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STATE OF MICHIGAN

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF THE ACT 312 ARBITRATION BETWEEN:

TEAMSTERS, LOCAL 214, LIEUTENANT'S UNIT,  
UNION

MERC Act 312 Arbitration  
Case No. L00-L-1009

AND

COUNTY OF SHIAWASSEE AND THE  
SHIAWASSEE COUNTY SHERIFF,

EMPLOYER

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ARBITRATION OPINION AND AWARD

David W. Grissom, Chairperson  
Michael L. Fayette, Union Delegate  
Bonnie G. Toskey, Employer Delegate

December 10, 2003

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### **INTRODUCTION**

This Act 312 Arbitration Award is rendered as the result of a Petition filed by Teamsters, Local 214 on March 13, 2002 with the Michigan Employment Relations Commission under 1969 PA 312 as amended, MCLA 423.231 *et seq*; MSA 17.455(31) *et seq*. The Union represents four (4) Lieutenants within the Shiawassee County Sheriff's Department. The issues are described in the Union's Petition in the following terms: (1) **WAGES** – Percentage differentials between Lieutenants and Sergeant positions and (2) **RETIREMENT** – Payment of administrative costs for RS-50. Petitioner Union is represented by Attorney Michael L. Fayette who is also the Union Delegate. The County is represented by Attorney Bonnie G. Toskey, Employer Delegate. This Arbitration Award is predicated upon Stipulations by the parties and the submittal of Exhibits, Last Best

Offers and Briefs. Through appropriate MERC channels, the undersigned Arbitrator was selected by the parties to be the Chairperson of the Arbitration Panel.

### **STATUTORY REQUIREMENTS**

In accordance with Section 8 of Act 312, MCLA 423.328, the Panel must adopt the Last Best Offer of settlement on "economic" issues that it determines best comports with the elements set forth in Section 9, MCLA 423.239; Metropolitan Council No. 23, AFSCME v City of Centerline, 91 Mich App 337, 283 NW2d (1979), to wit:

Sec. 9. Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
  - (i) In public employment in comparable communities.
  - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including

direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties, in the public or in private employment.

Under the statute, all economic issues must be construed as a total package; wages and benefits in terms of total costs to the Employer.

Relative to issues designated as "non-economic", the Panel is free to adopt either parties' Last Best Offer or it may fashion an Award which it believes most nearly satisfies the applicable Section 9 factors but such determinations are not to be retroactive, Metropolitan Council No. 23 v Board of Commissioners of Wayne County, 86 Mich App 453, 272 NW2d 681 (1982). In the instant dispute, there are no "non-economic" issues.

The parties have stipulated that all tentative agreements reached during Contract negotiations would be incorporated into the successor Contract and that the balance of the prior labor Agreement, not modified by tentative agreement or the proceedings herein, would continue in the successor Contract.

#### **UNIT COMPOSITION**

There are four (4) Lieutenants in this bargaining unit who carry the following

titles: (1) Head of Detectives (2) Emergency Services Director (3) Jail Administrator and (4) Director of 911 or Dispatch. The predecessor Contract which covered a term between April 1, 1995 through March 31, 2001, is the first and only collective bargaining Agreement for the Lieutenants' unit. Prior to 1995, they were not represented. When Sheriff LeJoy announced that he would retire and not seek reelection, Teamsters, Local 214 filed a Petition to represent the Lieutenants and was subsequently certified as the bargaining Agent for the new Command unit. Thereafter, the Union negotiated a six (6) year Contract with the Employer, County of Shiawassee and the Shiawassee County Sheriff (Joint Exhibit #1).

### **ISSUES**

As denoted at the outset, there are two (2) issues up for disposition in this case: (1) Wages as a "joint Economic issue" – concerning the percentage differential between Lieutenants and Sergeants and as a "Union economic issue", (2) Retirement (Pension) regarding a dispute as to whether the Employer or bargaining unit members will pay administrative costs for the RS-50 MERS Rider. Indispensably germane to the Wage issue is the language of Article XXX of the 1995-2001 Contract which states as follows (Joint Exhibit #1):

### **ARTICLE XXX** **WAGE SCHEDULES**

From April 1, 1995 to March 31, 1998, the percentage differential between the highest paid Sergeant and that of the rank of Lieutenant shall be eight percent (8%).

