrator is specifically allowed to consider such other factors as are normally or traditionally taken into consideration. The Union would ask that the morale of the covered officers be specifically considered by the Arbitrator. The issues of employee morale and respect are key to the Arbitrator's decision. There is a true morale problem arising from the sergeants' and lieutenants' perception that deputies receive more procedural protection and greater economic benefits than their superior officers. No evidence of any administrative benefit for this inequity was produced by the Employer.

The Union recognizes that it is a well accepted standard in interest arbitration that the Party who proposes change bears the onus of proving that change. The Union has proposed substantive

modifications to certain key non-economic issues relating to assignments, transfers and training. The Union claims that it presented overwhelming, substantial and competent evidence to support these proposals. Meanwhile, the Employer failed to justify the current system that treats sergeants and lieutenants differently than the lower ranking deputies. These changes have their basis in arbitration decisions that went against the Union's position. These cases were lost because the language in the existing agreement was not sufficient to limit the sheriff's authority. Therefore, the Union has proposed the inclusion of much more specific language regarding those procedures. The Employer appeared to argue that because the deputies' collective bargaining agreement was in existence at the time the first agreement was negotiated with the sergeants and lieutenants, it somehow lost its opportunity to address these issues. The Union counters with the fact that these problems first arose during the term of Sheriff Ward, which commenced after that agreement was negotiated.

Regarding eligibility for permanent assignments, the Union testified that at least on one occasion the sheriff switched the assignments of two lieutenants in order to avoid the contractual requirement of posting those vacancies. This case went to arbitration and Arbitrator George Larney ruled against the Union. Likewise, in another opinion Arbitrator Steven Briggs noted that the contract contains no guidance as to the criteria for filling posted sergeant or lieutenant vacancies. Both arbitrators noted that the only way to address these inequities was through the collective bargaining process.

Regarding the posting provision, Section 9.2 requires time limits for postings and specific qualifications. The Union is looking to have the sheriff define what experience, training and

educational requirements a particular job will require. The sheriff himself admitted that he could, in fact, prepare more specific postings. The Union notes that the Sheriff's Department has long been required to quantify such difficult to measure factors for deputies pursuant to their collective bargaining agreement. Again, this proposal was made in response to an arbitrator's ruling.

With respect to transfers, the Union does not intend to eliminate consideration of an officer's qualifications for a particular position when filling a slot by transfer. However, when qualifications are equal, seniority will control.

Concerning shift schedules, this proposal was intended to eliminate the existing memorandum of understanding between the Parties and to replace it with specific provisions in the agreement. This proposal currently mirrors the language of the deputies' collective bargaining agreement and provides for an expanded annual seniority shift selection for both sergeants and lieutenants. There would be some specialty assignments that would not be subject to the annual seniority shift selection. The Union does not intend to eliminate or infringe upon the sheriff's authority to remove inadequate sergeants or lieutenants on the basis of poor performance. Neither does the Union intend to reduce or eliminate the sheriff's existing authority to discipline sergeants or lieutenant.

With respect to schooling and training, the Union's proposal incorporates a seniority tie breaker for the assignment of posted training. This is so senior ranking officers may have some of the career advancement opportunities currently doled out arbitrarily by the sheriff based at least occasionally upon personal and/or political considerations. The transcript contains a recent example

of this problem.

Regarding temporary assignments, there currently is no policy, either written or unwritten, concerning temporary assignments. The Union's proposal would limit the period of time the sheriff may temporarily assign an officer to a position or a shift, the same as in the deputies' contract. This makes it difficult for officers to adjust and to plan their personal schedules. It is extremely disruptive to the officers' personal lives.

Concerning emergency assignments, the Union intends to provide in Section 9.9 a specific procedure for the adjustment of assignments under emergency circumstances. The sheriff himself, contrary to the Employer's argument, admitted that the deputies' agreement contains an identical provision and that he understands the language of that provision.

Concerning economic issues, the Union has proposed in Section 9.7 an increase in the existing premium for officers serving as field training officers/supervisors. Again, this mirrors the deputies' collective bargaining agreement.

Regarding management/administrative leave, the Union proposed an increase to the amount of leave for both sergeants and lieutenants which is proportionate to the increase recently negotiated and received by the deputies. The sergeants have maintained at least one more day of leave than the personal days of the deputies, and the lieutenants have maintained at least one more day of such leave than the sergeants. The Union proposed only to maintain that gap. Without this adjustment the

sergeants and lieutenants would suffer a relative decrease in that benefit.

