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MICHIGAN EMPLOYMENT RELATIONS COMMISSION

BOARD OF COMMISSIONERS,
COUNTY OF CASS, AND THE
SHERIFF OF CASS COUNTY

-and-

POLICE OFFICERS
ASSOCIATION OF MICHIGAN

Case No. G89 B-09488
Under Act 312, P.A. 1969

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BUREAU OF STATE OF MICHIGAN
DETROIT OFFICE

ARB

FINDINGS, OPINION AND ORDERS
OF COMPULSORY ARBITRATION PANEL

This arbitration occurred under Act 312, P.A. 1969 (MCL 423.231 et seq), after mediation by the Michigan Employment Relations Commission (MERC). Panel Chairman Paul E. Glendon was appointed by MERC on November 28, 1990, and held a pre-hearing conference on January 9, 1991. Evidentiary hearings were held in Lansing on May 30 and June 10, 1991. As agreed at the conclusion of those hearings, the parties filed last offers of settlement on July 12, 1991 and briefs on August 30, 1991 (received by the chairman September 3). The other members of the panel are Douglas L. Callander, attorney for the Employer, and James DeVries, Union business agent. The parties waived all statutory and administrative time limits. The findings, opinions and orders of a majority of the panel (prepared by the chairman, with concurrence by the Employer delegate) are as follows.

Cass County

BACKGROUND

Four issues, all economic, are in dispute: wages; the level of employee pension contributions; and Union proposals to add a \$2.00 prescription drug rider to employees' health insurance coverage and to provide for an annual, rather than one-time, Educational Incentive Bonus. Initially, duration of the agreement subject to this arbitration was an issue as well: the Union proposing a two-year contract, the Employer

one. But both parties' last offers of settlement proposed a two-year agreement, commencing January 1, 1990 and expiring December 31, 1991, so that issue is settled. (The previous agreement had a 2.5-year term, commencing July 1, 1987 and expiring December 31, 1989.) The parties' positions on the issues may be summarized as follows:

WAGES: The Union's final offer demands four increases of two percent each, for all bargaining unit employees, at six-month intervals beginning January 1, 1990. The Employer offers no increase for the first year of the agreement, but a 1.5% increase for all bargaining unit employees effective January 1, 1991.

PENSION CONTRIBUTION: Employees now contribute five percent of their total compensation to their pension; the Employer contributes 12.93%. The Union proposes reductions in employee contributions of two percent each on January 1 and July 1 of 1991. (It framed its last offer on this issue in the alternative: to take effect on those dates in 1990 if there was to be only a one-year contract, or in 1991 if the contract was to have a two-year term.) The net result would be to reduce the employees' contributions to one percent of total compensation, with the Employer picking up the balance of the contributions. The Employer offers no change in the existing formula.

DRUG RIDER: The Union asks that a rider be attached to the employee health insurance program to add the benefit of coverage for prescription drug costs in excess of \$2.00 per prescription (referred to as a "\$2.00 prescription rider" or a \$2.00 co-pay arrangement). It proposes that this benefit take effect ninety days after the date of the Act 312 award, not retroactively. The Employer opposes such an addition, offering no change in the existing health insurance program.

EDUCATIONAL INCENTIVE: The prior agreement (in Section 14.1) provided "a one time educational incentive bonus to any employee who receives a college degree from a fully ac-

credited institution of higher learning in a field directly related to law enforcement," in these amounts: \$300 for an associates degree, \$500 for a bachelors degree, and \$600 for a masters degree. The Union proposes that such bonuses be paid annually, not just once, retroactive to January 1, 1991 (it also made this proposal in the alternative, depending on whether there turned out to be a one- or two-year contract). The Employer offers no change to the existing incentive.