Effective the first full pay period following April 1, 1998 the percentage differential between the maximum Sergeants wage rate and the Lieutenants be to ten point seven five percent (10.75%).

Effective the first full pay period following April 1, 1999 the percentage differential between the maximum Sergeants wage rate and the Lieutenants be to twelve percent (12%).

Effective the first full pay period following April 1, 2000 the percentage differential between the maximum Sergeants wage rate and the Lieutenants be to twelve percent (12%).

### **UNION'S LAST BEST OFFER**

- 1) **WAGES** – Retain current provision
- 2) **PENSION** – Add the following new Section to 1.C to Article XXVI:  
  
C. "Effective immediately, the Employer will add the MERS RS-50 option. The Employer shall pay any annual fees/set up charges associated with this option. However, the employees shall pay the premium cost of the RS-50 option by payroll withholding."

### **EMPLOYER'S LAST BEST OFFER**

- 1) **WAGES** – 3.5%; 3%; 3%

The resulting base wage scale would be as follows:

<u>2001</u>	<u>2002</u>	<u>2003</u>
\$47,804.00	\$49,238.00	\$50,715.00

- 2) **PENSION** – Regarding the Pension Rider known as "RS-50" which provides 100% of monthly Pension benefit to a surviving spouse upon the retiree's death, the Employer's Last Best Offer is this:

**"The Lieutenants shall pay the full cost differential for the RS-50 by payroll withholding as determined by an annual MERS actuarial study. The cost shall include the administrative fee required by MERS for the creation of a new pension group."**

**The County currently pays 28.6% of all wages for the Lieutenants B-4 plan and the employees pay 0% toward the cost. The "additional cost" for the RS-50 would be paid by the employees under the Employer's Last Best Offer.**

**An important notation is in order regarding Economic issues. "Overall compensation" is to be considered in determining all economic issues before the Panel, to wit at Section 9(f) of the Act (MCLA 423.239):**

**(f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.**

### **UNION'S POSITION**

#### **WAGES**

**It is the Union's position that the current 12% spread between Lieutenants and Sergeants should be maintained. This yields wage increases of 4%; 3% and 3%. The difference between the Union's position and the Employer's proposal of 3.5%; 3% and 3% is \$625.00 per year or \$1,875.00 for three (3) years.**



## RS-50 RETIREE OPTION

Employees have agreed to pick up the approximate 2.9% contribution required to implement this benefit. Because the Employer already has a large number of Pension options, MERS has indicated that it will charge approximately \$1,000.00 as an additional annual administrative fee if the Employer adds the benefit option and does not drop another. The Union is proposing that the Employer fund this annual fee. It is the Employer's position that the employees pay all costs associated with this benefit. The difference between the two (2) proposals is as follows: Since the Employer only pays for two and one-half (2.5) of the funded positions (other sources pay all of the costs associated with the other one and one-half (1.5) employees in the bargaining unit), the maximum cost to the Employer would be \$625.00 per year or \$1,875.00 for three (3) years. Further, if the Employer were to drop one (1) of the many group plans it has in place for organized and unorganized employee groups, this annual administrative assessment would be zero. As a result, the annual fee can legitimately be viewed as a spread among the 14 existing and 1 new option. By doing so and charging to the Local 214 bargaining unit its fair share of 1/15th of the cost, the charge would be \$67.00 for the four (4) person unit. Since other funding sources would pay for 1.5 of the employees involved in this charge, the total new cost to the Employer would be \$42.00 per year or \$126.00 for the entire three (3) years of the Contract. This the Employer can afford to pay.