Concerning retired employees and legal dependents, the Union has proposed health medical insurance for the dependents of sergeants and lieutenants retiring in good standing from the Sheriff's Department. The Union's testimony showed that retired sergeants and lieutenants pay a significant cost for their dependents. There are a number of unit members who are approaching retirement and have great concern about the future cost of medical insurance and their ability to provide adequate coverage for family members.

Concerning uniform cleaning allowances, the proposal for the Union for Section 14.4 is a \$400 uniform cleaning allowance which mirrors the deputies' collective bargaining agreement. Sergeants and lieutenants must wear clean uniforms and may be disciplined for failure to do so. The Union noted that although members of the bargaining unit are entitled to replacement of damage or worn out uniform items, officers are not entitled to the replacement of such items when they are dirty. Although there was some discrepancy with respect to the actual annual cost of maintaining clean and orderly uniforms, members of the bargaining unit find it necessary to expend personal funds in order to comply with departmental orders requiring the maintenance of uniforms.

Finally, regarding the retroactivity of wages, the Parties have agreed for retroactivity for all active covered employees. The Employer has taken the position that it should not provide retroactive pay for sergeants or lieutenants who retired between the expiration date and the Arbitrator's award. The Employer presented no justification for this inequitable treatment of long time officers. The

Union made no attempt to delay the negotiations process and the president of the Union ordered the Union attorney to move through the statutory bargaining procedures in a timely and efficient manner. The Employer simply wants to penalize employees with many years of service solely to punish the Union for utilizing the arbitration procedures set forth by the Illinois statutes. It is the Union's position that retired officers should be compensated properly.

When viewed in the light of the pertinent statutory factors and the evidence presented at the hearing, it is the Union's position that is supported on each of the outstanding issues. The Union's positions are reasonable and rational, particularly when compared to the benefits received by other sworn officers employed by the County. When proposing the inclusion of new benefits or procedures, the Union presented substantial evidence to support that proposal along with a rational explanation of the effects that the new benefits will provide the officers and, therefore, the community at large. The Union is asking for procedural safeguards for supervisory personnel for the purpose of making progress towards fair and professional treatment of these police officers in comparison to others. For these reasons, the Union respectfully requests the Arbitrator issue a decision and award in the Union's favor on all outstanding issues.

CO-EMPLOYERS POSITION

The following represents the arguments and contentions made on behalf of the Co-employers in this matter:

Will County is a collar county of Cook County with a population of 398,000 covering 847 square miles. The equalized evaluation is \$7.5 billion and it is subject to the Illinois Governmental Task Cap Provisions. The County employs a full-time workforce of approximately 1,487 employees. The Sheriff's Department is composed of an elected sheriff, one under-sheriff, two chief deputies, three deputy chiefs, 17 lieutenants, 47 sergeants and 193 deputies. The sergeants and lieutenants provide supervisory services in the enforcement and adult detention facility divisions. Some individuals are assigned to special assignments outside of the sheriff's office. There is a non-represented group of employees and two other bargaining units employed by the County.

Regarding the external comparables, the Employer has presented five Illinois counties, those being Lake, DuPage and Kane, which are collar counties to Cook County, and Peoria and Winnebago counties, while geographically separate, form viable, comparable jurisdictions. Both Peoria and Winnebago counties contain a major urban city, as does Will County. The Union agrees to all of the external comparables except for Peoria County. The Employer would note that the sergeants in Kane County and the lieutenants in Peoria County are represented units. The Union's position is that the external comparables carry little weight in this matter and that the internal comparables are most appropriate. The Employer would note that the statistics show that Will County is the overall leader in both wages and benefits. The Employer argues that the Union has not met its burden in providing external comparable data to support its proposal.

The Union has admitted that many of its proposals are nothing more than an attempt to incorporate certain provisions of the deputies' collective bargaining agreement into this bargaining

agreement. The deputies' contract has been in effect for 17 years, while this labor agreement has been in effect for five years. Many of the provisions that this Union seeks to have incorporated existed at the time the Union negotiated the current agreement. It did not raise these issues at the time the original contract was negotiated.

