

1947

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS
and SHERIFF OF ST. JOSEPH COUNTY

-and-

Act 312 Case
No. G86 D-345

POLICE OFFICERS ASSOCIATION OF MICHIGAN

ARBITRATION PANEL

Chairman: Paul E. Glendon, Arbitrator
County Delegate: Philip R. Carey, Attorney
Union Delegate: William Birdseye, Business Agent

ISSUES

Union Proposals: Wage Increases
Pensions (25 and out, FAC)
Retirees' Hospitalization
Vacations
Sick Leave Accrual & Accumulation
Longevity Payments
Duty-related Injuries
Part-time & Reserve Officers

County Proposals: Call-in Premium Pay
Holidays

CHRONOLOGY

Act 312 Petition filed: August 25, 1986
Chairman appointed: October 1, 1986
Pre-hearing conference: November 20, 1986
Arbitration hearings: June 25 & July 1, 1987
Last offers filed: August 7, 1987
Briefs filed: September 11, 1987

APPEARANCES

For the Employer: Douglas L. Callander, Attorney
For the Union: William Birdseye, Business Agent

BACKGROUND

These proceedings began with a large number of unresolved issues relating to proposals advanced by both parties. After the pre-hearing conference and during the hearings they settled one issue, agreeing that the duration of the contract would be two years: from January 1, 1986 through December 31, 1987. Each party also dropped several demands, thus eliminating other issues. Two more issues were resolved upon submission of last offers of settlement, because the parties' offers on those points were identical.

The parties specifically agreed that all issues not presented to this panel have been settled. They have stipulated that the draft Agreement dated 7/28/87, which is attached hereto as Exhibit A, contains all the settled language. The parties mutually waived all time limits in this proceeding, both statutory and administrative.

The parties agree that all remaining issues are economic. As required by Section 8 of Act 312 (MCL 423.238), the panel will adopt the last offer on each issue which "more nearly complies with the applicable factors prescribed in section 9" of the Act (MCL 423.239).

COMPARABLE COMMUNITIES

Factor (d) in Section 9 involves comparison of wages, hours and conditions of employment between the affected employees and those in public and private employment "in comparable communities." This factor often assumes central importance in Act 312 proceedings, and this case is typical in that regard. Each party presented its own set of proposed comparable communities, with supporting explanations and arguments.

The Union identified seven comparables: the five counties contiguous to St. Joseph County -- Cass, Van Buren, Kalamazoo, Calhoun and Branch; and two cities within St. Joseph County -- Three Rivers and Sturgis. It offered a "local labor market" rationale for these choices, defining the local labor market as the geographic area within which an individual could find employment in law enforcement without change of residence. It asserted that the communities within such an area would have similar socio-economic characteristics. However, the only data offered to support that assertion were 1984 population statistics, which ranged from 215,237 for Kalamazoo County to 7,698 for the City of Three Rivers.

The Employer used a more traditional approach. It began with the two counties adjacent to St. Joseph on the east and west -- Branch and Cass -- but excluded the other contiguous counties. It omitted Kalamazoo, adjacent to the north, because of its much larger population, urban characteristics, and major freeway intersection. It excluded Calhoun County, with which St. Joseph shares only a corner boundary point of contiguity, for similar reasons. It excluded Van Buren County, contiguous only at the northwest corner of St. Joseph County, because of its slightly larger size and its lakeshore.

Taking the high and low populations among St. Joseph (57,715), Branch (38,710) and Cass Counties as limits, the Employer identified seven other counties in that population range with predominantly agricultural characteristics. It proposed Hillsdale County, which adjoins Branch County on the east, plus six contiguous counties northeast of Kalamazoo: Barry, Ionia, Clinton, Gratiot, Montcalm and

Isabella. The Employer noted that each of them either has a one-judge Circuit Court or is one of two counties sharing two judges in a single circuit. It suggests that is an index of comparability because the sheriff's department "services the Circuit Court." The only statistical information the Employer provided was 1984 population data and total Sheriff's Department employment in each county, ranging from thirty employees in St. Joseph to nineteen in Isabella.

The chairman cannot accept the Union's "local labor market" theory without proof that identified communities in the market area share more traditional indicia of comparability: population size and mix, governmental organization, land use, law enforcement organization and statistics, budgetary information, tax values and the like. However, that apparently is a moot point, because the Union's post-hearing brief abandons the theory. It suggests that "match-overs" between the parties' original lists form a sufficient basis of comparison, and concentrates on the "commonly asserted comparables:" Branch and Cass Counties.

In light of the parties' agreement on those two counties, and because they are adjacent to St. Joseph and similar in terms of land use, population size and mix, and Sheriff's Department composition, the arbitrator accepts the Union's suggestion that they form a sufficient basis of comparison. Given the limited evidence regarding the Employer's other seven proposed counties and their remoteness from this county, they will not be considered "comparable communities."

FINDINGS, OPINIONS & ORDERS:

UNION ISSUES

Wages. The Union's last offer is a four percent increase for all employees in each year of the contract. The Union notes that the total cost of its proposal is nearly identical to that of the Employer, but points to no particular evidence which makes its proposal comply more closely with the statutory factors.

The Employer's last offer is more complex: for sergeants and deputies, a five percent increase in the first year of the contract and a four percent increase in the second year; for turnkeys, dispatchers and matrons (also referred to collectively as corrections officers), a first-year increase of two percent and 3.5 percent in the second year. It justifies this offer as bringing the wage relationship between classifications more closely in line with that found in sheriff's departments in comparable communities. (Neither party introduced evidence concerning wages of public employees outside sheriff's departments or workers in private employment in other communities.)

The evidence supports the Employer's position, because it shows a greater differential between deputies' and corrections officers' wages in the two comparable counties than in St. Joseph. It also shows that even with the smaller increase offered by the Employer, corrections officers in this department will earn substantially more than their counterparts in those counties.

Under either party's offer, deputies will earn slightly less during the first year of the contract than in Cass County, where the deputies' last contract expired in mid-1987, and substantially more than

in Branch County in both years. It also is worth noting that deputies will earn one percent more in the first year of the contract under the Employer's offer than under the Union's.

On this record, the other statutory factors either do not apply or favor one party's proposal no more than the other. Thus factor (d) is controlling, and it must be found that the Employer's last offer more nearly complies with it than does the Union's. Accordingly, the panel must adopt the Employer's position on wages.

ORDER NO. 1: The arbitration panel hereby adopts the Employer's last offer of settlement on wages, and orders that all employees in the Sergeant and Deputy classifications shall receive a five percent (5%) wage increase for the first year of the 1986-87 agreement, and a four percent (4%) increase for the second year of the agreement; all employees in the Dispatcher, Matron and Turnkey classifications shall receive a two percent (2%) wage increase in the first year of the agreement, and a three and one-half percent (3.5%) increase in the second year of the agreement.

Pensions. The only reference to pensions in the previous Sheriff's Department contract is Article XIX, which provides that:

The Employer agrees to maintain the present employee pension program known as the St. Joseph County Employee Retirement Fund. Effective July 1, 1984 employees will be permitted to retire with unreduced benefits at age fifty-five (55) with twenty-five (25) years of service.

As is apparent from this language, the provision for retirement after twenty-five years of service at age fifty-five was a new benefit in that contract. The Union seeks to enlarge upon it by allowing full

retirement benefits after twenty-five years of service regardless of age, but proposes that this additional benefit not take effect until the last day of the new contract, December 31, 1987. The Employer's last offer is to maintain the status quo.

The previous contract says nothing about final average compensation (FAC), that being the dollar base to which the pension benefit formula is applied to establish the amount of a retiree's benefits. The County's pension program defines FAC as "the annual average of the compensations paid a member during the period of 5 consecutive years of his credited service producing the highest average" during his last ten years of service. The Union seeks to change FAC to the average of "the highest 3 years of compensation of the last 5 years of employment," also effective December 31, 1987. The Employer's last offer is to maintain the status quo on this point as well.

The Union finds support for its position in the comparables. The evidence shows that employees of the Branch County Sheriff's Department may retire with twenty years of service at age fifty-five; their FAC formula is the highest five out of the last ten years. Cass County has the "25-and-out" benefit which the Union seeks. The Union introduced no evidence regarding the FAC formula in Cass County; an Employer exhibit characterizes it as simply "five years."

The Employer's objections to the Union's pension demands are threefold. First, it contends that awarding a benefit deferred until the last day of a two-year contract would be contrary to the spirit, if not the letter, of Act 312. In practical terms the Employer says that would be a benefit effective in a future contract, with the County not

being credited with its cost in this agreement but being stuck with it for future agreements. Second, the Employer complains that these pension improvements would add significantly to the County's costs, at a time when its fund balances have been declining. Gerald Sonnenschein, actuary for the County's pension program, testified that such benefits would require a funding increase equal to approximately 2.5% of payroll. Third, the Employer argues that existing total pension benefits for employees of this department compare favorably to those in other sheriff's departments.