The following additional points underscore the Union's position:

## WAGES

- 1) The Employer has not indicated an inability to pay and can afford the Union's modest Demands.
- 2) The 12% spread between the highest paid Sergeant and Lieutenants was a negotiated part of the former Contract effective in 1995. The only argument regarding the wage increase relates to the first year. The Employer is offering 3.5% while the Union seeks to maintain the already negotiated spread of 12% which yields a raise of 4% in the first year.
- 3) The most relevant internal Comparable is in the Sergeants' bargaining unit of the Sheriff's Department. That unit received wage increases of 4%, 3% and 3% for the three (3) relevant years (see Joint Exhibit #2, pages 19-21, 2001-2004 Contract).
- 4) The concept of maintaining a "spread" is also part of the Sergeants' Contract – a 10% differential between Sergeants and Deputies (see Joint Exhibit #2, page 19).
- 5) Because the Employer seeks to change the *status quo* – the 12% spread between Lieutenants and Sergeants negotiated over eight (8) years ago, it must justify the change. This it cannot do. The use of the "spread" by the parties in both the Lieutenants and Sergeants' Contracts, shows that this element is the determining factor; the most important internal Comparable. There is no logic to changing this simple but important negotiated differential. In any event, the additional expenditure at issue is only

**\$625.00 per year from the County's general revenues.**

**6) There has been no demonstration by the Employer of any change in status that would justify a change in relative standing among the Comparable Employers. The Employer's proposal of a 11.5% spread as opposed to the current 12%, does not signal any radical change in status whatsoever with regard to the Comparable communities and therefore no change should be made. This principal is derived from Muskegon Command Officers, MERC Case No. G95 B-4017, wherein Fact Finder Gordon Knight stated that relative positions among Comparables should be maintained unless there has been a justifiable alteration of relative standing among communities.**

**7) The average increase in 2001 for State and local government employees, which includes both those with mandatory Arbitration and those without, was 4.2% (Union Exhibit #40). Thus, the 4% position of the Union on Lieutenants' salary – already given to Sergeants, is in line with the national average increase for public and governmental workers. The Employer's offer of 3.5% in the first year, is 20% below the national average.**

**8) Of the nine (9) stipulated Comparables regarding the 911 Director Salary, Shiawassee County is 4th and is below the average of the highest and the lowest salary (Union Exhibit #42). A similar comparison on Jail Administrators shows Shiawassee County in a virtual four-way tie for third position (Union Exhibits #49 and 42). Relative to the Lieutenant or other officer in charge of the Detective Bureau, Shiawassee County is in third position (Union Exhibit #43). Regarding the Emergency Manager, Shiawassee ranks as number four (4).**

## PENSION

1) The Union is seeking the addition of the RS-50 Pension Rider to the MERS retirement package. The Employer currently has 14 separate MERS employee groups (Union Exhibit #39). The Employer has so many groups because it has sought to create two (2) tiers in several of these groups (non-Teamster-represented groups after May 1995; Teamsters hired after April 1996; elected officials and non-represented individuals). Because of the excessive number of groups, MERS has determined that it will charge the County \$1,000.00 for each new group it adds. Hence, the annual charge for the RS-50 benefit addition for Lieutenants. But if the Employer eliminated one of the two (2)-tiered groups, there would be no charge for this additional benefit. Further, the cost for it can be fairly apportioned over the 14 existing groups plus the new group – 15 ways for a charge of \$66.67 per year assessed for budgeting purposes to each group.

2) The City of Corunna, the County seat of Shiawassee and the location of its Sheriff's Department, has the option in place for its five (5) person bargaining unit.

3) As with Wages, Shiawassee County is only funding two and one-half (2½) out of four (4) positions and therefore, only 62% of any charge must be paid from the County's general revenues. This further decreases the amount the Employer is obligated to pay.

4) In contrast, employees are agreeing to pay nearly 3% of their salaries towards funding this benefit. This amounts to approximately \$1,500.00 per year per Lieutenant. Their sacrifice to obtain this benefit is dramatically more significant than the

small contribution the Employer is being asked to make. Fairness dictates that the Employer pay its fair share towards the implementation of this important benefit – the RS-50.

## **EMPLOYER'S POSITION**

### **WAGES**

Total or "overall compensation" must be considered in determining all economic issues brought before the Panel, MCL 423.239(f). A review of the total compensation of the Comparable communities confirms that the County's wage package is more logical and fair than the Union's (Employer Exhibits #32, 34, 36 and 38).

