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COMPULSORY ARBITRATION
UNDER ACT 312, P.A. 1969, STATE OF MICHIGAN

CASS COUNTY BOARD OF COMMISSIONERS,
COUNTY OF CASS, STATE OF MICHIGAN

-and-

MERC Case No. G82 J-1733
July 30, 1983

THE CASS COUNTY DEPUTIES ASSOCIATION

FINDINGS AND OPINION
OF THE ARBITRATION PANEL

This arbitration was convened by order of the Michigan Employment Relations Commission (MERC), pursuant to and under the authority of Act 312, P.A. 1969 (MCL 423.231 et seq). The panel consists of arbitrator Paul E. Glendon, chairman, and the parties' attorneys, Loyal A. Eldridge representing the County and John E. Dewane representing the Association. A hearing was held in Cassopolis, Michigan, on June 10, 1983, time limits for the commencement of hearing having been waived. The parties filed and exchanged last offers of settlement on June 20, 1983, and the Chairman received their briefs on July 5, 1983, all in accordance with arrangements stipulated at the hearing. The findings and opinion of a majority of the panel are as follows.

BACKGROUND

The only issue before the panel, by stipulation of the parties, is wages for calendar year 1983 for matrons, deputies and detectives. The issue arose under a wage reopener provision in Article XVII of the parties' 1982-83 agreement; it is, of course, an economic issue.

In accordance with the statute, the parties' presentations and the panel's findings and opinion were based on the factors enumerated in Section 9 of Act 312 (MCL 423.239), as applicable. The applicable factors -- and those about which the parties are in conflict -- are (c), (d)(i) and (e). The other statutory factors can be summarized and dealt with briefly.

As to factor (a), there is no dispute that the County has the "lawful authority" to pay wages to the matrons, deputies and detectives, and there are no legal restrictions on that authority which would prevent the panel from considering or adopting the final offer submitted by either party.

As to factor (b), three stipulations are relevant: one, that the only issue in dispute is the wage reopener; two, that the members of the bargaining unit are highly skilled, dedicated, competent and well trained law enforcement personnel; three, that the Cass County

Sheriff Department is the primary law enforcement agency in the county, providing a wider range of services than is typical of several neighboring counties in which State Police posts are located.

As to factor (d)(ii), neither party has suggested the panel should compare County matron, deputy and detective wages with those of employees in private employment in comparable communities, nor did the parties present any evidence upon which such a comparison could be made.

As to factor (f), "overall compensation" is not an issue, nor is it material to the determination of which party's final offer the panel should adopt. There is evidence showing what the employees' total compensation is, in that the collective bargaining agreement from which such compensation is derived is a joint exhibit in these proceedings. However, the only issue is wages, not vacations, holidays or the other benefits referred to in Section 9.(f), and neither party has argued that the wages to be paid in 1983 should depend on the nature or extent of other contractual compensation.

As to factor (g), there is no evidence of any change in the circumstances enumerated in the preceding six factors during the pendency of the arbitration proceedings.

As to Section 9.(h), there is no evidence of factors other than (a) through (g) which would have any bearing on the determination of employee wages for 1983.

APPLICABLE STATUTORY FACTORS

The County argues that factor (c) is in its favor, because it does not have the financial ability to meet the Association's wage demands. It also maintains that a compelling interest of the public has been to hold the line on property taxes. In response to that public interest, the Board of Commissioners cut County millage for 1983 in order to avoid higher taxes resulting from increased state equalized property assessments. That negatively affected the County's budget, and its ability to pay higher deputies' wages, because other costs increased but tax revenues did not.

The Association argues the public has an equally compelling, though less effectively vocalized, interest in paying fair and adequate wages to the members of its primary law enforcement agency. In the Association's view, that interest is directly related to the public welfare, which must encompass more than the mere avoidance of increasing property taxes. Regarding the County's financial ability, the Association contends it is able to pay higher deputies' wages, but is unwilling to do so for purely political reasons. In these respects, the Association also claims support for its position in factor (c).