In particular, the Employer emphasizes that the County not only pays its own contribution, which currently is 11.34% of payroll, but also the employees' own 3% contributions. In comparison, the Union's evidence shows that Branch County contributes 9.72% of payroll toward employee pensions; the employees make their own contributions of 3% of the first \$4,800 of annual earnings, 5% of earnings above that amount. Neither party presented evidence of contribution levels in Cass County. Union witness Ann Maurer, POAM labor economist, testified that she could not obtain such information and that Cass County's pension system was being revised. Two of the other municipalities which the Union originally offered as comparables have an employer's contribution rate slightly higher than the County's, but none makes the employees' contributions.

The Union presented no evidence providing statutory support for its demand to improve the FAC formula. Its argument concentrates on comparable communities. However, Branch County's formula appears to be identical to the County's: highest consecutive five out of the last ten

years. Cass County's FAC formula appears to be no better; if it is simply the last five years, it actually may be less favorable to the employees. Thus factor (d), the only one the Union explicitly relied on, is more nearly in compliance with the Employer's position than the Union's.

So is factor (f), "overall compensation," with respect to both the County's total contributions for these employees' pensions and their total wages. It should be noted that this advantage is offset to some extent in Branch County, where the multiplier used to determine pension benefits is two percent, as compared to 1.2% on the first \$4,200 of FAC and 1.7% above that in St. Joseph. However, both total wages and the Employer's pension contributions are substantially higher in this County than in Branch.

The Employer's position also complies with Subsection 9.(h), which includes "other factors... normally or traditionally taken into consideration" in collective bargaining and interest arbitration. There is considerable merit to the Employer's argument that an Act 312 panel should not award benefits which will not take effect until after the contract period at issue. Normally, parties negotiate contract terms and conditions for a specific period, based on available information relevant to that period. As the Employer concedes, they could agree to a benefit which would not exist until the last day of the contract term, but it would be most unusual.

The practical effect of such an arrangement surely would be to create a future benefit, which would be expected to carry forward into the next contract even though its costs had not been reflected in the

current agreement. If the statutory factors do not support the creation of such a benefit during the term of the contract -- which they do not, in the case of the Union's proposal to improve the FAC formula -- the panel would be ill advised to order implementation of the benefit at the expiration of the contract, without any evidence regarding conditions which might prevail at that time.

This same rationale applies to the Union's demand for 25-and-out retirement regardless of age, which it also proposes to take effect on December 31, 1987. Thus the Employer's last offer must be found to comply more nearly with factor (h) than the Union's.

With respect to the 25-and-out demand, the Union's last offer may be said to comply with factor (d), because Cass County has exactly the benefit the Union seeks. Branch County's retirement also is somewhat more liberal than St. Joseph in this regard, allowing retirement at age fifty-five with twenty years of service. However, the Union's advantage under factor (d) is offset by the County's under factor (f), because the County pays the employees' pension contributions. Although the Employer has not claimed inability to pay, the added costs associated with the Union's demand also are pertinent, under either statutory factor (c) or (h) or both, particularly in light of recent declines in the County's nontax revenues and fund balances.

On balance, therefore, it must be found that the County's last offer more nearly complies with the applicable statutory factors regarding both Union proposals for pension improvements.

ORDER NO. 2: The arbitration panel hereby adopts the Employer's last offer of settlement on both pension issues, and orders

that Section 21.1 of the 1986-87 agreement read as follows:

The Employer agrees to maintain the present employee pension fund program known as the St. Joseph County Employee Retirement Fund. Effective July 1, 1984 employees will be permitted to retire with unreduced benefits at age fifty-five (55) with twenty-five (25) years of service.

Retirees' Hospitalization. The previous contract provides no hospitalization insurance coverage for retirees. The Union proposes full coverage, identical to that afforded to active employees, for all retirees and their dependents, with continuing coverage for dependents of deceased retirees as long as they continue to receive benefits under the County's retirement program. It proposes such coverage for "all persons retired on or after January 1, 1986," but not to take effect until December 31, 1987. The Employer's last offer is to maintain the status quo.

In its brief, the Union identifies no statutory support for this proposal, which it discussed only briefly in conjunction with its pension demands. At hearing, it introduced evidence of the status of retirees' hospitalization coverage in the communities it then asserted as comparables. Although it showed that some of those communities offered such coverage, either as a continuation of full insurance or a partial payment of premiums, the Union's exhibit noted that such coverage was "not specified" in four cases, including Branch and Cass Counties.

The Employer emphasizes the last point, as well as the cost of providing such coverage, which Sonnenschein estimated would range from 4% to 5.5% of payroll. It also pointed out that no other County

employees enjoy such coverage, and complained that the Union had provided no evidence to show why Sheriff's Department employees should be uniquely deserving of such a costly benefit.

On this record, it must be found that the Employer's position more nearly complies with statutory factors (c) and (d). Since this benefit also is proposed to take effect on the last day of this agreement, factor (h) applies as well, for the reasons discussed in connection with the pension issues above. It too supports the Employer's position.

ORDER NO. 3: The arbitration panel hereby adopts the Employer's last offer of settlement with respect to hospitalization insurance, and orders that Article XX of the 1986-87 agreement shall remain as it appears in Exhibit A, with no coverage for retirees.

Vacations. The parties' last offers on this issue were identical in substance, with only minor variations in wording. In its brief, the Employer stated agreement to the language proposed by the Union. Accordingly, the panel enters the following order.

ORDER NO. 4: The arbitration panel hereby adopts the Union's last offer of settlement on vacations, and orders that Section 16.1 of the 1986-87 agreement read as follows:

16.1: Full-time employees in the bargaining unit shall be eligible for vacation with pay in accordance with the following schedule:

- (a) Vacation will be accrued at one day per month, not to exceed thirteen (13) days, for the first calendar year employed (i.e., 1/1-12/31). Employees will be eligible to take this vacation after December 31st of the calendar year in

which it was accrued.

- (b) Thereafter all full-time employees covered by this Agreement shall be entitled to paid vacation in accordance with the following schedule:

13 days after 1 year
15 days after 5 years
17 days after 9 years
20 days after 14 years
25 days after 20 years
30 days after 25 years.

Sick Leave. The previous contract provides for accumulation of sick leave credits "at the rate of one (1) day per month within limited accumulation," subject to "a maximum accumulation" of 120 sick days per employee. Both parties submitted last offers to change the rate of accumulation to 1/2 day per pay period. The County has a bi-weekly pay cycle, so the effect of these offers is to provide employees one additional sick day per year. The panel's award will incorporate the parties' agreement on this point.

The Union also made a second Sick Leave proposal: to eliminate the 120-day "cap" on maximum accumulation of sick leave credits. However, the wording of its final offer on this point is in conflict with its own proposal to change the accumulation rate. The first proposal specified that sick leave credits be accumulated "at the rate of one-half (1/2) day per pay period within limited accumulation." The second proposal contradicts the first in two respects: it continues the previous accumulation rate of one day per month, and it provides for "unlimited accumulation."

The Employer contends the Union's demand to eliminate the 120-day cap must be rejected because of this inconsistency alone. It

points out that the panel has to adopt the parties' identical offers regarding the accumulation rate, including language retaining the 120-day cap, and having done so cannot adopt the contradictory language of the Union's second proposal, but must retain the 120-day accumulation limit as it proposes.

Beyond that, the Employer again asserts that the Union has failed to provide any evidentiary support for the proposed elimination of the sick leave cap. The Union's brief virtually concedes as much, noting that with respect to comparables "the weight of evidence falls to neither one side nor the other." Branch County has a 100-day cap; Cass County has unlimited accumulation.

However, Cass County requires ten years continuous service for pay-out of unused sick days upon voluntary termination, and limits such pay-out to one-fourth the total accumulated days. It also limits pay-out at normal retirement to one-half of any accumulation. In this County, the maximum accumulation for pay-out is forty days, all of which may be liquidated upon death or retirement; one-fourth may be liquidated upon resignation after three years of continuous service, one-half after five years. In Branch County, employees receive payment of accumulated sick leave credits "at fifty percent (50%) of allowed accrual" upon termination, except during probationary period or by discharge for cause.

The Employer also argues that the Union has failed to demonstrate any need for elimination of the sick leave cap, or that employees will suffer any hardship if the cap is retained. It introduced evidence showing that no employee currently is approaching

the 120-day maximum accumulation. Absence of need certainly is one "other factor" which normally would be considered in the negotiation or arbitration of a condition of employment such as this. So is cost, and eliminating the cap could significantly increase the County's ongoing liability even though it might have the ability to pay. Absence of internal contradiction in the agreement is another traditional concern in collective bargaining and arbitration.

On all three of these counts, statutory factor (h) is applicable, and it favors the Employer. As the party seeking change, the Union has the burden of establishing a statutory foundation for the award it seeks. Since only factors (d) and (h) appear to be applicable, and factor (d) favors neither party, the panel must adopt the Employer's position.

