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M.E.R.C. GRIEVANCE ARBITRATION CASE NO. G83C-666
PURSUANT TO ACT 312, PUBLIC ACTS OF 1969 AS AMENDED

In the Matter of Arbitration
BETWEEN:

CHIPPEWA COUNTY

- and -

FRATERNAL ORDER OF POLICE (SHERIFF'S)

JAN 27 1984

OPINION AND AWARD

Fred E. Nelson, Arbitrator

Hearing held at

Chippewa County Courthouse
Sault Ste. Marie, Michigan

10:00 A.M. (EST) October 31, 1983

Appearances

For the Union

Nino Green

For the Company

Wesley W. Hoffman

Witness

Patricia Caruso

STATE OF MICHIGAN
BUR. OF EMPLOYMENT RELATIONS
DETROIT OFFICE

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INTRODUCTION

The Collective Bargaining Agreement between the Employer (Chippewa County Sheriff's Department, Chippewa County) and the Union (Fraternal Order of Police, State Lodge of Michigan Labor Council) was negotiated and signed covering the period of January 1, 1981 to December 31, 1981. On December 23, 1981 a supplemental letter of understanding extended this Agreement to December 31, 1982 with no changes, including wages. (Joint Exhibit No. 1)

This Agreement, which covered four employee classifications, provides a wage schedule as follows:

APPENDIX A

The following wages will become effective on January 1, 1981

<u>CLASSIFICATION:</u>	<u>START</u>	<u>AFTER 1 YEAR:</u>	<u>AFTER 2 YEARS:</u>	<u>AFTER 3 YEARS</u>
Deputy	\$12,430.	\$12,892.	\$13,123.	\$13,354.
Dispatcher-Matron	\$10,594.	\$	\$	\$
Deputy-Detective	\$13,570.	\$	\$	\$
Deputy-Sergeant	\$13,894.	\$	\$	\$

In addition, the following payments are made:

APPENDIX B

COST OF LIVING ALLOWANCE (COLA)

- B.1 A Cost of Living Allowance in the amount of \$624 shall be paid to each permanent Employee for the period January 1 through December 31 in quarterly allotments of \$156.00 payable on April 1, July 1, October 1, and December 1.
- B.2 The Cost of Living Allowance shall be an "add-on" and shall not be a part of the Employee's wage rate or annual salary, and shall not be used in the calculation of any other pay, allowance or benefit

Following the reading of the Oath as is required under Act 312, Public Acts of 1969, as amended, the parties stipulated the sole

subject to be discussed was the wage rate determination for the two year contract period(s) of January 1, 1983 to December 31, 1984.

During the negotiation process the parties were unable to reach agreement. Mediation meetings were held May 23, 1983 and June 6, 1983 with no agreement. On June 9, 1983 the Union filed a PETITION FOR ARBITRATION UNDER ACT 312 PUBLIC ACTS OF 1969 AS AMENDED. The parties at that time were discussing a three (3) year contract with the following wage rate levels under discussion:

Wages (Deputy) Maximum	<u>01/01/83</u>	<u>01/01/84</u>	<u>01/01/85</u>
Union request	\$14,620.	\$16,886.	\$20,152.
County offer	\$13,888.	\$14,582.	\$15,458.

At the time of the Arbitration, the parties had moved the discussion to a two (2) year contract with the requests and counter proposals as follows:

	Deputy	Dispatcher Matron	Deputy Detective	Deputy Sergeant
Present Annual Salary	\$12,430.	\$10,594.	\$13,570.	\$13,894.
to	13,354.			
Employer Proposal for 05/01/83	13,582.	11,585.	14,851.	15,205.
to	14,622.			
Employer Proposal for 05/01/84	14,331.	12,230.	15,662.	16,037.
to	15,433.			
Union Proposal for 01/01/83	13,582.	11,585.	14,851.	15,205.
to	14,622.			
Union Proposal for 01/01/84	14,872.	12,688.	16,265.	16,640.
to	16,016.			