The dispute over factor (c) is essentially a stand-off. The

public certainly has an interest in holding property taxes at reasonable levels. However, it has -- or should have -- an equally active interest in maintaining effective law enforcement, and in paying those who provide such services a wage commensurate with their skills, training and competence, and with the risks inherent in their profession. The latter concern is certainly more closely related to the public welfare than is the avoidance of increased property taxes. As to finances, the Association has correctly characterized the County's budgetary constraints as a matter of willingness, not ability.

Both the chairman of the Board of Commissioners, Dennis Stamp, and the chairman of its Operations Committee, Don Foust, candidly identified the Board's tax roll-back as a political choice made to appease the taxpayers. According to Stamp, before his appointment to the Board, the taxpayers "were hanging commissioners in effigy, saying a lot of nice things about the taxes and blaming the commissioners for them." He described the Board's unsuccessful efforts to limit increases in equalized values. He explained that if taxes were to have stayed at the same millage level, the Board "would have had to advertise (and) hold a public hearing." The commissioners chose to avoid that process by rolling back the millage, which he tellingly labeled "a politically advantageous decision."

From this evidence it is clear the County had the tax base and therefore the financial ability to pay the wages demanded by the Association. Had millage stayed at the same level, the County would have received approximately \$173,000 more revenue than it projected in the current budget. That amount is several times more than the difference between the County's final offer and the Association's. → 1-3

The ability to pay such wages does not prove they should be ordered, of course. In effect, "financial ability" can only be a negative factor, weighing against a wage demand which cannot be met because of financial inability. Therefore, the public interest and financial ability aspects of factor (c), in themselves, do not enhance either party's position.

There is, however, a relationship between the "public welfare" factor and the level of wages in the sheriff department. The relationship arises from the unquestioned need to maintain effective law enforcement, and the importance, in meeting that need, of compensating law enforcement personnel appropriately in comparison both to their competence and the demands of their own jobs and to the wages of their professional peers. Act 312 expressly recognizes the validity and significance of the latter comparison, in Section 9.(d)(1). (MCL 423.239)

Comparison of "the wages...of the employees involved in the arbitration proceeding with (those) of other employees performing similar services...in public employment in comparable communities" (in

the words of the statute) definitely favors the Association. There is some disagreement between the parties over what the "comparable communities" are, but it is relatively minor. The Association names the counties of Berrien, Van Buren and St. Joseph, the three Michigan counties which adjoin Cass on the west, north and east. The County agrees on the latter two, but rejects Berrien because of its larger population and more urban character. The County adds several other counties -- Allegan, Barry, Branch, Clinton, Ionia and Montcalm -- as well as the City of Dowagiac, which is located within Cass County.

According to the 1980 Census, the population of Cass County was 49,499. It is predominantly rural in character, with no large metropolitan areas or major industry. St. Joseph and Van Buren Counties' 1980 populations were 56,083 and 66,814 respectively. Their characteristics are similar to those of Cass County. Berrien County had a 1980 population of 111,276. A majority (54.8%) of its population is urban, compared to 18.4% for Cass, 13.7% for Van Buren and 29.4% for St. Joseph.

Employment in the Cass County Sheriff Department is significantly higher than St. Joseph and Van Buren, with total employees numbering 45 as compared to 35 and 29. According to Association witness Michael Garrison, a Cass County detective sergeant, the difference is attributable to this department's broader law enforcement (particularly road patrol) responsibilities, which in turn can be traced to the strong presence of the State Police in the other counties. Having worked with the sheriff departments in all three counties, Garrison said Cass and Berrien were most similar in areas of responsibility and service.

There being no dispute on the point, it is found that Van Buren and St. Joseph Counties are "comparable communities." Notwithstanding the differences in population and the relative urban component thereof, it also must be found that Berrien County is comparable to Cass. Such finding recognizes that the mission of the sheriff department is to provide law enforcement services primarily in the unincorporated areas of the county, and that according to the only testimony on point Berrien's department is most similar to Cass. (As will be seen below, there also is close similarity between sheriff department wages in Berrien County and the other counties which the County alleges to be comparable, so including Berrien will not inflate the averages. To the contrary, it brings the "top deputy" average down slightly.)