ORDER NO. 5: The arbitration panel hereby adopts the identical offers of both parties regarding the rate of accumulation for sick leave and the Employer's offer rejecting the proposed elimination of 120-day maximum accumulation, and orders that Section 19.1 of the 1986-87 agreement read as follows:

19.1: All members of the bargaining unit shall accumulate sick leave credits at the rate of one-half (1/2) day per pay period within limited accumulation. Sick days are meant to compensate an employee during absence from work because of short-term illness. There shall be a maximum accumulation of sick leave credits of one hundred twenty (120) days per each employee.

Longevity. The previous agreement provided for annual longevity payments on or about December 1 according to the following schedule:
\$100 after 5 years of service, \$150 after ten years, \$200 after fifteen

years, and \$250 after 20 years. The Employer's last offer would increase each step by \$100, which was what the Union first proposed in collective bargaining. At the arbitration hearing, the Union proposed to change each step from a dollar amount to a percentage "of base pay:" two, four, six and eight percent respectively. However, its last offer of settlement contained still another proposal: "twenty-five (\$25.00) dollars for each year worked" after five years of continuous service.

The Union's ultimate proposal would provide smaller annual payments than the schedule offered by the Employer during the first three years an employee receives such payments, an identical amount the fourth year, and larger amounts thereafter. It finds justification for this proposal in "both internal and external comparables."

By "internal comparables" it means other County bargaining units, all of which have the same longevity payment schedule it now proposes. As documentary evidence of that, it introduced a copy of the current agreement for the AFSCME bargaining unit.

By "external comparables," it means Branch and Cass Counties. Branch County has the same four-step schedule, beginning after five years of service, that now exists in this department. However, in Branch County payments at the four steps are \$125, \$250, \$375 and \$500, identical to the amounts which would be payable at those four particular intervals under the Union's last offer. In Cass County, longevity pay begins after eight years of service and increases twice: after ten and fifteen years. The payments at each step are \$200, \$400 and \$600, providing the same annual payment as the Union's proposal in the ninth year, lower in the tenth year, and higher every year thereafter until an

employee has twenty-four years of service.

The Employer suggests that the total amounts payable under the competing offers would be so close that evidence of payments in comparable communities is not significant. However, it suggests the panel should reject the Union's last offer because it represented both a change in method and an increase in payments as compared to the Union's position during bargaining and the arbitration hearing. In the Employer's view, it is contrary to the spirit of Act 312 and the efficient resolution of bargaining disputes for the Union to submit a last offer exceeding its demands at the bargaining table.

As a practical matter it may be unusual for a union to increase its demands after presentation of evidence in an Act 312 proceeding, but the chairman finds nothing in the statute prohibiting it. As for the "spirit" of Act 312, it must be noted that the statutory scheme is designed to bring the parties as close together as possible by requiring them to submit last offers of settlement after all the evidence is in. Sometimes the evidence may be such that an increased demand will be more realistic than a reduced final offer.

This was such an occasion, and it must be found that the Union's last offer more nearly complies with the two applicable statutory factors. That is true of factor (d), because the longevity schedules in both Branch and Cass Counties are closer to the Union's proposal than to the Employer's. Consistency of benefits among multiple bargaining units for the same employer is a factor normally considered in collective bargaining and arbitration; indeed, the Employer asserted that concern in discussing the pension issues in this case. Therefore factor (h)

also is applicable, and it clearly favors the Union's position, which proposes longevity benefits identical to those of all other County bargaining units.

ORDER NO. 6: The arbitration panel hereby adopts the Union's last offer of settlement regarding longevity pay, and orders that the portion of Section 12.2 left blank in Exhibit A read as follows:
"Twenty-five (\$25.00) dollars for each year worked."

Duty-related Injuries. Article XXI Section 9 of the previous contract provided that "(a)n employee who was injured while on the job and is required to leave the job by medical authority will be paid for the whole day." The Union seeks greatly expanded benefits for employees who sustain duty-related injuries. Its last offer of settlement on this point calls for continuation of "regular base pay and benefits" for the duration of any duty-related disability, up to one year, less any worker's compensation or other disability compensation paid to the employee during that period. The Employer's last offer is to maintain the status quo.

The Union finds statutory support for its position in factor (d). It points out that Branch County supplements the statutory benefits payable to sheriff's department employees on worker's compensation leave up to 100% of current salary during the first week of such leave, and up to 80% of "gross regular weekly pay" for the next twenty weeks; such employees may utilize vacation and sick leave time thereafter to maintain 80% of gross pay. In Cass County, deputies on worker's compensation leave receive a supplement equal to the difference

between the statutory benefit and their usual after-tax pay "without any charge to the employee's accumulated sick leave for a period of up to twenty-six (26) weeks for any one injury or illness." After that, the disabled employee may continue the supplement by "utiliz(ing) his unused paid sick leave credits."

The Union also suggests that the public interest, which is included in statutory factor (c), would be well served by providing such income protection for employees disabled while acting in the performance of their duties on the County's behalf.

The Employer contends that the comparables do not support the Union's demand. It points out that only one of all the proposed comparable communities cited by both parties -- Hillsdale County -- provides the benefit the Union seeks. It concedes that all others provide something more than the one-day pay protection which currently exists in this department, but none of them extends a full year. The Employer also observes that even though the County's liability for the disability income supplements which the Union demands would arise "only on an occurrence basis," when it arose it would "represent a direct cost to the Employer for work not performed."

The Union's public interest and welfare argument has theoretical merit. It is reasonable to assume the public welfare would be served if those who put their lives on the line to protect the public are assured of reasonable income protection if they become disabled in the performance of their duty. Behind that assumption would be another: that the existence of such benefits would help keep competent people in those jobs. In the chairman's opinion the theory is sound, even though

the record contains no statistical evidence -- aside from the existence of such benefits in other law enforcement agencies -- to support it. Thus factor (c) provides at least some support for the Union's position on this issue.

Of greater importance is factor (d). Benefits such as the Union seeks are guaranteed to sheriff's department employees in both comparable communities. As the Employer correctly observes, those benefits are not as extensive as the Union demands. But they manifest far greater similarity with the Union's last offer than with the Employer's, which is essentially no supplemental disability income at all.

Obviously a combination of benefits like those in Branch and Cass Counties, including debits to the disabled employee's vacation and/or sick leave bank after twenty-six weeks, would provide even closer similarity. Perhaps the parties can negotiate such a compromise in their next agreement, but the panel is not free to fashion one for the 1986-87 contract. The parties also can revise and clarify the language, if necessary, but this panel cannot. It must choose between the last offers on the table, and as between them the choice is clear: factors (c) and (d) mandate adoption of the Union's position.

ORDER NO. 7: The arbitration panel hereby adopts the Union's last offer of settlement on duty-related injuries, and orders that Section 23.9 of the 1986-87 agreement read as follows:

Any employee injured in the performance of his duties while acting on behalf of the St. Joseph County Sheriff's Department, whether on or off duty, and is required to leave the job by medical authority shall continue to receive his regular base pay and benefits

for the period of such incapacity up to a maximum of one (1) year. However, during any period in which Workers' Compensation or other disability compensation is paid, the Employer's obligation shall be limited to full pay and benefits less any disability compensation received. The combination of Employer and other compensation shall not exceed 100% of an employee's regular base pay and benefits.

Part-time and Reserve Officers. The previous agreement makes no reference to part-time or reserve officers. However, it is undisputed that the Employer routinely has used unpaid reserve officers as second men in patrol cars on the second shift. Departmental policy requires two officers in a car after dark; using reserve officers allows the department to keep more cars on the road.

The Union has no objection to this practice. Deputy Larry Preston, a Union witness, acknowledged that reserve officers have been valuable assets for the department and the citizenry, and that without them the department would have to reduce service to the public. However, he complained about expanded use of reserve officers in the jail and on third shift road patrol.

Preston explained that typically one patrol car is on the road on the midnight shift, manned by two regular officers. In the absence of one officer, he said, the department would call in another regular officer on overtime. However, in 1987 the department discontinued all overtime assignments for budgetary reasons. According to Preston, that led to the use of reserve officers for midnight road patrol on one or two occasions. He also said reserve officers occasionally had been brought in to cover for absent corrections officers in the jail during 1985 and 1986.

The Union seeks a new contract provision prohibiting the use of part-time or reserve officers "to perform any duties of the bargaining unit unless all bargaining unit members have been contacted and rejected the work available," and requiring that any work rejected by full-time bargaining unit employees be offered first "to part-time bargaining unit members and then to reserve and special part-time officers." However, it offered no evidence cognizable under the statutory factors to support this proposal.

The Employer's last offer seeks to retain the status quo. Undersheriff Raymond Fitch testified it is very important that the department be able to continue using reserve officers on the second shift. He also testified that to his knowledge there had been no recent change in the use of reserve officers, and none had been used on the third shift. Fitch acknowledged that some reserve officers had been assigned to the jail during 1985 and 1986, either for training or to alleviate manpower shortages, but said they no longer were being used there because the department had assigned additional permanent employees to the jail. In addition to benefits to the public from using reserve officers, the Employer points out that their use is either expressly authorized or not prohibited in other sheriff's departments.