As to each of these issues, Section 8 of Act 312 (MCL 423.238) requires that the panel "adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 9." Not all of those factors apply in this case. Factor (a) does not, because there is no dispute about the Employer's "lawful authority" to grant any of the Union's demands. Factor (b) is applicable only to the extent of the parties' de facto stipulation for a two-year contract and as to their negotiated agreement on new contract provisions on promotions and layoffs and the Employer's acceptance, during the hearing, of a Union proposal on shift preference, which all will be incorporated into the panel's orders along with all provisions of the 1987 contract which are not subject to this arbitration. Factors (c) and (d) definitely do apply - - the Employer contending that (c) is controlling, the Union advancing a similar contention as to factor (d) -- and will be discussed below. Factors (e) and (f) are not applicable, because neither party presented evidence or argument about "cost of living" or the employees' "overall compensation." Factor (g) is applicable only to the extent of changes in the Employer's financial situation during the pendency of these proceedings. The only "other factor" put forward was the Employer's contention that the wages and benefits of other County employees should be considered, either under factor (d) or (h), so the latter factor is applicable only to that extent.

ABILITY TO PAY & PUBLIC WELFARE

The Employer presented undisputed evidence of a recent history of serious financial problems. County administrator Terry Proctor said when he assumed that position in January 1990 the County was in a deficit situation and had only \$500 in the bank. He said expenditures had exceeded revenues by almost \$229,000 in the prior three years; the County made it through 1989 (calendar year is also fiscal year) only by not paying approximately \$250,000 of that year's bills; and the general fund balance had been exhausted. Because the County had been using a cash method of accounting, its general fund balance was listed as \$53,651 at the end of 1989, but that was accomplished only by improperly deferring expenditures into the next fiscal year. Proctor changed the accounting to a "modified accrual" basis in 1990, in order to provide a more accurate and generally accepted reflection of the true financial condition of the County. Adjustments made in 1990 on that basis corrected the year-end general fund balance to a deficit of \$159,081.

Proctor said generally accepted guidelines recommend that municipal governments keep an unreserved fund balance equal to ten to fifteen percent of the general fund at all times. The Employer placed in evidence an article from the Research Bulletin of the Government Finance Officers Association (November 1990) explaining the need for sound unreserved fund balance policy and recommending at least a five percent balance. That recommendation was summarized as follows:

As a general rule, local governments should maintain an amount equal to 5 percent of annual operating expenditures. This should satisfy some of the credit rating agencies' concerns regarding the adequacy of resources available for contingencies. Those governments facing greater uncertainty should maintain a higher level of unreserved fund balance. Those governments that maintain an unreserved fund balance above 10 percent of annual operating expenditures should be able to provide appropriate justification for maintaining that level. This in turn will satisfy the concerns of those analysts who consider an unreserved fund balance in excess of 10 percent to be unwarranted.

Proctor said the County's financial future is fraught with uncertainty. He pointed out that it already is collecting the full authorized property tax millage, and that growth in the State Equalized Valuation (SEV) of County properties has been much lower than the average for Michigan counties. He also explained that the County already has suffered the loss of federal revenue sharing funds and expects to lose state revenue sharing as well. He noted that recent legislation has frozen property tax assessments, so future SEV growth is likely to be even more limited, especially since more than 90% of the County's SEV is in agricultural or residential property, and only three percent is industrial. For these reasons, he insisted that a general fund balance of at least ten percent is an essential goal, albeit one that will not be achieved during the term of the agreement subject to this arbitration.

The County's audited financial statements for 1990 show that it ended the year with a positive general fund balance of \$159,875. In the Union's view, that shows the County has put its worst financial troubles behind it and is well on the way to achieving the ten percent reserve balance Proctor recommends, so ability to pay is not really a serious issue. But the County emphasizes that the 1990 year-end balance was only 2.5% of general fund expenditures for that year, which totaled \$6,278,977, and that even with no wage increases for this or any of the other four County bargaining units there is only a surplus of approximately \$100,000 in general fund revenues over expenditures projected for 1991.

That would increase the general fund balance to about \$260,000 -- still substantially less than five percent of 1991 budgeted expenditures of \$6,171,731. The County also notes that if such a fund balance is achieved it will be due largely to unbudgeted revenues for rental of jail space and services to other jurisdictions. Without such revenues, the 1991 budget showed a general fund revenue surplus of barely

\$2,000. The County also emphasizes that these improvements in its financial health have been the result of severe cuts in staff and services in many departments, and are still in jeopardy because of continuing uncertainties regarding cuts budgeted but not yet realized in the District Court and the fact that jail staffing is below state guidelines and lower levels negotiated with the Department of Corrections. Thus the County insists that while the worst financial crisis may be behind it, it still has a long way to go to achieve the appropriate level of general fund reserves.