#### **1) Compensation for Head of Detectives**

A review of Shiawassee County's Last Best Offer for the Head of Detectives, shows that the wage result far exceeds the average of the Comparables for 2002 (\$43,639.00) and results in a base wage of \$49,238.00 which is second to no Comparable (Employer Exhibit #37). Further, the County's proposal keeps the Head of Detectives' base wage rate at a rate 12.8% higher annually than the average of the Comparable communities. Under the County's wage proposal, it will also pay its Head of Detectives higher gross compensation than all of the eight (8) Comparables – \$53,177.04 (Employer Exhibit #38). Moreover, he will also receive more in total direct compensation (\$81,345.39) than all of the Comparables. Plus, Shiawassee Lieutenants contribute nothing towards their B-4 retirement plan unlike five (5) of the eight (8) Comparables (Employer Exhibit #38).

The cost of Pension absorbed by Shiawassee County for 2002 was 27.27% of gross compensation which increased by almost 3% to 30.04% in 2003 (Union Exhibit #39) – 10% above all Comparables. Under the Employer's proposal for 2002, the base wage for the Head of Detectives exceeds the Comparables' median by more than \$5,999.00 (Employer Exhibit #37). The Union's proposal increases the external Comparables and internal disparity among the same employee classification and among executive employees in Shiawassee County (Employer Exhibit #29). Further, no employee in Shiawassee County received a 4% increase in 2001 (as the Union's proposal of a 12% differential will yield), other than Sergeants who negotiated a one (1)-time, one (1) year 4% increase (2001). Moreover, a determination in negotiations that in one (1) year – 2000, a 12% differential would exist between Lieutenants and Sergeants, is no justification for continuing the same spread indefinitely.

A "cost of living" review shows that the Employer's proposal results in a total of wage increases over ten (10) years which exceeds the corresponding total of CPI increases by 8.3% (Employer Exhibit #30). The Employer's proposal for 3.5% in 2001 and 3% in 2002 (for a total of 6.5%) exceeds the corresponding Detroit – Ann Arbor CPI increases of 2.7% in 2001 and 3.7% in 2002 (for a total of 6.4%) (Employer Exhibit #30). But the Union's proposal would exceed the CPI increases by .6% (4% + 3%). Further, Shiawassee County Lieutenants at \$53,177.04 in gross compensation (using the Employer's 3.5%/3% proposals), are just over \$11,345.55 greater than the average Comparable (Employer Exhibit #32). The Union's proposal of 4% for 2001 would place Shiawassee County even higher than the \$11,345.45 differential between it and the

average Head of Detectives. The Employer's proposal for this title is composed of wage increases that result in base wages which are above all of the eight (8) Comparables and a total base wage that exceeds the average of the Comparables in 2002 by over \$5,599.00 (Employer Exhibit #37). This more than keeps pace with wage increases in Comparable communities and compels adoption by the Panel.

2) Compensation for Emergency Services Director

The Employer's Last Best Offer for the Emergency Services Director wages results in a wage that far exceeds the average of the Comparables for 2002 (\$41,946.50) and results in a 2002 base wage of \$49,238.00 which is second only to Montcalm County's 2002 rate of \$49,489.00 (Employer Exhibit #35). Still, the County's proposal keeps the ESD's base wage at 17.3% higher annually than the average of the Comparable communities (Employer Exhibit #35).

The following reasons further support the Panel's adoption of the Employer's Last Best Offer: (a) the County will pay its ESD higher gross income than all Comparables (\$53,177.04) (Employer Exhibit #36) (b) Shiawassee Lieutenants contribute nothing toward their B-4 retirement plan unlike three (3) of the eight (8) Comparables (Employer Exhibit #36) (c) the cost of Pension absorbed by the County for 2002 was 27.27% of gross compensation which increased by almost 3% to 30.04% in 2003 (Union Exhibit #39), an amount greater than 14% above the cost borne by any of the Comparables (Employer Exhibit #36) (d) Shiawassee pays over \$16,000.00 more in total direct compensation than the next highest Comparable, Clinton County (Employer Exhibit #36) (e) under the Employer's proposal for 2002, the base wage for the Emergency Services Director exceeds

the Comparables' median by more than \$7,291.50 (Employer Exhibit #35) (f) the Union's proposal furthers the extreme disparity between Shiawassee County and the Comparables as it does with respect to the internal disparity on wage rates paid to other executive employees in Shiawassee County.