The Employer is right. The Cass County contract explicitly authorizes the sheriff "to subcontract or secure auxiliary services to perform work normally performed by bargaining unit employees" under a variety of circumstances, including "when such work cannot be performed by bargaining unit employees on an efficient and economical basis." The Branch County contract neither authorizes nor prohibits the use of

part-time or reserve officers. Therefore the Employer's position clearly complies with statutory factor (d).

The same is true of factor (c), given the Union's acknowledgment that using reserve officers to keep a maximum number of two-man patrol cars on the road at night benefits the public welfare. None of the other statutory factors applies to this issue. Accordingly, the panel must adopt the Employer's last offer, leaving the contract silent on this subject.

ORDER NO. 8: The arbitration panel hereby adopts the Employer's last offer of settlement regarding the use of part-time and reserve officers, and orders that the 1986-87 agreement contain no provision restricting the County's right to use such officers.

EMPLOYER ISSUES

Call-in Premium Pay. The previous agreement provides that bargaining unit employees "will be paid at a minimum of four (4) hours at time and one-half (1-1/2) when they are called in to work." (Article XI Section 4.) The Employer proposes to reduce minimum call-in pay to two hours at time and one-half, but only if the time for which the employee is called in is not contiguous to his regular shift, and to pay employees for call-ins "at straight time for the actual number of hours worked when work is contiguous to their scheduled shift."

According to the Employer's brief, the latter provision would mean that employees called in to work time contiguous to their regular shift would "receive overtime only if it resulted in them working more than 160 hours in the regular 28-day cycle." The Employer argues that

what it proposes is "standard practice in the marketplace," as evidenced by the fact that all of the counties it proposed as comparable communities have only a two-hour guarantee for call-ins.

In Branch County, a deputy called "into work... outside his normal shift shall be paid a minimum of two (2) hours' pay at time and one-half," and at straight time for any hours in excess of two, "and all such time shall count as hours actually worked for purposes of determining eligibility for overtime pay." Branch County's general overtime provision, like Section 13.1 of the parties' new agreement (Exhibit A), guarantees time and one-half "for all hours actually worked in excess of eight (8) hours per day or... one hundred sixty (160) hours per twenty-eight (28) day tour of duty time."

In Cass County, the general overtime system is set up on a daily and weekly basis, with time and one-half for hours exceeding eight (or ten, for employees working ten-hour days) per day or forty per week. The Cass County contract guarantees two hours pay at straight time for an employee "called in to perform work at a time other than for which he had previously been scheduled," but the guarantee "does not apply to employees who are called in prior to their normal starting time and continue to work their regular shift thereafter."

The Union's last offer is to retain the status quo. It argues that cutting the call-in overtime guarantee is a moot point, because the Employer unilaterally discontinued all overtime assignments prior to these hearings. In the Union's view, it could do so again any time it wants to control expenses; thus the Employer has failed to demonstrate necessity for cutting the call-in guarantee to two hours. This argument

is not realistic, because there may well be times when call-ins are unavoidable if service is to be maintained, nor does it address any of the statutory factors.

The Employer's position clearly does comply with factor (d), because the call-in guarantees in the two comparable counties are equal to or even less generous than what it proposes. It also may be said to address factor (h) insofar as cost containment, particularly with respect to pay for time not worked, is a traditional subject of collective bargaining. Therefore the panel must adopt the Employer's proposal. In doing so, however, it cannot adopt in full the Employer's characterization of the proposal's ramifications.

Given the continuing guarantee of daily overtime in Section 13.1(a) of Exhibit A, the new Section 13.4 cannot mean that overtime is payable only if an employee's work time exceeds 160 hours in a 28-day period. The second sentence of Section 13.4 can excuse the Employer from paying time and one-half for the call-in itself: if the employee is called in to work some period immediately preceding his regularly scheduled shift, for example. But that language does not eliminate the general overtime requirement if the contiguous combination of call-in time and regularly scheduled work time adds up to more than eight hours in a twenty-four hour period.

ORDER NO. 9: The arbitration panel hereby adopts the Employer's last offer of settlement with respect to call-in premium pay, and orders that Section 13.4 of the 1986-87 agreement read as follows:

Employees of the Bargaining Unit will be paid at a minimum of two (2) hours at 1-1/2 time when called in to work. Employees will be paid at straight time for

actual number of hours worked when work is contiguous to their scheduled shift.

Holidays. The previous agreement listed twelve specific paid Holidays "as designated by the State Court Administrator in 1982," followed by this statement: "Days subject to change by the State Court Administrator." The Employer proposes to delete the first quoted clause and modify the second statement by the addition of the following clause: "as long as they do not exceed twelve (12) in number."

As explained in its brief, the Employer seeks these changes not to alter the number or designation of holidays currently in effect, but only to make it impossible for "an outside third party to add additional days." It finds support for this proposal in the comparables. The Branch County contract lists ten specific full-day holidays, two half-days, and three hours on Good Friday, plus general election day in even-numbered years. It contains no reference to the State Court Administrator. Neither does the Cass County contract, which lists fourteen specific paid holidays.

The Union's last offer is to maintain the status quo. Its brief argues that is necessary "to maintain consistency with county courthouse employees." The Union also suggests that employees in this bargaining unit could obtain additional holidays if the State Court Administrator so designates, but says that was the negotiated bargain and the Employer has offered no evidence to justify changing it.

Here again only two of the statutory factors apply, and both of them support the Employer's position. Factor (d) applies, because the contracts in both comparable counties contain specifically designated

holidays whose number cannot be changed by action of any third party. Factor (h) also applies, because clarity and certainty in contract language are objectives traditionally sought in collective bargaining and arbitration, and the Employer's proposal eliminates possible uncertainty regarding the number of holidays guaranteed under this contract. Therefore the panel must adopt that proposal.

ORDER NO. 10: The arbitration panel hereby adopts the Employer's last offer of settlement concerning holidays, and orders that Section 17.1 of the 1986-87 agreement read as follows:

The following days shall be observed as paid holidays:

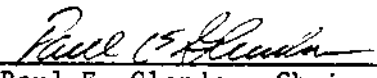
1. New Year's Day - January 1
2. Martin Luther King Day - Monday nearest January 15
3. Presidents Day - Third Monday in February
4. Memorial Day - Last Monday in May
5. Independence Day - July 4
6. Labor Day - First Monday in September
7. Veterans Day - November 11
8. Thanksgiving - Fourth Thursday in November
9. Friday after Thanksgiving
10. December 24
11. Christmas Day - December 25
12. December 31 - Whenever New Years Day falls on Tuesday, Wednesday, Thursday or Friday

Days subject to change by the State Court Administrator as long as they do not exceed twelve (12) in number.

SUMMARY OF ACTIONS AND RULINGS

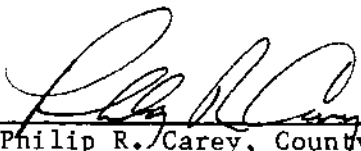
The foregoing findings, opinions and orders constitute the actions and rulings of the arbitration panel. As required by Act 312, all the panel's actions and rulings are those of a majority of its members. One of the partisan delegates dissented from every order except No. 4, although the Union Delegate's dissent from Order No. 5 relates only to retention of the 120-day cap on accumulation of sick leave, not the revised accrual schedule. The delegates' signatures below indicate their concurrence with the chairman's findings, opinions and orders, subject to such dissents, which are as follows:

Order No. 1: Union Delegate dissents
Order No. 2: Union Delegate dissents
Order No. 3: Union Delegate dissents
Order No. 5: Union Delegate dissents
Order No. 6: County Delegate dissents
Order No. 7: County Delegate dissents
Order No. 8: Union Delegate dissents
Order No. 9: Union Delegate dissents
Order No. 10: Union Delegate dissents.



Paul E. Glendon, Chairman
Dated: October 16, 1987

William Birdseye, Union Delegate
Dated: October , 1987




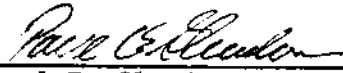
Philip R. Carey, County Delegate
Dated: October 20, 1987

SUMMARY OF ACTIONS AND RULINGS

The foregoing findings, opinions and orders constitute the actions and rulings of the arbitration panel. As required by Act 312, all the panel's actions and rulings are those of a majority of its members. One of the partisan delegates dissented from every order except No. 4, although the Union Delegate's dissent from Order No. 5 relates only to retention of the 120-day cap on accumulation of sick leave, not the revised accrual schedule. The delegates' signatures below indicate their concurrence with the chairman's findings, opinions and orders, subject to such dissents, which are as follows:

Order No. 1: Union Delegate dissents
Order No. 2: Union Delegate dissents
Order No. 3: Union Delegate dissents
Order No. 5: Union Delegate dissents
Order No. 6: County Delegate dissents
Order No. 7: County Delegate dissents
Order No. 8: Union Delegate dissents
Order No. 9: Union Delegate dissents
Order No. 10: Union Delegate dissents.