Dowagiac is a city of less than 8,000 population, the only incorporated city in Cass County. Its police department numbers thirteen sworn officers, whose jurisdiction and responsibilities are confined to that municipality. It must be found that Dowagiac is not a "comparable community," because it is an entirely different sort of governmental entity, much smaller in geographical area and population than Cass County, whose law enforcement services are different in both

kind and extent.

The other counties cited by the County are farther away geographically, but roughly comparable in population and make-up. Populations range from a high of 81,555 (Allegan) to a low of 40,188 (Branch). The urban component of the population ranges from high of 29.9% (Ionia) to a low of 14% (Branch). There is no evidence of the employment levels in their sheriff departments, or the nature and extent of services provided by such departments. As in the case of Berrien County, however, the wage information in evidence demonstrates close similarity between three of those counties and the three closer, comparable counties. Those three are Clinton, Ionia and Montcalm, for which the County furnished current wage information. Regarding Allegan, Barry and Branch Counties, only 1982 wage information was submitted. Therefore it must be found that the latter three counties are not comparable, based on the information presented to the panel. But the other three are.

Top deputies' wages for the five comparable counties submitted by the County range from \$21,500 in Clinton County to a low of \$20,370 in St. Joseph County. The average for the five counties is \$20,777. The Association furnished wage information for Berrien County, showing top deputies' wages of \$20,129, yielding a six-county average of \$20,669. In Van Buren, St. Joseph and Berrien Counties, deputies reach the top wage level after three years. It takes five years in Cass County. There is no evidence on that point for the other three counties, nor are starting deputies' wages known in Clinton, Ionia and Montcalm. In Van Buren, St. Joseph and Berrien, starting deputies earn \$16,498, \$17,675 and \$18,121 respectively. (In Van Buren County, there is a separate "correctional officer" classification. There is no such classification in Cass County, all deputies being certified police officers. The Association furnished wage information for both classifications, and also averaged them. For purposes of this opinion, the panel has considered only the deputies' wages in Van Buren County, because that is the more accurate comparison.)

The panel has no information on detective or matron's wages in Clinton, Ionia and Montcalm Counties. For those two classifications, therefore, only Berrien, St. Joseph and Van Buren Counties may be considered comparable to Cass County. Detective wages in Berrien, St. Joseph and Van Buren Counties are \$22,639, \$22,000 and \$21,900 respectively, for an average of \$22,179. Matrons' wages range from \$15,673 (starting) and \$18,122 (top, after three years) in Van Buren to \$18,122 and \$20,129 in Berrien, for starting and top averages of \$15,929 and \$18,811.

The Association's last offer of settlement is as follows:

	<u>DEPUTIES</u>	<u>MATRONS</u>	<u>DETECTIVES</u>
Starting	\$16,000	\$14,000	\$17,000
After six months	17,000	14,600	18,000
After one year	18,000	15,200	19,000
After two years	18,800	15,400	19,800
After three years	19,400	15,600	20,400
After four years	19,700	15,800	20,700
After five years	20,000	16,000	21,000

The County's last offer is for a two-stage increase, three percent effective January 1, 1983 and another three percent (compounded) effective July 1, 1983. Without setting out all forty-two specific wage levels resulting therefrom, the effects of the County's proposal can be summarized as follows: deputies' wages would range from a low of \$15,719 (starting) effective January 1 to a high of \$19,398 (top, with five years service) effective July 1; the same range for matrons would be from \$13,198 to \$15,274; for detectives, from \$16,609 to \$20,315.

In summary, the comparisons between the parties' last offers and the averages of the comparable counties (taking the top wage only in each case, which not only is convenient but also accurately reflects reality, because a substantial majority of the County's deputies are at the top step) are as follows:

	<u>DEPUTIES</u>	<u>MATRONS</u>	<u>DETECTIVES</u>
Comparable average:	\$20,669	\$18,811	\$22,179
Association offer:	20,000	16,000	21,000
County offer:	19,398	15,274	20,314

As is obvious, both parties' offers would leave the County's employees substantially below their professional counterparts in comparable counties. The Association is not demanding that the gap be made up entirely.