The Employer would note that among the current tentative agreements is the increase for employees and employees' plain clothes assignments from \$400 to \$500 per year and the wage package, which provides unit increases of 3.88%, 3.90% and 3.91% over the three-year period which provides for a three-year compounded increase of a minimum of 9.27% for those employees at the top step and a compounded increase of 17.7% for those moving through the steps. The Employer would note that employees generally remain with the Employer during their entire careers (Employer Exhibit 3). The employees in this bargaining unit demonstrate the long term seniority of bargaining unit members.

The Union has proposed a number of changes to Article IX. Utilizing the Union's numbering system, Sections 9.1, 9.2, 9.3, 9.4, 9.5 and 9.9 relate broadly to the filling of vacancies and the selection of employees for job assignments.

Section 9.1 is a completely new section which creates permanent assignments, redefines the term "vacancy" to include transfers and reassignments, and prohibits the reassignment of employees without posting the position as a vacancy. It also places specific requirements on the contents of the posting notice. Section 9.2 modifies 9.1 by adding the requirement that a vacancy shall be filled by

rank seniority if the qualifications of the applicants are equal. Section 9.3 modifies the existing 9.2 by making transfers subject to rank authority, deleting consideration of departmental operational needs and making transfers and by adding “or in conjunction with” to the disciplinary action portion. Section 9.4 modifies existing 9.3 by making all assignments permanent and subject to annual bid by rank seniority. Section 9.4 also eliminates the memorandum of understanding which clarifies the method of annual rotation. Section 9.5 applies seniority criteria to the selection of employees for schooling and training. Section 9.9 covers emergency assignments and is only necessary if 9.1 through 9.4 are adopted. The Employer would note that this is an illusory grant of authority that the Employer currently possesses without restriction.

The Union’s justification for the above proposals are based on the provisions of the deputies’ contract and on some adverse to the Union arbitration decisions. The record is devoid of any specific examples of how the existing contract language has been used by the Employer to unfairly treat any employee and merely reflects the desire by the Union for different contract language. Those arbitration decisions are contained in Employer Exhibits 14, 15, 16 and 17 and challenge the Employer’s interpretation of the existing Sections 9.1, 9.2 and 9.3. Each arbitration resulted in the denial of the grievance. The arbitration decisions do not mandate a change in contract language. They merely reflect that the contract does not contain language which would substantiate the Union’s position.

The sheriff is an elected office holder. Prior to his election he served in the sheriff’s office from 1973, holding many ranks. Lieutenants serve in many supervisory capacities in the patrol

division on weekends and on the 2nd and 3rd shifts, they are the highest ranking officers on duty. The same is true for lieutenants who command the jail operations. The Union's proposal would have an adverse impact on the departmental operation. Different assignments need personnel with various individual traits and skills. Even the Union witness agreed that the positions of sergeant and lieutenant differ greatly from that of a deputy. The Employer notes that the external comparables show that assignments are not seniority based even among those who are organized. The current practice is consistent with the operation of comparable counties. In short, the Union has not made a compelling case for their proposed changes, 9.1, 9.2, 9.3, 9.4 and 9.9.

With respect to the Union's proposed change in Section 9.5, schooling and training, the Union testified that the reason for this proposal was to require the use of seniority as a determining factor in assignment to training or schooling as opposed to a random pick. The Employer notes current selection methods seem to have served one of the Union witnesses well as he has attended so many training sessions that he could not remember them all. The Employer testified that this would not be in the best interest of the department. The requirement of strict seniority would permit employees to attend classes or training that was completely unrelated to their job duties to the exclusion of employees who needed the training for the performance of their assigned duties. The Union has not presented any compelling rationale for the implementation of its proposed changes to the contract. It would have an adverse impact on the department and also the employees of the bargaining unit. The Union's proposal should be rejected and the status quo maintained.

Regarding the Union's proposed Section 9.7, temporary assignment pay/field training, the

Union proposes a doubling of the premium compensation from two hours to four hours per week for each week that an employee spends as a field training officer/supervisor and adds a new provision providing that no employee be required to serve in such a capacity for more than three consecutive years. The Union's only rationale is that the same language appears in the deputies' contract. The Union requested this increase after it agreed to a wage increase. Just because the three-year limitation appears in the deputies' contract does not make it appropriate for this unit. The deputies have a pool of 200 individuals from which to select field training officers. There are only 47 sergeants available from which to select field training officer supervisors. There is no evidence that Will County has any history of insuring parity between its bargaining units. The Union's proposal should be rejected and the status quo maintained.