William Birdseye, Union Delegate
Dated: October 20, 1987

Paul E. Glendon, Chairman
Dated: October 16, 1987

Philip R. Carey, County Delegate
Dated: October , 1987

AGREEMENT
BETWEEN
ST. JOSEPH COUNTY BOARD OF COMMISSIONERS
and
SHERIFF OF ST. JOSEPH COUNTY
and
POLICE OFFICERS ASSOCIATION OF MICHIGAN

DRAFT
7/28/87
CD11

EXHIBIT A:
MERC Act 312 Case
No. G86 D-345

AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 198__, by and between the ST. JOSEPH COUNTY BOARD OF COMMISSIONERS and the SHERIFF OF ST. JOSEPH COUNTY, NEUBERT BALK, hereinafter referred to as the "Employer" and POLICE OFFICERS ASSOCIATION OF MICHIGAN and its Affiliate, the ST. JOSEPH COUNTY POLICE OFFICERS ASSOCIATION OF MICHIGAN, hereinafter referred to as the "Union".

WITNESSETH:

PURPOSE

The purpose of this Agreement includes the promotion of harmonious relations between the Employer, its employees, and the Union, the establishment of equitable and peaceful procedures for the resolution of differences, and the establishment of rates of pay, hours of work and other conditions of employment.

The parties subscribe to the principle of equal opportunities and shall share equally the responsibilities for applying the provisions of this Agreement without discrimination as to age, sex, marital status, race, creed, national origin, political or Union affiliation.

The Employer and the Union agree to implement to fullest degree friendly and cooperative relations between the respective representatives at all levels and among all employees.

ARTICLE I
RECOGNITION

1.1: Pursuant to and in accordance with all applicable provisions of Act 379 of the Public Acts of 1965, as amended, the parties hereto have engaged in collective bargaining with respect to the wages, hours of work, and other conditions of employment for the employees occupying, or who may during the life of this Agreement occupy, the job classifications set forth in Appendix A attached hereto.

1.2: The Employer agrees that during the life of this Agreement, it will not recognize any organization other than the Union as the collective bargaining agent for the employees occupying, or who may during the life of this Agreement occupy, any of the job classifications set forth in Appendix A attached hereto.

ARTICLE II
UNION SECURITY

2.1: Membership in the Union is not compulsory. Regular employees have the right to join, not join, maintain or discontinue their membership in the Union as they see fit. Neither the Employer nor the Union shall exert any pressure upon or discriminate against any employee with regard to such matters.

2.2: Membership in the Union is separate, apart and distinct from the assumption by one of his equal obligation to the extent that he has received equal benefits. The Union is required under this Agreement to represent all of the employees in the bargaining unit fairly and equally without regard to whether or not an employee is a member of the Union. The terms of this Agreement have been made for all employees in the bargaining unit not only for members in the Union.

Accordingly, it is fair that each employee in the bargaining unit pay his own way and assume his fair share of the obligation along with the grant of equal benefit contained in this Agreement.

2.3: During the period of time covered by this Agreement, the Employer agrees to deduct from the wages of any employee who is a member of the Union, all Union membership dues and initiation fees uniformly required; provided, however, that the Union annually presents to the Employer written authorizations, properly executed by each employee allowing such deductions and payments to the Union.

2.4: Dues and initiation fees will be authorized by the Secretary-Treasurer of the Local Union and in accordance with the Constitution and By-Laws of the Union. The Employer shall be held harmless and shall not be liable to the Union or the employees for monies deducted in accordance with the certificates of authorization or for monies once they are remitted to the Union by first class mail, postage prepaid.

2.5: In accordance with the policies set forth in this Section, all employees in the bargaining unit shall, as a condition of continued employment, pay to the Union a service fee equivalent to the amount of dues uniformly required of members of the Union. For present regular employees, such payments shall commence thirty-one (31) days following the effective date of this Agreement, and for new employees, the payment shall start thirty-one (31) days following the date of employment.

2.6: Monthly agency fees and initial agency fees will be deducted by the Employer and transmitted to the Treasurer, Police Officers Association of Michigan, 28815 W. Eight Mile Road, Suite 103, Livonia, Michigan 48152, as prescribed in Section 3 above for the deduction and transmission of Union dues.

2.7: The Union shall indemnify and save the Employer harmless from any and all claims, suits or any other action arising from the Union security provisions or from complying with any requests for termination under these provisions in the event it is determined under substantive law that said Union security provisions are illegal. Further, such indemnification shall apply to damages that are sustained as a result of procedural errors or because of reason of mistake of fact which were in the control or responsibility of the Union.

ARTICLE III MANAGEMENT RIGHTS

3.1: The parties hereto recognize and agree that, except as specifically limited or abrogated by terms and provisions of this Agreement, all rights to manage, direct and supervise the operations of the Sheriff's Department shall be vested as provided by the laws of the State of Michigan and the County Board of Commissioners and the Sheriff.

- a) Nothing contained herein shall be deemed to preclude the Sheriff from establishing and putting into effect those reasonable rules and regulations necessary to carry on an efficient and effective operation with the Sheriff's Department.

ARTICLE IV
EXTRA CONTRACT AGREEMENTS

4.1: The Employer agrees not to enter into any agreement with another labor organization or any individual employees during the life of this Agreement with respect to the employees covered by this Agreement relative to a subject matter which is a proper subject for collective bargaining.

ARTICLE V
SUBCONTRACTING

5.1: For the purpose of preserving work and job opportunities for the employees covered in this Agreement, the Employer agrees that no work or services presently performed or hereafter assigned to the bargaining unit will be subcontracted in whole or in part to any non-department employees if it would cause a layoff of any of the present employees of the bargaining unit at the date of this Contract.

ARTICLE VI
STEWARDS AND ALTERNATE STEWARDS

6.1: Members of the Union shall select a Steward who is a regular employee to represent them. Members of the Union may also select an alternate Steward who is a regular employee to represent them in the absence of the Steward.

6.2: The Steward, or the alternate in the Steward's absence, during regular working hours, without loss of time or pay, in accordance with the terms of this Article, may present grievances to the Employer, upon having received permission from the Supervisor. The Supervisor shall grant permission within a reasonable time after the first hour of the shift for the Steward to leave his assigned work for these purposes subject to necessary emergency exceptions.

The privilege of the Steward leaving his work during working hours without loss of time or pay is subject to the understanding that the time will be devoted to the proper presentation of grievances and will not be abused. The Steward and alternate Steward may be required to record time spent. All such Stewards will perform their regular assigned work at all time except when necessary to leave their work to present grievances as provided herein.

6.3: The Union will furnish the Employer with the names of authorized representatives and members of its committee who are employed with the bargaining unit and such changes that may occur

from time to time in such personnel so that the Employer may at all times be advised as to the authority of the individual representative of the Union with which it may be dealing.

ARTICLE VI
DISCIPLINE AND DISCHARGE

7.1: The Employer shall not discharge or suspend any employee without just cause. The Employer and the Union mutually agree in the concept of progressive discipline in respect to discharge and suspension where appropriate. Disciplinary notices shall not remain in effect for a period of more than twelve (12) months from the date of said warning notice. Discharge must be by proper written notice to the employee and the Union and the Employer shall cite specific charges against the employee.

7.2: The discharged or suspended employee will be allowed to discuss his discharge or suspension with his Steward if readily available and the Employer will make available an area where he may do so before he is required to leave the property of the Employer. Upon request, the Employer or his designated representative will discuss the discharge for suspension with the employee and the Steward.

7.3: Should the discharged or suspended employee and the Steward consider the discharge or suspension to be improper, a grievance may be presented in writing through the Steward to the Sheriff within three (3) regularly scheduled working days of the discharge or suspension pursuant to Step 3 of the grievance procedure.

7.4: No employee will be required to take a polygraph test and such refusal will not be used against him.

ARTICLE VIII
GRIEVANCE PROCEDURE

8.1: A grievance shall be defined as any dispute regarding the interpretation, application or alleged violation of the terms and provisions of this Agreement.

8.2: All grievances, disputes or complaints arising under and during the life of this Agreement shall be settled in accordance with the procedure herein provided.

Step 1. Any employee having a complaint in connection with his employment shall present it to the Employer with the following understanding: Before initiating a grievance, the employee must first discuss the matter orally with his

immediate supervisor or his designee. Upon request, the employee may be represented by the Union Steward.

Step 2. If the matter is not resolved, the Steward and/or the employee may discuss the complaint with the Undersheriff, and in his absence the Captain. If not resolved in this manner, it shall be reduced to writing by the Union within five (5) working days of the alleged grievance and (1) state the facts giving rise to this grievance; (2) shall identify all of the provisions of this Agreement alleged to be violated by appropriate reference; (3) shall state the contention of the Union with respect to those provisions; (4) shall state the total relief requested; and (5) shall be signed by the grievant and the Steward. Supervision shall answer said grievance within five (5) working days after receipt of same.

Step 3. If the grievance is not settled in Step 1 and 2, the Union may within five (5) days after the supervisor's answer request a meeting between Union representatives and the Sheriff and/or his representative to review the matter. Such meetings will be held within ten (10) working days after the date of written request and the Employer will render its decision within seven (7) working days thereafter.