The Shiawassee ESD is way above all of the Comparables in total compensation (Employer Exhibit #36) – \$48.19 per hour; \$10.00 per hour higher than the next Comparable, Clinton. The Union's 12% proposed differential increases the Lieutenants' salary by 4%. In this connection, the Employer sets forth the same argument as that relating to the Head of Detectives; that no employee in Shiawassee County received a 4% increase in 2001 except Sergeants on a one (1) time, one (1) year basis. There was only one (1) year in which the ESD's base wage was determined by a 12% spread over the Sergeants rate – 2000. That differential should not be maintained indefinitely into the future based on the many Act 312 factors under consideration. The Employer's "cost of living" contentions have already been set forth in reference to the Head of Detectives' position (Employer Exhibit #30).

The 2002 base wage compensation figures for all of the comparable Emergency Services Directors are listed on Employer Exhibit #35 including the Employer's 3.5/3% proposal. Taking these figures and subtracting the respective employee costs for employee Pension (Employer Exhibit #36) contributions (while adding in longevity payments), yields the following total net wage compensation for 2002:



Shiawassee County	\$53,177.04
Montcalm County	\$47,756.88
Clinton County	\$46,734.00
Isabella County	\$43,413.00
Barry County	\$39,204.80
St. Joseph County	\$38,322.42
Tuscola County	\$35,360.52

**Average of Comparables = \$41,798.60**

Taking the average of the Comparable communities for total net cash compensation in 2002, that figure is \$41,798.60. Shiawassee Lieutenants, at \$53,177.04, are just over \$11,378.44 more or greater than that average in terms of total net wage compensation under the Employer's 3.5% wage proposal for 2001 compounded by the 3% proposal for 2002. But the Union's 4% wage proposal for 2001 would place Shiawassee County even higher than the \$7,291.50 spread between it and the median wage of the Comparables – jumping Shiawassee Lieutenants even higher in differential over the \$11,378.44 in total net wage compensation in 2002. The Employer is proposing base wage increases which result in base wages which are above seven (7) of the eight (8) Comparable communities (Employer Exhibit #35). There is no justification for the Union's proposed increase.

#### **COMPENSATION FOR JAIL ADMINISTRATOR**

A review of the Comparable communities shows that Shiawassee County's

Last Best Offer for the Jail Administrator's wages results in a wage which (1) far exceeds the average of the Comparables for 2002 (\$46,105.50) and (2) results in a 2002 base wage of \$49,238.00 which is second only to Clinton's 2002 wage of \$49,831.00 (Employer Exhibit #31). Third, the County's proposal keeps the Jail Administrator's base wage at a rate 6.8% higher annually than the average of the Comparable communities (Employer Exhibit #31).

The County's proposal to increase the current wages for the Jail Administrator compares favorably with seven (7) of the eight (8) Comparable communities. Under the County's proposal, Shiawassee County will pay its Jail Administrator higher gross compensation (\$53,177.04) than all of the eight (8) Comparables (Employer Exhibit #32). Moreover, he will also receive more in total direct compensation (\$81,345.39) than all of the Comparable counties (Employer Exhibit #32). Plus, Shiawassee Lieutenants do not now (nor have they ever) contribute anything toward their B-4 retirement plan unlike the majority; five (5) of the eight (8) Comparable communities where the Jail Administrators contribute significant amounts to their pension costs (from a low of \$1,060.40 for Tuscola to a high of \$2,468.27 for St. Joseph County (Employer Exhibit #32)).

The cost of Pension absorbed by the Employer argument is the same as previously discussed as is its "cost of living" contention relative to the Jail Administrator (Employer Exhibits #30, 31, 32).