Regarding Section 9.8, temporary assignments, the Union would add a new section which would limit the Employer's ability to fill a temporary vacancy to 30 days, again patterned after the deputies' contract language. The Union testified that those who had a concern about temporary assignments were asked to come to the interest arbitration but refused. One Union witness did express some concern, but the sheriff was able to explain the length of her temporary assignment. The Union once again has not presented any compelling rationale for its proposal. In a unit the size of this the sheriff needs the flexibility to make temporary assignments to provide coverage for bargaining unit members who are absent because of training assignments, illness or other reasons. This proposal would adversely impact not only the department, but the employees of the bargaining unit who may be limited in their ability to be temporarily absent from their assignments. Therefore, the status quo should be maintained.

Regarding Union proposal Section 11.3, management/administrative leave, this involves so-called personal days. The deputies' contract changed based on the fact that, while the number of personal days was increased for employees with ten (10) or more years of service, new employees with less than five (5) years of service will receive one (1) less personal day. The Employer notes that prior to sitting for the sergeant's exam a deputy must have four consecutive years of duty, and prior to sitting for the lieutenant's exam a sergeant must have four consecutive years as sergeant. Thus, the Union's proposal to reduce from five to four personal days for a lieutenant with less than eight years of service is non-existent. In addition, the impact of the reduction in personal days for sergeants with less than eight years of service will not be very great because very few promotions actually occur for deputies with less than eight years of service. Members of the bargaining unit also receive one day of sick leave for each month worked, cumulative to 240 days, 13 paid holidays and a generous vacation schedule. When looking at the internal comparables, this change is not justified. Likewise, the external comparable unit shows that this bargaining unit receives a significant amount of personal days as compared to those other county sheriff's departments. The Union has not presented any compelling rationale for its proposal. Neither the external nor the internal comparables support the Union's proposal. The employees of the Union are some of the highest paid county employees. In addition, they enjoy more time off than any of the internal or external comparable units. The comparison of their contract to the deputies is without merit and misleading and, therefore, the proposal should be rejected.

Regarding Section 13.6, retired employees and their legal dependents, under the current contract the Employer pays the insurance premium for retirees. The Union proposal would require

the Employer also to pay the insurance premiums for the retiree's spouse. The Union acknowledged that with this proposal it is attempting to break new ground. It presented no estimates of the cost of this proposal. Testimony was presented as to the concern of retired employees regarding insurance rates. With respect to the internal comparability, the County only pays the health insurance premiums for retirees. In reviewing the comparable counties, there is no county which pays the insurance premiums for the spouse or for the retiree, for that matter. The Union has not presented any compelling rationale for its proposal.

Regarding Section 14.4, uniform cleaning allowance, the Union proposal would add a new benefit to the contract in the form of a \$400 per year annual cleaning allowance. This proposal also reflects the provisions of the deputies' contract. The Union's evidence that cleaning costs much more than that was countered by the Employer's evidence that the cleaning bill is much less than the Union is asking for. The Union's reliance on the deputies' contract is misplaced. These were not as a result of negotiations but resulted from an interest arbitration. Of the five issues in that arbitration, the first four were decided in the Employer's favor. Therefore, the Arbitrator gave this final issue to the Union. The Employer provides an annual uniform allowance of \$275 to nursing assistants and licensed practical nurses. The cost of the Union proposal would be \$27,000 per year, which amounts to 7/10 of 1% salary increase. While some comparable counties provide for a cash uniform allowance, no county which uses the quartermaster system for the issuance and replacement of uniforms also provides an annual uniform allowance of any type. This is merely a way of the Union trying to wring an additional wage increase out of the Employer. This change is not supported by the facts.

Finally, regarding wage retroactivity for retired employees, the Employer asserts that the Union no longer represents the retirees and, therefore, cannot insist on a retroactive wage application for the retirees.

The Employer would note that the tentative agreements have far exceeded the cost of living consumer price index, therefore, there should be no additional benefits or increases in current benefits for this bargaining unit.