Step 4. In the event the Union wishes to carry the matter further, it shall, within fifteen (15) calendar days from the date of the Employer's answer to Step 3, meet with the Personnel Committee or its designee for the purpose of attempting to resolve the dispute. If the dispute remains unsettled, and the Union wishes to carry the matter further, the Union shall file a Demand for Arbitration with the Federal Mediation and Conciliation Service within thirty (30) days.

8.3: This submission is to be made within thirty (30) calendar days after receipt of the last step answer. Each grievance submitted to arbitration shall be submitted to the Federal Mediation and Conciliation Service in accordance with its voluntary rules and regulations then pertaining, within the time specified above and such rules shall govern the arbitration.

The arbitrator shall have no power or authority to alter, amend, add to, or subtract from the terms of this Agreement, nor to make any recommendation with respect thereto. Both parties agree to be bound by the award of the arbitrator and that the cost of any arbitration proceeding under this provision shall be borne equally between the parties but the fees and wages of representatives, counsel, witnesses or other persons attending the hearing shall be borne by the party incurring them.

8.4: For purposes of this Agreement, "working day" shall be defined as Monday through Friday; Saturdays, Sundays, and holidays shall not be considered working days. Time limits of the grievance procedure may be extended in writing by mutual agreement of the Employer and the Union.

8.5: If at any step of the grievance procedure the employee is given a response by the Employer and fails to take the grievance to the next step, the grievance shall be deemed settled by the Employer's last answer.

If a grievance which has not been settled at any step of the grievance procedure is not appealed by the Union to the next succeeding step within the time limit provided for such appeal, or extension in writing, such grievance shall be considered as having been withdrawn by the Union. If a grievance is not answered by the employer within the time limits specified for such answer at any step of the grievance procedure, such grievance shall automatically be advanced to the next step.

8.6: Grievances involving discharge or discipline shall be processed from Step 3 of the grievance procedure.

ARTICLE IX SPECIAL CONFERENCES

9.1: Special conferences for important matters not normally subject to the grievance procedure will be arranged between the Union and the Employer or its designated representative upon the request of either party.

9.2: Such meetings shall be between not more than two (2) representatives of the Employer and not more than two (2) representatives of the Local Union. Arrangements for such special conferences shall be made in advance and an agenda of the matters to be taken up at the meeting shall be presented at the time the conference is requested. Matters taken up in special conferences shall be confined to those included in the agenda. Conferences shall be held between the hours of 9:00 A.M. and 4:00 P.M. and limited to one (1) hour duration. The members of the Union shall not lose pay for time lost in such special conferences.

9.3: Special conferences shall be scheduled within ten (10) days after the request is made unless otherwise agreed.

ARTICLE X
SENIORITY

10.1: Seniority is defined as continuous length of service with the Employer from the date of last hire. New employees hired in the unit on a full-time basis shall be considered as probationary for the first twelve (12) months of their employment. When an employee finishes the probationary period, by accumulating twelve (12) months of employment, he shall be entered on the seniority list of the unit and shall rank for seniority from the date of hire.

10.2: Seniority shall not be affected by the race, color, creed, age, sex, or marital status of the employee.

The Employer will keep the seniority list up to date and posted at all times and will provide the Local Union membership with up to date copies at least every six (6) months. The seniority list of the date of this Agreement will show the rates, names and job titles of all employees of the unit entitled to seniority according to Section 1.

10.3: An employee shall lose his seniority for the following reasons only:

- a) He quits, retires or receives a pension in accordance with the provisions of the pension program offered for the St. Joseph County Sheriff's Department;
- b) He is discharged and the discharge is not reversed through the procedure set forth in this agreement;
- c) He is absent for three (3) consecutive working days without properly notifying the Employer. After such unreported absence, the Employer will send written notification to the employee by certified mail at his last known address that because of his unreported absence, he is considered to have resigned (voluntary quit) and is no longer in the employ of St. Joseph County. In proper cases, exceptions shall be made upon the employee producing proof of his inability to give such notice.
- d) If he does not notify the Employer, within three (3) days after receipt of certified written notification to return to work after layoff, as to the date when he will return, which must be within one (1) week after the delivery of such notice to his last known address on file with the employer. Exceptions shall be made upon the employee producing proof of his inability to return as required.

- e) Return from sick leave and leaves of absences will be treated the same as in (c) above.
- f) If he is laid off during the term of this Agreement for a continuous period equivalent to his seniority. However, in no event will an employee laid off for a continuous period in excess of two (2) years retain his/her seniority.
- g) Employees who are promoted to a position outside of the bargaining unit shall continue to accumulate seniority for a period of six (6) months. After six (6) months any and all seniority accumulated will be frozen for purposes of this bargaining unit.

10.4: An employee may request to voluntarily return to the bargaining unit in line with his seniority for the first six (6) months after accepting assignment to a supervisory position within the Sheriff's Department. Thereafter, such a request may be granted only if there is a currently available bargaining unit position.

10.5: If an employee is required to work in a higher classification within the bargaining unit, he or she shall receive the higher rate of pay upon meeting the job requirements. The Sheriff shall utilize his discretion in requiring employees to work in different classifications. However, seniority shall be a prevailing factor in such decision by the Sheriff.

10.6: Employees assigned as road deputies may, upon attaining the age of fifty-five, transfer to an assignment within the jail without loss of pay or benefits. This will not prevent temporary assignments outside of the jail when department needs require.

ARTICLE XI LAYOFF AND RECALL

11.1: The word "layoff" means a reduction in the working force due to a decrease of work or limitation in funds.

When there is such a reduction in the work force, the following procedure shall be followed: Probationary employees shall be laid off first, provided the employees with seniority retained can perform the available work.

11.2: The Employer shall not use an employee in a classification in which he is not classified if another employee is laid off therefrom, except in cases of emergency.

11.3: Seniority employees will be laid off according to seniority within classification provided the employees retained are able to perform the available work. Employees to be laid off for an indefinite period of time will have at least ten (10) calendar days notice of layoff. The Steward shall receive a list from the Employer of the Employees being laid off on the same date the notices are issued to the employees.

- a) When the work force is to be increased after a layoff, employees shall be recalled according to seniority within classification, in reverse order of layoff, provided the employees recalled are able to perform the available work.
- b) Notice of recall will be by certified mail to the employee's address on file with the employer.
- c) Employees will be granted up to one (1) week to return to work upon request.

ARTICLE XII
WAGES

12.1: The job classifications and the salary ranges therefor, are set forth in Appendix A attached hereto and by reference made a part hereof. Part-time employees are paid the hourly rate of the starting rate of the classification being worked.

12.2: Employees who have completed five (5) years of continuous service with the County shall receive annual longevity payments on or about the first (1st) pay day of December of each year.

Employees eligible for longevity shall receive such payment by method of separate check, in accordance with the following:

(Pending Arbitration)

ARTICLE XIII
HOURS OF WORK AND PREMIUM PAY

13.1: The normal work period consists of one hundred sixty (160) hours within twenty-eight (28) days. The normal work day consists of eight (8) hours, inclusive of a paid meal period, and exclusive of necessary report preparation time. Employees are allowed two (2) fifteen (15) minute coffee breaks per day which are to be taken to allow for the continuous operation of the Department.

Time and one-half (1½) will be granted under any of the following conditions:

- a) Daily - All work performed in excess of eight (8) hours in any twenty-four (24) hour period.
- b) Periodically - All work performed in excess of one hundred sixty (160) hours in any 28 day pay period.

13.2: Employees who are scheduled for work and are permitted to report for work without having been notified there will be no work, shall be credited with two (2) hours pay.

13.3: Employees of the bargaining unit who may be subpoenaed to appear in any court on criminal matters on days off or other authorized off-duty time will be paid at the time and one-half (1½) at the minimum of two (2) hours for their set appearance in lieu of any witness' fees.

13.4: Employees of the bargaining unit will be paid at a minimum of four (4) hours at time and one-half (1½) when they are called in to work. (Pending arbitration by Employer.)

13.5: Work schedules shall be prepared and posted for a period of thirty (30) days prior to effective date. Work schedules will not be changed to circumvent the payment of overtime, provided, however, that employees shall be allowed to change shifts and leave days with prior approval of the Employer.

13.6: Use of Part-time, Special and Reserve Employees.
(Pending Arbitration).

ARTICLE XIV PERIODIC SHIFT PREFERENCE

14.1: Upon completion of one (1) year with the St. Joseph County Sheriff's Department, employees shall be eligible for period shift preference. Shift preferences shall be exercised once every six (6) months. Seniority shall be the primary basis in shift assignment. Subject to the foregoing, the Employer will consider such requests that are presented in writing and shall grant such requests in accordance with departmental seniority.

- a) The employer may change an employee's shift if just and reasonable cause can be shown. The employee shall be advised in writing as to reasons for change. Changes

from preference shifts shall not be arbitrary or capricious.

- b) If and when the Employer exercises a change under (a) the least senior employee on the affected shift shall be displaced.