According to the Employer's calculations (based on the total compensation of bargaining unit employees as reflected on 1990 W-2s, and including increases in costs for workers' compensation insurance and pension contributions related to increased payroll), the cost of the Union's proposals would further deplete the County's meager general fund reserves. Wage increases proposed for the first year of the agreement would total \$25,139.18 in both years, and those proposed for the second year would add another \$25,898.37, for total cost over the two-year contract term of \$76,176.73. The Employer calculated the cost of picking up an additional four percent pension contribution (to offset proposed reductions in the employees' contributions) at \$20,219.73, and the added cost of a \$2.00 prescription drug rider at \$13,740. The cost of annual rather than one-time educational incentive bonuses (again including indirect increases in pension and workers' compensation costs) would be \$3,967.12 per year, assuming (based on County records) that eight employees would qualify for the associates degree bonus and that two have bachelor's degrees. Thus the total costs of the Union's demands during the life of the two-year agreement would be \$100,363.58, not including the deferred effect of added health insurance cost related to the prescription rider). That is almost exactly the amount of general fund excess revenues projected for the 1991 budget year, so if such costs were to be paid from the

general fund, the balance would remain where it was at the end of 1990, barely 2.5% of general fund expenditures.

Thus the Employer insists -- as the Undersheriff, Larry Gorham, and Proctor both testified -- that any substantial increase in wages or other benefit costs for this bargaining unit would be covered not by additional expenditures, but with further cutbacks in department staffing and services. They also testified that because of state-mandated staffing for the jail, such cuts could only be made in nonmandated services: namely, road patrol, which already has been cut back significantly. The Employer argues that further cuts would be contrary to the public interests and welfare, so factor (c) is controlling on that score as well as on the question of ability to pay.

COMPARABLE COMMUNITIES

The parties proposed different counties as comparable communities for purposes of factor (d) comparisons. They agree on Van Buren and St. Joseph Counties, which adjoin Cass County on the north and east. The County proposes only one other: Branch County, which is one county removed from Cass, being immediately east of St. Joseph County and, like Cass and St. Joseph, having as its south line the Michigan-Indiana state line. The County presented figures (from data compiled by the Michigan Association of Counties) showing similarities between Cass and the other three counties in population, SEV categories, general fund budgets, and law enforcement staffing. Instead of Branch County, the Union proposes four others: Berrien (contiguous with Cass on the west), Montcalm, Ionia and Clinton (all located in central lower Michigan, contiguous with each other but over fifty miles, at the closest point, from Cass County). It bases this proposal on the decision in another Act 312 arbitration between the Employer and nonsupervisory sheriff's department

employees in 1983, without offering any further evidence or argument to show these counties still should be considered comparable to Cass County.

Exactly which group of purported comparables is adopted may be relatively insignificant, because as the Union points out, the average wages of all seven proposed comparables are higher than wages of employees in this bargaining unit would be even after the increases it proposes -- and that also is true if only the three counties proposed by the Employer are adopted, although the Employer suggests wages in this unit do not compare unfavorably with wages in Branch, Van Buren and St. Joseph when computed in hourly terms. Whatever the significance of the decision may be, the panel must make one and, having no current evidence to support adoption of the four counties proposed by the Union, it has no real choice but to adopt the Employer's proposal. Accordingly, Branch, Van Buren and St. Joseph Counties shall be considered the comparable communities for factor (d) comparisons.

The Employer further contends it is more appropriate to compare the Union's demands with wages and benefits received by other Cass County employees, either under factor (d) or as an "other factor" under (h). Whether or not it is more appropriate, such a comparison is proper under factor (d), which refers to "other employees generally . . . (i)n public employment in comparable communities." Certainly that must include other employees of the same public employer.