DISCUSSION AND OPINION

The Arbitrator's role in an interest arbitration is substantially different than in a grievance arbitration. Interest arbitration is a substitute for a test of economic power between the Parties. The Illinois Legislature determined that it would be in the best interest of the citizens of the state of Illinois to substitute compulsory interest arbitration for a strike/lockout involving security officers of public employers. In an interest arbitration the Arbitrator must determine not what the Parties would have agreed to but what they should have agreed to and, therefore, it falls to the Arbitrator to determine what is fair and equitable in this circumstance. The statute provides that the Arbitrator must pick in each area of disagreement the last best offer of one side or the other. Therefore, each item that is in dispute must be found either in favor of the Union or of the Employer. The Arbitrator must find whichever proposal is most equitable. The Arbitrator uses this term since in most interest arbitrations equity does not lie exclusively with one side or the other and, since the Arbitrator is precluded from

fashioning a remedy of his choosing, he must by statute choose that which he finds most equitable under all of the circumstances of this case. The Arbitrator must base his decision on the combination of eight (8) factors contained in the Illinois Revised Statutes and reproduced above. This Arbitrator will bear these factors in mind when making his decision.

Interest arbitration, even given the above, is essentially a conservative process. When one side or another wishes to deviate from the status quo of the previous collective bargaining agreement, the proponent of that change must fully justify its position and provide strong reasons and a proven need. This Arbitrator recognizes that this extra burden of proof is placed on those who wish to significantly change the collective bargaining relationship. In the absence of such showing, the Party desiring the change must show that there is a quid pro quo or that other comparable groups were able to achieve this provision without the quid pro quo. It is the Union that wishes to alter the status of the collective bargaining relationship in all twelve (12) items that are in dispute. Therefore, it is the Union that bears an extra burden since it proposes the significant changes. The Arbitrator does recognize that all deviations from the status quo do not do so with the same intensity. Therefore, the level of persuasive reasoning or quid pro quo may vary from item to item and may impact on the overall reasonableness of the proposal.

Prior to going into the merits of the case the Arbitrator must address the dispute over the external comparables. The Parties agree on the comparables except for Peoria. After a review of the evidence presented the Arbitrator finds that Peoria does not provide the geographic proximity nor the similar economic base that would provide sufficient comparability as envisioned in the statute.

Therefore the four agreed upon comparable communities will constitute the pool for purposes of this case.

For purposes of the decision the Arbitrator will use the Union's proposed numbering system to try to eliminate any confusion. The Arbitrator agrees with the Employer that proposed changes to Sections 9.1, 9.2, 9.3, 9.4 and 9.9 are essentially interrelated since they relate to the filling of vacancies and the selection of employees for job assignment. In each of these items, the Union has not offered any quid pro quo, so they are left with the burden of proving by persuasive reasoning that these changes are fully justified. The Union's reasoning is that these items were obtained in the Employer's negotiations with the deputies, and the Arbitrator understands that many of these items have been part of the deputies' contract for a number of years. In addition, the Union pointed to four (4) arbitrations which it had lost. There was, however, no showing in the record that the sheriff had abused his current authority in this area. This Arbitrator has always found that even when given broad discretionary authority, management must act in a manner that is not arbitrary, capricious, unreasonable or discriminatory. There was no persuasive showing in the record that with respect to the above items, the sheriff has acted in any way that would be contrary to those criteria. The mere loss of an arbitration decision in and of itself is not enough to justify such broad and sweeping changes. In addition, the fact that the deputies' contract contains similar language is also not a full justification for these proposals since this unit is a supervisory unit and, therefore, the sheriff should have somewhat broader discretion with respect to the movement of personnel as long as this authority is not abused. Therefore, the Arbitrator finds that the Union with respect to items 9.1, 9.2, 9.3, 9.4 and 9.9 has not made the case persuasive enough to allow this Arbitrator to change the status quo.

Regarding the Union proposed Section 9.5, schooling and training the Union would by this new provision require the use of seniority as the determining factor for the assignment to training or schooling. The record in this case, while containing some credible evidence, does not rise to the level of abuse of discretion and, again, because this is a supervisory group and in the absence of such abuse the Arbitrator is not persuaded that there was a sufficient rationale provided to move from the status quo in this area. In addition, it is also possible that utilizing seniority as the primary criterion could work to the detriment of those in the bargaining unit, not to mention to the department as a whole. Therefore, the Arbitrator finds nothing within the record that would allow change in the status quo and that proposal will be rejected.