14.2: Special shifts consideration shall be given those employees who are enrolled in advanced educational classes. Upon completion of the semester, term, or other established educational time period, the shift of such employee given special educational consideration may be changed by the employer provided that thirty (30) day notice of change in shift is given the employee.

14.3: Shift changes made in accordance with this Article shall be made within fifteen (15) days after the close of the bidding.

ARTICLE XV PROMOTIONS

15.1: The Employer will make promotions within the bargaining unit of its employees who possess the general qualifications for the job under consideration pursuant to the following criteria:

- a) Eligible employees must have two (2) years of continuous service.
- b) Employees must have the ability to perform the work in question.
- c) Promotion shall be on a competitive basis.
- d) Seniority, attendance and job evaluation are also to be considered for promotion.

15.2: All full-time promotional vacancies within the bargaining unit shall be filled by competitive examination using the following criteria:

<u>Written Examination</u>	<u>Oral Examination</u>	<u>Seniority, Attendance and Job Evaluation</u>
40%	25%	35%

15.3: Promotional vacancies will be posted for a period of ten (10) calendar days in a conspicuous place in the work areas of the unit.

15.4: The employer will not be obligated to consider a request for promotion from an employee unless he submits his request during the posted period.

15.5: In the event that an employee is promoted, the employee shall receive the rate of the new occupational level at the next salary step which will grant him an increase in salary rate.

15.6: The Sheriff shall establish a five (5) member panel to evaluate employees through an oral examination. Each individual employee may delete two (2) members of said panel. The employee will then be examined by the remaining three (3) members of the panel.

15.7: The written test given employees trying for promotions shall be uniform and applicants writing such examinations shall be given the results thereof. The employee tested may review his examination after receipt of the results of said examination.

15.8: Promoted employees shall serve a six (6) month probationary period in their new classification. The Employer's decision to return the employee to his/her former work during the period will not be subject to arbitration, however, the reason for such action must be provided to the employee in writing.

ARTICLE XVI
VACATIONS

16.1: Full-time employees in the bargaining unit shall be eligible for vacation with pay in accordance with the following schedule:

(Pending Arbitration)

16.2: Vacation leave must be utilized by the employee during the regular calendar year. Employees may accumulate five (5) days annual leave time for use in emergency situations; such use to be approved by the Sheriff.

16.3: Upon termination of employment due to resignation, retirement or dismissal, an employee shall be compensated in wages for all unused vacation leave on a pro-rata basis.

16.4: Vacation pay will be paid at the employee's current rate of pay. Current salary shall include any increase in salary schedule by reason of length of service, or any percentage increase which the employee is entitled to by reason of this Agreement.

16.5: Seniority shall govern the choice of vacation periods for requests made between December 1 and April 30. All requests made after April 30 shall be processed on a first come, first serve basis. Requests for vacation leave must be made in writing, seven days prior to the posting of a schedule and subject to the reasonable scheduling requirements of the St. Joseph County Sheriff Department.

16.6: A vacation advance check not to exceed a two (2) week period may be issued to an employee upon request prior to the taking of vacation. Such requests must be made in writing and presented to the employee's supervisor two (2) weeks prior to the starting date of the employee's vacation.

ARTICLE XVII
HOLIDAYS

17.1: The following days shall be observed as paid Holidays as designated by the State Court Administrator in 1982:

1. New Year's Day - January 1
2. Martin Luther King Day - Monday nearest January 15
3. Presidents Day - Third Monday in February
4. Memorial Day - Last Monday in May
5. Independence Day - July 4
6. Labor Day - First Monday in September
7. Veterans Day - November 11
8. Thanksgiving - Fourth Thursday in November
9. Friday after Thanksgiving
10. December 24
11. Christmas Day - December 25
12. December 31 - Whenever New Years day falls on Tuesday, Wednesday, Thursday or Friday

Days subject to change by the State Court Administrator. (Pending arbitration by Employer.)

17.2: Employees covered by this Agreement shall receive time and one-half (1½) their regular duty pay for all hours worked in addition to eight (8) hours pay for the holidays listed in Section 1.

17.3: Employees who perform no work on a holiday shall be paid for eight (8) hours at their current straight time rate of pay.

17.4: Employees must work their scheduled day before and scheduled day after a holiday or be on authorized leave with pay in order to be paid for the holiday.

17.5: If a holiday is observed on an employee's scheduled day off or during his vacation, he shall be paid for the unworked holiday.

ARTICLE XVIII
LEAVE OF ABSENCE

18.1: Employees shall be eligible for leaves of absence after one (1) year of service with the Employer. Leaves of absence are for employees who, in addition to their regular sick and vacation time, require time off from their employment.

18.2: Any request for a leave of absence shall be submitted in writing by the employee to the Sheriff. The request shall state the reason the leave of absence is being requested and the approximate length of time off the employee desires.

18.3: Authorization or denial for a leave of absence request shall be furnished to the employee by the Employer in writing.

18.4: An employee on an approved leave of absence will retain his or her seniority. However, the seniority of an employee will not accumulate while the employee is on an approved leave of absence beyond one (1) month unless otherwise provided herein.

18.5: Further extension beyond the return date designated may be granted by the Sheriff upon written request of the employee.

18.6: Commencing with each calendar year, the Union shall be granted ten (10) scheduled working days to be utilized as leaves of absence without pay to allow Union representatives to attend educational classes or contentions conducted by the Union. Union representatives shall make written requests for utilization of said time.

18.7: Not more than one (1) employee at any one time elected to any office or selected by the union to do work which takes him from his employment with the Employer shall be granted a leave of absence without pay, not to exceed five (5) years or the term of office, whichever is shorter.

18.8: One (1) bargaining unit member who has been elected by the bargaining unit shall be compensated at his regular rate for time lost from work during his regular working hours while on official Union business in negotiation sessions with the Employer and without requirement to make up said time.

18.9: Employees shall be granted a leave of absence with pay when they are required to report for jury duty.

- a) Employees shall be paid the difference between any jury duty compensation they receive and their regular wages for time necessarily spent in jury service. Seniority shall continue to accrue to the employee while on jury duty. Employees will be paid for the full day if they endorse the jury check to the Employer.

18.10: Employees required either by the County of St. Joseph or any other public agency to appear before court or such agency on any matters related to their work for St. Joseph County which they are personally involved in shall be granted time off with pay (as set forth in the following paragraph) for the period during which they are so required to be absent from work.

Such employees shall be paid the difference, if any, between the compensation they receive from the court or agency and their wages for time necessarily spent in such. Employees will be paid for the time spent so appearing after turning over the witness fees to the Employer.

18.11: Employees shall be allowed up to three (3) days with pay when death occurs in the employee's immediate family. For the purpose of this Agreement, immediate family shall be defined as follows: mother, father, sister, brother, spouse, son, daughter, mother-in-law, father-in-law, grandparents, grandparents-in-law, grandchildren or a member of the employee's household. The leave shall end with the day of the funeral, except in the case of the death of a spouse, parent or child for which the full three (3) days will be allowed.

18.12: Except as herein provided, the re-employment rights of employees and probationary employees will be limited by applicable laws and regulations.

- a. Whenever employees who are members of the National Guard, Naval Reserve, Army Reserve, Marine Reserve, or Air Force Reserve are called to active duty, they shall be entitled to a leave of absence in addition to their annual vacation leave from their respective duties and upon presenting evidence of the amount of compensation received from the government, shall be paid the difference, if any, between what they received and what they would have received from the County had they worked during such period.
- b. Employees in military reserve component or the National Guard will supply the Department with schedules of required duty as soon as possible after they are received.

- c. Employees who are called for a physical for the Armed Services are to be granted pay for the day of the physical.
- d. Employees (other than temporary employees) within this bargaining unit who shall be inducted into the Armed Services of the United States shall upon completion of such service be reinstated to their former position or to a position of like seniority, status and pay; provided that they shall be honorably discharged from said military service, that the employee is still mentally and physically qualified to perform the duties of such position, and that application for re-employment is made within ninety (90) days subsequent to such honorable discharge or from hospitalization continuing from discharge for a period of not more than one (1) year. The foregoing provision shall be applicable for a period up to but not exceeding four (4) years.

18.13: Employees who become pregnant shall be entitled to a leave of absence without pay for a period not to exceed one (1) year. Pregnant employees will be permitted to work until medical evidence indicates that the employee should take a leave of absence. For this purpose, the employee at reasonable intervals after the sixth month upon request will furnish the Employer with a doctor's certificate specifying the medical status of the employee and indicating when the employee should be placed on maternity leave. Likewise, the employee may return to work from a maternity leave at the beginning of the next payroll period after submitting to the Employer a doctor's certificate stipulating that she is able to resume her normal duties.

ARTICLE XIX
SICK LEAVE

19.1: (Pending Arbitration)

19.2: Upon either the retirement or death of an employee, said employee's designate beneficiary shall receive one hundred percent (100%) of all accumulated sick leave credits at the employee's last current rate of pay. Employees who resign from the St. Joseph County Sheriff's Department shall receive twenty-five percent (25%) of their accumulated sick leave credits if they had been employed by said Department for continuous three (3) year period of time prior to said resignation. Said employees shall receive fifty percent (50%) of 40 days of their accumulated sick time if they have served a continuous five (5) year period prior to such resignation. Employees who are separated from employment with the St. Joseph County Sheriff's

Department as a result of disciplinary action shall not receive any payment for accumulated sick leave credits. For the purpose of this section only, the maximum accumulation shall be forty (40) days.