The Employer argues the latter comparison lends strong support to its position, because no other County employees have an annual educational incentive bonus or a \$2.00 health insurance drug rider and all of them contribute five percent of their compensation to their pensions. As for wages, the Employer notes that it has proposed a one-year wage freeze to other represented groups, and the Independent Employees Association (representing the "Courthouse Employees" unit)

agreed to a one-year, ten percent reduction in hours, and consequently in wages, effective December 12, 1989.

As for the "external" comparables, the wage comparisons for deputies at the top step are as follows:

	<u>1/1/90</u>	<u>7/1/90</u>	<u>1/1/91</u>	<u>7/1/91</u>
Branch County	\$26,308	26,308	27,361	27,361
St. Joseph	26,046	26,567	contract	expired
Van Buren	26,643	27,176	27,855	28,412
Average	26,332	26,684	27,608	27,891
Cass (Employer)	25,001	25,001	25,376	25,376
Cass (Union)	25,501	26,011	26,531	27,062

Computed in hourly rates, the differences are not quite as large, because employees in St. Joseph and Van Buren work slightly more hours per year, according to evidence offered by the Employer. It claimed that employees in Branch County worked even more hours, but Union business agent Jim DeVries testified that he negotiates on behalf of employees in the Branch County Sheriff Department and knew their annual hours are the same as in Cass County: 2,080 hours per year. The differences are greater in the other three classifications: detective, dispatcher and corrections officer. That being the case, it is not necessary to set forth all the figures for those employee groups. Suffice it to state that Cass County employees in those classifications would still earn substantially less than similar employees in the other three counties even if the Union's wage increase proposal were to be adopted by this panel.

The Union presented no evidence that employees in any purportedly comparable community receive an annual education incentive bonus. It did present evidence that employees in both the Van Buren and St. Joseph County sheriff departments have a \$2.00 prescription drug rider. There is no evidence in this record to show whether such a benefit is part of the health insurance program in Branch County. As for pensions,

the Union's evidence showed that St. Joseph County employees make pension contributions in the amount of three percent of their compensation, and Van Buren County employees, who have a 401K Thrift Plan, contribute from zero to more than five percent and the county matches their contributions. Again, there is no evidence concerning Branch County.

DISCUSSION AND FINDINGS

There can be no doubting the severity of the financial distress the Employer has suffered during the past several years, or of measures taken since January 1, 1990 to remedy those problems. It is undisputed that the County's general fund balance was completely exhausted -- worse yet, it had a negative balance -- at the start of the two-year term of the agreement which is to emerge from this arbitration. It also is undisputed that cutbacks were made across the whole range of County departments and services, a new accounting system was instituted, and stringent new financial controls were enacted in order to insure compliance with budgetary limits in every department. As a result of those measures, things have improved; but the County's financial condition still is precarious, and its ability to pay for the wage and benefit increases the Union demands is in serious question.

In its post-hearing brief, the Union asserted that the Employer merely "exposed a penchant towards unwillingness to pay," without proving an "actual inability to pay." It also asserted that "(s)uch budgetary considerations are common to all the comparables advanced in these hearings." The record contains no evidence to support the latter assertion. Even though it may be assumed that any governmental entity faces "budgetary considerations," the Union offered no proof that Van Buren, St. Joseph or Branch County (or other counties it proposed as comparables) has experienced the kind of fiscal crisis Cass County has, or anything remotely approaching it.

Nor is it accurate to say that the Employer has not proven inability to pay. While it is true the record demonstrates the County has a general fund balance large enough to absorb the additional costs of Union demands, that would leave only a quarter of the unreserved fund level Proctor considers to be the minimum prudent balance. Furthermore, he and the undersheriff made it clear that such costs could not simply be added to the budget, but would be offset by further cuts in sheriff's department staff and services, most likely by further reducing, or even eliminating, road patrol.