Regarding Section 9.7, temporary assignment pay/field training, this is a two-part proposal. Regarding the limitation of three (3) years to the field training officer supervisor position, there is no justification in the record despite this being included in the deputies' contract. Such a limitation would not be appropriate for this smaller pool of individuals. Again, the sheriff is bound to meet the criteria of making determinations that are not arbitrary, capricious, unreasonable or discriminatory with respect to these assignments or the length of assignments. There was no showing that the sheriff has abused his discretion.

Regarding the economic aspect of this proposal, however, the Arbitrator finds that there is some merit in the record, particularly with respect to the internal comparables, since field training

officers within the deputies' bargaining unit receive four (4) hours pay, it seems to this Arbitrator only appropriate that the field training officer/supervisor received a proportionate compensation. If the Employer feels that field training officers are worth the additional compensation, then it seems to this Arbitrator that those who supervise this function are no less entitled to this compensation. Therefore, the Arbitrator will find that the Union's proposal concerning compensation is appropriate given the required statutory considerations, particularly those contained in the comparison of wages provision.

Regarding Section 9.8, temporary assignments, as with other Union proposals, there is no sufficient justification within the record for movement from the status quo. The two (2) examples given by the Union contain, in this Arbitrator's opinion, appropriate rationale by the sheriff for their tenure. In the absence of a proven need, the status quo will be maintained, and the Union's proposal will be rejected.

Regarding Section 9.9, the Arbitrator finds that the inclusion of 9.9 in the labor agreement is moot because of the Arbitrator's decision with respect to other Union proposals.

Regarding Section 11.3, the Union has asked for additional personal leave time to bring its contract in parity with the deputies' contract. This is not as simple a comparison as the field training supervisory pay in that it is difficult to compare the two (2) groups because of the overall extensive seniority of the sergeants and lieutenants. In reviewing the evidence presented, the Arbitrator finds that while there is some support for the Union's position within the deputies' contract. The overall differential in seniority does not provide the Union enough disparity in order to change the status quo.

This coupled with the fact that there is no support for this provision in the external comparables has persuaded the Arbitrator to find that the level of evidence does not provide for a movement from the status quo.

Regarding Section 13.6, this a proposal where the Union asks that the Employer pay insurance premiums for retirees spouses. While the Arbitrator appreciates the difficulty of those who are retired to pay a significant insurance cost on behalf of their spouses, there is simply no support within the record both on an internal or external comparability basis. The proper place for the Parties to address this issue is in the next negotiations, perhaps with a goal of limiting future increases in cost. In any event, there is not enough support within the record to provide a deviation from the status quo.

Regarding Section 14.4, uniform cleaning allowance, again, there is support within the internal comparables regardless of how this came into the deputies' contract, it is nonetheless there. While there is not the same level of support in the external comparables, the Arbitrator is persuaded that the uniform cleaning costs for sergeants and lieutenants are similar to the deputies and perhaps even higher due to their need to set a good example for the deputies and, therefore, the Union has provided enough evidence for the Arbitrator to conclude that, despite the additional cost to the Employer, this is an appropriate proposal on the part of the Union, and should be included in the new contract.

We finally then come to wage retroactivity. The only reason that this issue has come before

the Arbitrator is the delay in bargaining and the arbitration process itself. While it is true that Union no longer represents these retirees, it did represent these individuals during the time that the retroactivity is requested. Without assigning blame for the delay in this matter, the blame clearly does not rest with the retirees. The Arbitrator finds that the evidence in the record shows that it is entirely appropriate for the Arbitrator to award retroactive pay to all of those who are or were in the bargaining unit during the time period covered by the labor agreement.

AWARD

Under the authority vested in the Arbitrator by Section XIV of the Illinois Public Employees Labor Relations Act the Arbitration the Arbitrator finds that the Sections 9.1, 9.2, 9.3, 9.4, 9.5, the time limit of 9.7, 9.8, 9.9, 11.3 and 13.6 will remain as the status quo and that it is the Employer's position that most nearly complies with the statutory criteria. The Arbitrator further finds that for the pay portion of 9.7, 14.4 and the retroactivity position, it is the Unions' position which most nearly complies with the statutory criteria. Therefore, the Employer's position is partially sustained and the Union's position is partially sustained in accordance with the above. The sustained positions along with the stipulations and tentative agreements of the Parties constitute the contract between the parties for the period December 1, 1997 through November 30, 2000.

Dated at Chicago, Illinois this 29th day of September, 1998

Raymond E. McAlpin, Arbitrator