There can be no doubt that this wage comparison strongly supports the Association's position. As noted above, it has a direct impact on the panel's deliberations under statutory factor (d)(i), but also reflects indirectly on the "public welfare" factor under Section 9.(c). In the latter respect, as well, the comparison supports the Association's offer.

The final statutory factor to be considered is (e), "The average consumer prices for goods and services, commonly known as the cost of living." The County contends this factor strengthens its position, because the increase in the Consumer Price Index (CPI) during 1982 was only 3.9% -- appreciably less than the wage increase it has offered, and approximately six percent less, on the average, than the increases demanded by the Association. While conceding that

the cost of living increased at a relatively modest rate in 1982, the Association contends its members are still at a severe disadvantage from the cumulative effects of inflation over the past five years. It submitted CPI figures showing a total increase in the cost of living from January 1978 to December 31, 1982 of 57.6%. By comparison, top deputies' wages had increased only 34.8% in the same period. The Association points out that even if the panel adopts its last offer, top deputies' wages will still "trail the cost of living" for the past five and one-half years by approximately ten percent. Thus it too finds support for its position in factor (e).


The statute does not confine the panel's examination of "average consumer prices" to any particular period. Realistically, there is obvious merit to the Association's argument that the panel should take a longer view of the cost of living than just the most recent contract year. The counter-argument is that the effect of past inflation has been taken into account in past contracts, and is therefore a settled matter. However, the language of the contractual reopener provision does not indicate wages were to be renegotiated only to reflect increases in the cost of living. It is a total, unrestricted wage reopener, which leads one to conclude that both short and long term inflationary effects should be considered. Accordingly, it is the panel's opinion that the "cost of living" factor does not favor one party's position significantly more than the other.

On balance, therefore, it must be found that factor (d)(1) -- comparative wages of sheriff department employees in the comparable counties -- is the controlling factor. As noted above, this factor clearly supports the Association's position. Accordingly, it is the opinion of a majority of the arbitration panel that the Association's last offer of settlement more nearly complies with the applicable statutory factors than does the County's.

ORDER

A majority of the arbitration panel, consisting of the chairman and Association Delegate John E. Dewane, hereby adopts the Association's last offer of settlement (a copy of which is attached hereto and made a part hereof by reference) and orders its implementation.

Dated: July 30, 1983



Paul E. Glendon, Arbitrator
Chairman of the Panel

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ARBITRATION UNDER 1969 PA 312, AS AMENDED

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COUNTY OF CASS and
CASS COUNTY SHERIFF,

Case No. G82 J-1733

and

CASS COUNTY DEPUTIES
ASSOCIATION.

LAST BEST OFFER OF
CASS COUNTY DEPUTIES ASSOCIATION

Issue I. 1983 Wages for Deputies.

<u>Start</u>	<u>6 Months</u>	<u>1 Year</u>	<u>2 Years</u>	<u>3 Years</u>	<u>4 Years</u>	<u>5 Years</u>
16,000	17,000	18,000	18,800	19,400	19,700	20,000

Issue II. 1983 Wages for Matrons.

<u>Start</u>	<u>6 Months</u>	<u>1 Year</u>	<u>2 Years</u>	<u>3 Years</u>	<u>4 Years</u>	<u>5 Years</u>
14,000	14,600	15,200	15,400	15,600	15,800	16,000

Issue III. 1983 Wages for Detectives.

<u>Start</u>	<u>6 Months</u>	<u>1 Year</u>	<u>2 Years</u>	<u>3 Years</u>	<u>4 Years</u>	<u>5 Years</u>
17,000	18,000	19,000	19,800	20,400	20,700	21,000

DATED: June 20, 1983

Respectfully Submitted,

BUTZBAUGH, PAGE, BUTZBAUGH & DEWANE

By: 

John E. Dewane (P 12735)