During the Arbitration Hearing mention was also made of the Cost of Living Allowance (COLA) add-on factor of \$624.00 annually.

Typical of the normal Agreement between Union and Management, Article 10, GRIEVANCE PROCEDURE specifically limits the determination made by the Arbitrator. (Joint Exhibit No. 1)

STEP IV. If a settlement is not effected in Step III, the party which initiated the grievance shall have the right to submit the matter to an impartial arbitrator, provided, however, that said party shall give written notice to the other party of its intention to arbitrate within twenty (20) days of the receipt of the answer in Step III. If the right of arbitration is exercised, both parties shall promptly submit the joint request to the Michigan Employment Relations Commission for a list of five (5) arbitrators. The loser of a coin flip shall have the option of striking the first name from the list and the parties shall alternately strike names from the list until only one name remains. That person shall be the arbitrator. By mutual consent the parties may reject the entire panel and request another list.

The cost of the arbitrator shall be borne equally by the County and the Union and the decision of the ARbitrator shall be final and binding on the parties.

Any arbitrator selected or appointed under this section shall have jurisdiction and authority to interpret and apply the provisions of this Agreement insofar as it shall be necessary for the determination of the grievance before him, but he shall have no jurisdiction or authority to add to, subtract from, alter or amend in any way the provisions of this Agreement.

10.3 In all steps of the grievance procedure described above, either the Employer or the Union shall have the right to specify that the aggrieved Employee, his superior or both, be called in to discuss the details of the grievance in the presence of the proper representatives of both the Employer and the Union.

(Underlining by the Arbitrator for emphasis.) The Cost of Living Allowance (COLA) is therefore not being considered as a part of the salary adjustment since it is specifically excluded by the Contract language, APPENDIX B, The Cost of Living Allowance (COLA), B.2.

The Cost of Living Allowance shall be an "add-on" and shall not be a part of the Employee's wage rate or annual salary, and shall not be used in the calculation of any other pay, allowance or benefit.

In reviewing and evaluating the issues involved under Act 312 of the Public Acts of 1969 as amended (MCL523,231 (1), et seq), it is

generally accepted that the following pattern and factors be considered:

There are nine factors upon which the Arbitration panel is directed by statute to base its findings, opinions and order. These factors are presented as follows:

- a) The lawful authority of the employer.
- b) Stipulations of the parties.
- c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.
- d) 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.
- e) The average consumer prices for goods and services, commonly known as the Cost of Living.
- f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance, pensions, medical and hospitalization benefits received.
- g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- h) 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.

Factors Considered:

- a. The lawful Authority of the Employer is unquestioned.
- b. The stipulation of the parties was clearly defined.

All sections of the Contract are agreed upon with the exception of the magnitude of the wage increase to be allowed.

c.& d. The Interest and Welfare of the Public and a comparison of the wages, hours and working conditions of employment of the employees.

In this case the Union and the Employer both used salary surveys to support their interpretations.

Management makes four (4) points: 1. Due to the traditionally high unemployment level in the Upper Peninsula the employer should have and has adapted a policy of employing the maximum number of people even at the possible risk of paying slightly less than market wage rates and making every effort to avoid cutbacks and layoffs. 2. Management suggests for the benefit of and service to the public it is desirable to have more peace officers even though they are at a lower level of pay. 3. The financial position of the County is such that an increase would jeopardize job security and public service and impose a financial risk and burden on County finances. 4. That a wage increase to the members of the Sheriff's Department might also upset its relationship with other unions and could lead to requests for wage increases by these unions and by non-union employees resulting in either serious financial problems or county-wide layoffs.