19.3: Employees absent from work on legal holidays, during sick leave, during vacation, or on special leave of absence with pay, shall continue to accumulate sick leave at the regularly prescribed rate during such absences as though they were working subject to the maximum limitations herein provided.

19.4: An employee eligible for sick leave with pay may use such sick leave upon approval for absence due to exposure to contagious diseases which could be communicated to other employees and due to illness in the employee's immediate family, which is limited to spouse, children, parents.

19.5: Sick leave absences for part of a day shall be charged proportionately in an amount not smaller than one-half (½) day increments.

19.6: For sick leave exceeding five (5) days, a physician's statement may be required attesting to the employee's ability to return to work.

ARTICLE XX INSURANCES

20.1: Hospitalization: The Employer shall provide for all full-time bargaining members, to maintain a level of group insurance benefits as currently provided in Blue Cross/Blue Shield hospitalization coverage at no cost to the individual employee. The Employer shall make available full dependent coverage during the term of this Agreement at no cost to the employee.

20.2: The Employer shall provide for all full-time bargaining unit members the Blue Cross two dollar (\$2.00) co-pay prescription drug rider.

20.3: During the term of this Agreement, all bargaining unit members shall be covered by ten thousand dollars (\$10,000) A.D.&D. life insurance at no cost to the member.

20.4: The Employer will supply a 50/50 co-pay dental plan and pay the cost of the premium therefor.

ARTICLE XXI
PENSION

21.1: (Pending Arbitration)

ARTICLE XXII
EQUIPMENT, ACCIDENT AND REPORTS

22.1: The Employer shall not require employees to take out on the streets or highways any vehicle that is not in safe operating condition or equipped with the safety appliances prescribed by law.

22.2: The Employer shall not require a member of this bargaining unit to use, operate or carry any equipment that is in disrepair, that malfunctions, or is unsafe or such disrepair, malfunction or unsafe status would impair or endanger the employee in his assigned duties.

22.3: Any employee involved in any accident shall immediately report said accident and any physical injuries incurred to his immediate supervisor. When required by his Employer, the employee, before starting his next shift, shall make out an accident report, in writing, on forms furnished by the Employer and shall turn in all available names and addresses of witnesses to any accidents. Failure to comply with this provision shall subject such employee to disciplinary action by the Employer.

22.4: The employee shall immediately, or at the end of their shift, report all defects in equipment. Said report shall be made on a suitable form furnished by the employer and shall be made in multi-copies; one copy to be retained by the employee.

22.5: When the occasion arises when an employee gives written reports on forms in use by the Employer of a vehicle being in unsafe operating condition for the assigned activity, and receives no consideration from the Employer, he shall take the matter up with the Union Steward, who will take the matter up with the Sheriff or his designated representative.

ARTICLE XXIII
GENERAL

23.1: It is agreed by the parties of this Agreement, that the Employer shall provide to the employee, when practicable, such legal assistance as shall be required or needed as a result of acts occurring when and while said employee is in the performance of his lawful police duties and responsibilities. This section shall only apply to civil litigation.

23.2: There are no understandings or agreements which are binding on either the Employer or the Union other than the written Agreements referred to in this Agreement. No further agreement shall be binding upon either the Employer or the Union until it has been put in writing and signed by both the Employer and the Union.

23.3: Proper equipment, such as helmets, night sticks, flashlights, first-aid kits, flares, raincoats, shotguns and ammunition shall be made available to all employees on duty any normal eight (8) hour tour of duty.

23.4: The parties agree that records of service shall be kept in the employee's Personnel file and citations will be awarded in instances of meritorious performance, above and beyond the call of duty. The employee, shall upon request and in the presence of the Employer, have access to his Personnel file.

23.5: The Employer shall make a firing range and ammunition available to the employees for target shooting and the employees shall qualify with their service revolvers a minimum of once annually on a combat course. The Employer shall furnish 50 rounds of practice ammunition each month for those employees requesting them.

23.6: Authorized representatives of the Union shall be permitted to visit the operation of the Employer during working hours to talk with the Steward of the Local Union and/or representatives of the Employer concerning matters covered by this Agreement without interfering with the progress of the work force. The Union will arrange with the Employer for time and place prior to the occurrence of such visits.

23.7: The Employer shall pay the tuition, expenses and provide proper transportation for training sessions provided by the Employer.

Whenever an employee is requested by the Employer to use his own personal vehicle in the line of duty and on the business of the Employer, he shall be accorded mileage of twenty-one cents (\$.21) per mile.

23.8: An employee designated to attend special training schools benefitting both the County and the employee shall be remunerated at their regular rate of pay. This Section does not apply to a certified police academy.

23.9: Duty Related Injuries

(Pending Arbitration)

23.10: The Employer shall provide all uniforms and accessories excluding leather goods required by the Sheriff. Cleaning and maintenance shall be provided by the Employer at no expense to the employee. Each detective shall receive a plain clothes allowance of three hundred twenty-five dollars (\$325.00) per year. Said allowance shall be paid at the time of the first pay period of a new calendar year.

23.11: The Employer shall replace or repair personal items broken while in the performance of the lawful police duties. Such repair shall not exceed one hundred twenty-five dollars (\$125.00) for the following items: glasses, watches, dentures or bridgework and rings.

23.12: Employees shall normally be granted a minimum rest period of eight (8) hours before having to report back to duty, except in cases of emergency.

23.13: The Employer shall pay the cost of false arrest insurance with minimum limits of five hundred thousand dollars (\$500,000.00) and one-million dollars (\$1,000,000.00).

23.14: The Employer will provide a bulletin board in the facility where employees hereunder are employed for the posting of the seniority and vacation lists and for the use of the Union and the Employer. Only official notices are to be posted and must be approved by the business agent or Chief Steward for the Union.

23.15: Should the Employer require any employee to be bonded, any premium involved shall be paid by the Employer.

23.16: The Employer shall provide payroll deduction for a Credit Union.

23.17: Employees may be required to attend departmental meetings of up to (2) hours per month. Attendance will not be required on pay days or scheduled vacation periods.

23.18: Officers working any part time job must have it cleared by the Sheriff only. Phone numbers shall be provided if the second job is approved so employees can be reached by the Department if necessary.

ARTICLE XXIV
SAVINGS CLAUSE

24.1: If any Article or Section of this Agreement or Addendum thereto should be held invalid by operation of law or by any tribunal or competent jurisdiction, or if compliance with or

enforcement of any Article or Section should be reinstated by such tribunal the remainder of the Agreement and the Addendum shall not be affected thereby and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such Article or Section.

ARTICLE XXV
TERMINATION

25.1: This Agreement shall be effective on the first day of January, 1986, and shall remain in full force and effect until the 31st day of December 1987. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing at least sixty (60) days prior to anniversary date that it desires to modify this Agreement. In the event that such notice is given, negotiations shall begin not later than sixty (60) days prior to the anniversary date designated in this Agreement. This Agreement shall remain in full force and be effective during the period of negotiations until notice of termination is provided by either party.

In Witness Whereof, the parties hereto have caused this instrument to be executed on the _____ day of _____, 1986.

POLICE OFFICERS ASSOCIATION
OF MICHIGAN

ST. JOSEPH COUNTY
BOARD OF COMMISSIONERS

Kenneth E. Grabowski
Business Agent

Susan Kirkpatrick, Chairperson

ST. JOSEPH COUNTY DEPUTY
SHERIFFS ASSOCIATION

ST. JOSEPH COUNTY SHERIFF

Larry Preston, President

Neubert Balk

Bruce Morse, Vice President

Bryan Campbell, Secretary

Barbara Kelly, Treasurer

APPENDIX A - WAGES

<u>Deputy</u>	<u>January 1, 1986</u>	<u>Hr. Rate</u>	<u>January 1, 1987</u>	<u>Hr. Rate</u>
Start				
6 Months				
1 Year		(Pending Arbitration)		
2 Years				
3 Years				
Part-time				
Marine Officer				
	<u>January 1, 1986</u>	<u>Hr. Rate</u>	<u>January 1, 1987</u>	<u>Hr. Rate</u>
Detective				
Sergeant		(Pending Arbitration)		
Sergeant				
Matron/ Turnkey	<u>January 1, 1986</u>	<u>Hr. Rate</u>	<u>January 1, 1987</u>	<u>Hr. Rate</u>
Start				
6 Months				
1 Year		(Pending Arbitration)		
2 Years				
3 Years				
Part-Time				
Dispatcher/ Matron	<u>January 1, 1986</u>	<u>Hr. Rate</u>	<u>January 1, 1987</u>	<u>Hr. Rate</u>
Start				
6 Months				
1 Year		(Pending Arbitration)		
2 Years				
3 Years				
Part-Time				