There is no indication that such statements were empty threats and bluster. To the contrary, Proctor's thorough, painstaking and thoroughly professional explanation of the County's financial status and its current budgetary policies convinced the chairman it does not have the ability to pay for the wage and benefit increases sought by the Union. The fact that it finished last year in the black, and expects an additional general fund revenue surplus for this year, does not mean it can afford such increases. Not only would they deplete the general fund surplus to a dangerously low level, they would create at least a potential ripple effect through other bargaining units, and if similar increases were given to those units the fund balance might well disappear again. That might happen anyway, even without such increases, if other contingencies develop adversely: among them continued uncertainty regarding District Court spending, dim prospects for revenue sharing, potential added costs associated with operation of the County health care facility, and a freeze on SEVs. For all these reasons, the chairman concludes that the County does not have the financial ability to meet the costs associated with the Union's demands without additional cutbacks in law enforcement service and staff, and that such cuts would be contrary to the interests and welfare of the public. Therefore factor (c) strongly favors the Employer's position on all issues.

As for factor (d), it gives no support to Union demands for annual educational incentive bonuses or the proposal to shift four percent of pension contributions from employees to the Employer. As noted above, there is no evidence that annual education bonuses are paid in Branch, St. Joseph and Van Buren Counties. The evidence is mixed with respect to pension contributions: varying employee contributions under a 401K Thrift Plan with matching contributions by Van Buren County, leaving that county with significantly lower overall pension obligations than Cass County; three percent from the employees but only 12.54% from the employer in St. Joseph County, compared to a 12.93% contribution from this Employer even with five percent employee contributions; no evidence from Branch County. On those two issues, therefore, it must be found that factor (c) is controlling, and the Employer's last offer to continue the same pension contributions and educational incentive bonuses as provided in the 1987-89 agreement must be adopted.

Factor (d) does support the Union's demand for a \$2.00 prescription drug rider, insofar as such a rider is part of the health insurance benefits available to employees of the sheriff's department in St. Joseph and Van Buren Counties. There is no evidence on that point for Branch County. But there is a more significant problem with the Union's demand for such a benefit here, even though the cost of providing it would be substantially less than the pension improvement or wage increases the Union seeks. According to the Union's last offer of settlement, this new benefit would take effect "ninety days from date of award." That would be some time in January 1992, which would be after the expiration of this two-year agreement.

In effect, therefore, this benefit would not be part of the agreement here in dispute. But Section 9 (MCL 423.239) provides that matters to be decided in Act 312 arbitration are "wage rates or other conditions of employment under the

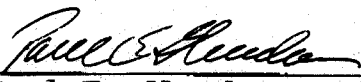
new or amended agreement." (Emphasis added.) Where the new agreement in question has an agreed term which already will have expired when a new benefit is proposed to take effect, there is serious question in the chairman's mind whether the panel has any authority to order such a benefit. Questions of authority aside, the panel obviously has no evidence of what the Employer's financial condition or the status of the prescription co-pay benefit in the two comparable counties will be in January 1992. The agreement under which it was provided in St. Joseph County expired December 31, 1990, and will expire December 31, 1991 in Van Buren County. If such a benefit is to be added after expiration of this agreement, that should be done through negotiation or arbitration, if necessary, undertaken then in light of relevant information then available.

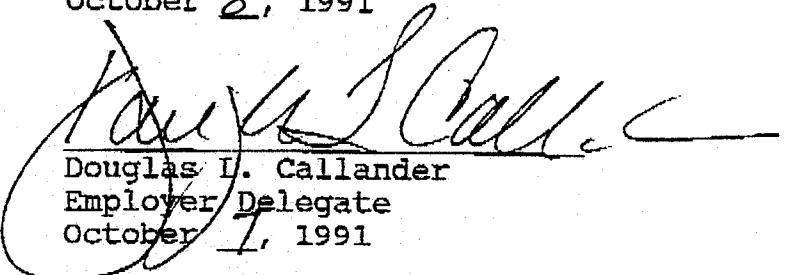
Accordingly, it must be found that there is no support in this record for a \$2.00 prescription drug rider to take effect in January 1992, and the Employer's last offer for continuation of the health insurance program as it existed under the 1987-89 agreement must be adopted.