The Union, in its approach, cites an Employer subsidized wage survey "A Study with recommendations dated January 1982 prepared under the direction of the Office of Local Government Services of the Michigan Department of Civil Service, authored by William Hardwick and Judith Herbach. (Union Exhibit No. 1) In the study, Chippewa County Sheriff's Department rates were among the very lowest of their comparison group. The Arbitrator noted this is also true in the 1983

Michigan County WAGES, SALARIES & FRINGE BENEFIT SURVEY (Management Exhibit No. 1) The Union continued that even with the adoption of their requested increase the new rates would be below those recommended by the Office of Local Government Service. The Union, in their words, charge that the employer "proposes wage increases for 1983 and 1984 that are far short of the increases that were recommended for implementation as of January 1982." It is the Union's contention that its wage request "although 4% higher in the second year, and affording greater retroactivity, moves toward reducing inequity without seeking, in a two year agreement, to eliminate it entirely." In addition to the two studies previously mentioned, the Union notes that the wage scale of the County Employees was also substantially lower than the City (Sault Ste. Marie) Police Department, (Union Exhibit No. 2) notwithstanding that the City also suffered from the same economic and budgetary restrictions.

The Union Post Hearing Brief (copy attached) details the cost-budget relationships involved in granting its requested increase. In summary, while it is an increase in dollars in the aggregate, it is some \$73,948.00 less than the cost of implementing the Hardwick-Herbach Wage Study Recommendations would have required through 1983-1984.

It is the position of the Employer and substantiated by the direct testimony of Chippewa County's Chief Financial Office that the increase requested by the Fraternal Order of Police would have a substantial impact and even impose a financial risk upon the stability of Chippewa County finances -- this is in part due to

factors that are subject to change -- additional and increased demands from other unions and unorganized employee salary payments, capital needs, including building improvements, office expansion, and even some unforeseen contingency requirements. Ms. Caruso, the Financial Officer for the County, elaborated upon current and future financial conditions and problems. Her conclusion, the basis of the Management defense, and recognized by the Union, is: There is only so much money available. We budget for our known needs, sometimes we have to change because of the press of circumstances, but there is not enough money to meet all requested and all required expenditures. Within this framework, Ms. Caruso testified, she was unable to predict if employees would be laid off if increases were allowed. However, she emphasized, capital improvement expenditures and other budgetary items would have to be reevaluated. Additional wage costs would require reassessment of all unencumbered funds to meet the budgetary standards required under Federal Revenue Sharing. "It would also mean a reprioritization of the budget and layoffs could be a distinct possibility."

e. Consumer prices for goods and services. For the Chippewa County Sheriff's Department a single Cost of Living adjustment allowance of \$624.00 per year has been made a constant and supplemental part of the Agreement in order to meet rising costs. It is not to be used in the calculation of or be a consideration of other pay. Even though this is so written and the Arbitrator is specifically directed to ignore it, one must recognize that it does exist. It is income to the employee and a cost item to the County.

f. The overall compensation presently received. In addition to the direct wage compensation already discussed the area of fringes must be discussed.

The position of Management concludes:

V. Overall Compensation

As was presented by the employer during the arbitration proceedings between the parties, even though the Employer has been financially unable to meet the Union's wage demands during the past two contract years, it has diligently strived to provide all bargaining unit employees with an extremely fine fringe benefit package. While the term "fringe benefit" could lead one to believe that these types of benefits are merely a minor cost item, nothing could be further from what has actually happened in recent years. From the Employer's cost perspective, fringe benefits are a method by which employees receive indirect additional compensation in excess of direct compensation wage rates.

The Chippewa County Sheriff's Department bargaining unit employees currently are the recipients of an indirect compensation package equaling approximately 36% of aggregate direct labor rates. This compares to an approximate average of 32% for other Chippewa County employees.

In what was termed as Union's Exhibit No. 1 at the Arbitration Hearing (i.e., the Hardwick and Herbach Wage Study), it was found that the County of Chippewa was more than competitive with the labor market surveyed in regard to fringe benefits/indirect compensation.

Also, it is interesting to note that Chippewa County Sheriff's Department's bargaining unit employees have a current holiday and overtime benefit package which amounts to \$1,312.50 per bargaining unit employee per year, and according to the Hardwick Study, these benefits are very competitive in the labor market today. Comparing these figures with other comparable communities again yields the reasonable conclusion that the Chippewa County Sheriff's Department's employees are currently being compensated in a more comprehensive manner than has been indicated to date by the Union.