Under the Employer's proposal for 2002, the base wage for the Jail Administrator exceeds the Comparable communities' median by more than \$3,132.50

(Employer Exhibit #1). However, the wage rate under the Union's Last Best Offer adds more than \$234.00 to that \$3,132.50. That excess is far beyond what can be considered reasonable and is simply unnecessary. Rather, it is more reasonable that the Employer's proposals be adopted. The Union's proposal would not only result in extreme disparity between Shiawassee and its Comparable counties but it would further increase the significant internal disparity with the wage rates paid to other executive employees in Shiawassee County (Employer Exhibit #29).

The Shiawassee Jail Administrator is way above all of the Comparable communities in terms of the total compensation per hour worked (Employer Exhibit #32). Using the Employer's 2002 proposed rate, the Jail Administrator would be paid \$48.19 per hour worked on the job. That amount is significantly higher than any of the Comparable communities and is \$7.09 more per hour worked on the job than the next closest Comparable community (Clinton).

The 2002 base wage compensation figures for all of the Comparable Lieutenants are listed in Employer Exhibit #31 including the Employer's 3.5/3% proposal. Taking these figures and subtracting the respective employee costs for employee Pension (Employer Exhibit #32) contributions (while adding in longevity payments), yields the following total net wage compensation for 2002:

Shiawassee County	<b>\$53,177.04</b>
Clinton County	<b>\$49,831.00</b>
Cass County	<b>\$46,248.97</b>
Isabella County	<b>\$45,902.00</b>

Ionia County	\$45,604.55
Barry County	\$45,465.60
Montcalm County	\$44,563.70
St. Joseph County	\$43,840.73
Tuscola County	\$42,577.60

**Average of Comparables = \$45,504.27**

Taking the average of the Comparable communities for total net cash compensation in 2002, that figure is \$45,504.27. Shiawassee Lieutenants, at \$53,177.04, are just over \$7,672.77 more or greater than that average, in terms of total net wage compensation under the Employer's 3.5% wage proposal for 2001 compounded by the 3% proposal for 2002. Whereas, the Union's 4% wage proposal for 2001 would place Shiawassee County even higher than the \$3,346.00 differential between it and Clinton County and the second highest Comparable. It would jump Shiawassee Lieutenants to a yet even higher differential of over \$7,672.77 above the average of the Comparable communities for total net wage compensation in 2002. There can be no justification for this proposed increase.

#### **COMPENSATION FOR 911 DIRECTOR**

A review of the Comparables shows that the Employer's Last Best Offer for the 911 Director wages results in a wage that far exceeds the average of the Comparables for 2002 (\$47,893.00) and also results in a 2002 base wage of \$49,238.00 which is third only to Barry County's 2002 wage of \$52,728.00 and Clinton's 2002 wage of \$50,409.00

(Employer Exhibit #33). Shiawassee County's proposal keeps the 911 Directors base wage at a rate 2.7% higher annually than the average of the Comparable communities.

The County's proposal further (a) compares favorably with six (6) of eight (8) of the Comparables (Employer Exhibit #34) (b) pays the second highest gross compensation (\$53,177.04) of all eight (8) Comparables (Employer Exhibit #34) (c) enables the Lieutenant in this classification to receive more direct compensation (\$81,345.39) than all of the Comparable communities (Employer Exhibit #34) (d) continues to allow him to enjoy a zero contribution toward the B-4 retirement plan and (e) places the 911 Director in an advantageous Pension status pursuant to which Shiawassee County absorbed 27.27% of gross compensation for 2002 which increased by almost 3% to 30.04% in 2003 (Union Exhibit #39); which amount is greater than 10% above and beyond the cost borne by any of the Comparables.

Under the Employer's proposal for 2002, the base wage for the 911 Director exceeds the Comparable communities' median by more than \$1,345.00 (Employer Exhibit #33). However, the wage rate under the Union's Last Best Offer adds more than \$234.00 to that \$1,345.00. That excess is far beyond what can be considered reasonable and is simply unnecessary. Rather, it is more reasonable that the Employer's proposal be adopted. The Union's proposal would not only result in further disparity between Shiawassee and its Comparable counties, it would further increase the significant internal disparity with the wage rates paid to other executive employees in Shiawassee County (Employer Exhibit #29).