That leaves only the wage issue, as to which factor (d) favors the Union's position based strictly on wage amounts in Cass County and the three comparable counties. As noted above, however, there is no evidence in this record that the comparable counties have comparable financial circumstances. Evidence of Cass County's financial problems and limitations is extensive, clear and convincing, and compels the chairman to find that it does not have the financial ability to meet the costs of the wage increases the Union seeks. Therefore it must be found that factor (c) outweighs factor (d) and is controlling in this case. Accordingly, the Employer's last offer of a wage freeze for the first year of the agreement and an across-the-board increase of 1.5 percent for all unit employees effective January 1, 1991 must be adopted.

ORDERS

A majority of the arbitration panel, consisting of the chairman and Employer delegate Douglas L. Callander, orders that the agreement which is the subject of this arbitration shall be for a term of two years, commencing January 1, 1990 and continuing in effect through December 31, 1991, with the same notice, expiration and automatic renewal provisions as were contained in the prior agreement; that the wages of all bargaining unit employees shall be the same from January 1, 1990 through December 31, 1990 as they were in the last year of the prior agreement, but shall be increased one and one-half percent (1.5%) effective January 1, 1991; that attached language concerning promotions, layoff and recall, and shift preference shall be part of the new agreement; and that all other terms and conditions of the 1987-89 agreement shall continue in the 1990-91 agreement, without change.


Paul E. Glendon, Chairman
October 8, 1991


Douglas L. Callander
Employer Delegate
October 7, 1991

PROMOTIONS

(a) Promotions to the rank of sergeant, and higher-paid positions within the bargaining unit, shall be in accordance with the procedure established below. All promotions to ranks higher than sergeant shall be at the sole discretion of the Sheriff. Appointments to other classifications or to special skills shall be at the sole discretion of the Sheriff.

(b) The minimum eligibility requirements for taking the examination for promotion to the established classifications within the Department are as follows:

Patrol Sergeant: three years law enforcement experience with the Department as a deputy.

Jail Sergeant: three years law enforcement experience as Corrections Officer or three years as deputy with the Sheriffs Department.

Detective: two years law enforcement experience as a deputy with the Department.

(c) Notwithstanding the above eligibility requirements, in the event that the number of employees eligible to take the examination for promotion to a particular classification in accordance with the above provision is less than three, the names of other employees may be added to the eligibility list in order to provide three candidates eligible to take the examination for

promotion to an established classification, provided, however, that the additional employees shall be determined in accordance with this section except that the experience minimums shall be reduced in increments of three months until such time as there are three candidates eligible to take the examination for promotion to an established classification.

(d) Promotion to higher paid bargaining unit positions classifications or Sergeant shall be based upon the following considerations:

- (1) Competitive examination - employees eligible to take the examination for promotion who apply for a promotion shall take a written examination designated to fairly and fully test the comparative merit and fitness of the persons examined to discharge the duties of the classification sought by them. The passing score for all examinations shall be established prior to the examination being given. Only those applicants who pass the written examination shall be eligible to continue to compete for the promotion. The written examination shall constitute a maximum of 40 points on the applicant's total final score, with said points to be proportional to the score achieved on the examination (for example, a perfect examination score would be awarded the full 40 points; and 80%

examination score would be awarded 32 points; etc.).

- (2) Seniority - each applicant for promotion shall receive one-half (1/2) point on the applicant's total final score for each year of departmental seniority to a maximum of (10) ten points.
- (3) Job performance - an evaluation of the applicant's job performance by the Sheriff or his designee shall be conducted and a rating shall be given with a maximum of up to 25 points on the applicant's total final score.
- (4) Education - an applicant shall be given up to a maximum of 5 points towards the applicant's total final score for formal education reasonably relevant to the law enforcement sought at an accredited institution, based on the following:

Masters Degree = 5 pts.

Bachelors Degree = 4 pts.

Associates Degree = 3 pts.

One year of college = 2 pts.

Special certifications

(i.e. breathalyzer, etc.) = 1 pt.

- (5) Impartial oral interview - an oral examining board shall be appointed by the Sheriff and shall consist of no less than three individuals, one of which is

not an employee of the department. The ability of applicants who are eligible for promotion to perform the duties of the job classification for which they have made application shall be compared through consideration of other matters relevant to the position or promotion and other matters the oral examining board deems relevant.