The Union accepts that the fringe benefits are good, but the elements of schedule and danger influence benefit needs. In general,

to the Union the Contract is acceptable and workable, but the wage level is inadequate and unfair.

The Arbitrator must note, however, that Management must be aware that while the fringe benefit cost is correctly computed as 36% of the aggregate direct labor rates, we must recognize that the equivalent dollar cost of specific benefits will be a smaller percentage as wages are increased. Insofar as the Arbitrator can ascertain, benefits are quite comparable community to community, and one would conclude the actual dollar cost for equated benefits would be quite similar.

Mr. Green emphasized and, again, in the Union's Post Hearing Brief repeated Chippewa County Sheriff's Department wage rates are low; low in comparison with counties of similar size, low when compared to the City of Sault Ste. Marie police, low when compared with two studies cited in the Hearing -- one study which was made at the request of Chippewa County.

In summary, the Union pointed out that their 1983 wage proposal would cost \$39,080 less than the Hardwick-Herbach Wage and Salary Study recommended in 1982 and the Union's 1984 proposal would cost \$24,990 less than the wage study recommendation. In the two year period January 1983 through December 31, 1984 the Union wage increase request is about \$21,049 more than the Employer offer, but \$72,948 less than recommended by the Hardwick-Herbach Wage and Salary Study.

During the Hearing the Controller for Chippewa County concluded she could not predict if an increase of this nature to this Union, and even extended to other Chippewa County Unions and the non-union employees, would result in layoffs. She indicated:

One of the reasons it's hard to answer that in an unqualified manner, is the fact that there are a number of unknowns as always, in revenues, in terms of budgeting for 1984. Our revenue budget changes every day, because of new information that we get. You're probably aware that 10% of our budget, a full 10%, is Federal Revenue Sharing, and Federal Revenue Sharing has not been reauthorized yet for 1984, and the last entitlement period has run out we are told, although we have not yet received our final check, in fact, for 1983. And those are reasons why it's difficult to answer that. We are anticipating some decreases in revenues in '84 over '83.

She also agreed that "the tentative discretionary nature of Capital Funds means that unencumbered funds are technically, perhaps, discretionary or tentative." For example, a roof repair is necessary but whether it is necessary in '83 or '84 is discretionary as is the amount of repair to be done.

In summary, both parties seemed to accept the fact that certain capital improvements must be made, wages must be fair and every effort must be made to maintain fiscal stability.

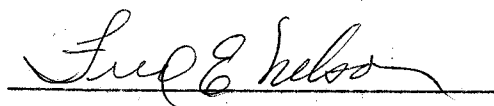
SUMMARY AND AWARDS

In light of comparative studies of wages paid for similar work in counties of approximately the same size, the Chippewa County wage scale is among the lowest of the survey groups.

When one tests the comparisons of what is a fair and reasonable pay scale and the community's ability to pay, the County acknowledges a wage increase is needed and appropriate. But when we appraise what is needed and appropriate, we must take into account other criteria, certainly there is a base purchase price for any given item. The County of Chippewa pays the "going price" for gasoline, trucks, or

any other supply. We must now ask, "What is the level of the 'going price' for police protection costs (wages)?".

Comparably sized units of government, many who also share financial problems, almost all pay more than Chippewa County. The increase requested by the Union is competitive; it cannot be viewed as excessive since, even with the increase, the wage scale will not exceed the average of comparable communities. The total increase over the three (3) year period from December 31, 1981 through December 31, 1984 would be 19% or 6.33% per year. It is the opinion of the Arbitrator that, commencing January 1, 1983 and terminating December 31, 1984, the wages for all bargaining unit employees be increased by 9.5% effective January 1, 1983 and by 9.5% effective January 1, 1984 and, as stipulated, all other terms and provisions of the parties' current (January 1, 1981) Collective Bargaining Agreement (Joint Exhibit No. 1) be continued through December 31, 1984.

A handwritten signature in cursive script, reading "Fred E. Nelson", is written over a horizontal line.

FRED E. NELSON, ARBITRATOR