The average score obtained by an applicant through the oral examining board shall constitute up to a maximum of 25 points towards the applicant's total final score.

(e) The minimum total final score for eligibility for promotion shall be established by the Sheriff prior to the commencement of the promotion procedures set forth herein. Those applicants achieving at least the minimum total final score required for eligibility for promotion shall be considered eligible applicants.

(f) The total final score of each applicant shall be determined and posted. The Sheriff shall make the promotion from among those eligible applicants who are in the top three in total final score. The eligibility list shall remain in effect for a period of one year for those who pass the test for that type of opening from the day of posting. Eligible applicants may re-test or keep their previous scores if a new test is offered within the first year.

(g) If, upon completion of the promotional procedure, an eligibility list contains less than three eligible applicants, the Sheriff may appoint from the list or conduct a new examination as herein provided. The Employer retains the right to solicitate applicants outside the Department if the eligibility list contains less than three (3) qualified candidates.

ARTICLE V

Section 5. Layoff.

(a) Layoff shall mean a reduction in personnel, within the bargaining unit, for any reason determined by the County Board of Commissioners and/or the Sheriff.

The Sheriff and/or County Commission shall determine the classifications and groups to be affected, including the number of positions in each classification and group to be eliminated or reduced.

(b) Layoffs within the bargaining unit shall be by classification. If a given classification is to be reduced or eliminated, probationary and part-time employees in the classification affected shall be laid off first, provided all remaining seniority employees are deemed by the Sheriff to possess the background, experience, training, skills, abilities and qualifications required to perform the remaining work. If seniority employees are to be laid off in the classification affected, such employees shall be laid off in the inverse order of their seniority (i.e., least senior first).

(c) If a seniority employee is laid off pursuant to the above provisions, such employee shall have the "bumping" privileges set forth below. To be eligible to "bump," a laid off employee must:

(i) Be a seniority (non-probationary) employee; and

(ii) Exercise such bumping privileges in writing to the Sheriff within three (3) working days after being notified of layoff; and

(iii) Bump only from a higher paid classification to a lower paid classification; and

(iv) Have greater seniority than the person to be bumped; and

(v) Be deemed by the Sheriff to possess all of the background, experience, training, skills, abilities and qualifications required to perform the work in the new classification.

An employee who is eligible to bump and who exercises bumping privileges pursuant to the above provisions will be paid at the rates applicable to the new classification.

Section 6. Recall.

(a) If the County determines to expand the work force, by adding or reinstating positions within any of the bargaining unit classifications from which seniority employees have been laid off, the following recall provisions shall apply.

(i) Seniority (i.e., non-probationary) employees who have been laid off from a given classification shall, if they are still eligible for recall and whether or not they have exercised bumping privileges as provided above, be recalled in the inverse order of their layoff from the classification affected, provided they are deemed by the Sheriff to possess the background,

experience, training, skills, ability and qualifications required to perform the work in the classification to which they would be recalled.

(ii) Recall notices shall be by mail, addressed to the employee's last known address. If the employee fails to report for work or notify the Sheriff within three (3) working days of the recall date indicated in the notice, such employee shall be presumed to have resigned and shall have no further recall rights.

Section 7. Voluntary Lay-Off

Employees not affected by a layoff may at their option, by notifying the Sheriff, be voluntarily laid off to allow lesser seniority employees to retain their positions. Employees electing a voluntary layoff shall have all rights to recall as provided in section 6.

Section 8. Bumping by Command Officers.

In the event of layoff, members of the Cass County Command Officers Association may bump into the POAM bargaining unit and departmental seniority shall prevail.

SHIFT PREFERENCE

Add to the contract:

In any classification in which more than one shift is scheduled, shift preference shall be by non-probationary departmental seniority with the employee with the greatest seniority having first preference.

The Employer may change an employee(s) schedule, if the operating conditions warrant a change. If and when the Employer exercises a change because of operational needs the least senior employee(s) on the effected shift shall be displaced.

Shift selection shall be for the semi-annual periods of: April - September and October - March. Selection of shifts shall be made at least thirty (30) days in advance of the start of the semi-annual periods.

Shift Preference to be effective date of award.