The Shiawassee 911 Director is head and shoulders above all of the Comparable communities in terms of the total compensation per hour worked on the job (Employer Exhibit #34). Using the Employer's 2002 proposed rate, the 911 Director would be paid \$48.19 per hour worked on the job. That amount is significantly higher than any of the Comparable communities and is almost \$5.00 more per hour worked on the job than the next closest Comparable community (Barry) (Employer Exhibit #34).

The Employer's arguments regarding the significance of the "one (1)-time, one (1) year" 12% differential between Lieutenants and Sergeants in Shiawassee County, have already been recounted as has been its position on the "cost of living" factor as it relates to all four (4) Lieutenant positions.

The Employer denotes that the base wage compensation figures for all of the Comparable 911 Directors are listed in Employer Exhibit #33 including the Employer's 3.5%/3% proposal. Taking these figures and subtracting the respective employee costs for Pension (Employer Exhibit #36) contributions, while adding longevity payments, yields a net wage compensation amount for 2002 in Shiawassee County of \$53,177.04, just below Barry (\$53,328.00) and above all of the other Comparable communities. The average is \$46,832.03. As such, Shiawassee Lieutenants are just over \$6,345.01 beyond that average in terms of total net wage compensation under the Employer's 3.5% wage proposal for 2001 compounded by the 3% proposal for 2002. But the Union's 4% proposal for 2001 would increase Shiawassee County's differential even more than the average of the Comparables for total net wage compensation in 2002. Shiawassee County's proposal more than keeps pace with wage increases in the Comparable communities. The Union's

4% proposal is unjustified.

### EMPLOYER'S POSITION ON PENSION

No actuarial study has been performed to show the cost of adding the RS-50 Rider to the MERS B-4 plan for Lieutenants. The Employer proposes that if the RS-50 is awarded, all additional costs would be paid by the Lieutenants via payroll withholding. The Union has failed to present any valid figures which show how much its proposed retirement plan enhancement would cost the Employer over and above the 30.04% of gross wages it now pays out for the Lieutenants' B-4. Therefore, the Union is asking the Employer to buy a "pig in a poke." The Union is insisting that the Panel write a "blank check" in its favor for all current and future "annual fees and set up charges" (administrative fees). At a minimum, this annual cost will be a recurring \$1,000.00 fee plus the annual actuarial cost which is ever increasing.

Aside from the Union's failure to present valid evidence of the cost of this proposal, there is no justification for it when looking at the Comparables. The Pension plan enjoyed by the Lieutenants is far more costly than that which is provided to employees in all other counties (Employer Exhibit #32) i.e. Clinton paid only 12.84% of its Jail Administrator's wages to the MERS retirement plan while Shiawassee paid 27.27% of wages in 2002 which increased to 30.04% in 2003 (Employer Exhibit #32).

Employees in Cass, Ionia, Montcalm, St. Joseph and Tuscola Counties contribute significant amounts towards their Pension plans but Shiawassee County

Lieutenants have never shared in the cost. Only Barry, Clinton and Isabella County employees paid nothing in 2002. It cannot be assumed that the Employer's cost under the Union's Last Best Offer on Pension will be limited to \$1,000.00 annually and the Union's demand that the Employer pay any additional costs is unreasonable. The Employer's historical payment of 100% of the Lieutenants' B-4 retirement plan is 8.04% higher than it pays for its elected officials and +20% higher than it pays its AFSCME Courthouse Unit (Employer Exhibit #39). Plus, the Employer's cost has increased by 7.71% over the last five (5) years. No other Comparable Employer pays anywhere near the amount that Shiawassee County pays for the Teamster's Pension. The Employer posits that this is why the Union presented no evidence showing what other Comparable communities contribute to employee Pension plans. The Employer asserts that the Union's proposal is not supported by a review of any of the internal employee groups (Union Exhibit #39).

In summary, the Employer's position is as follows: the Union's Pension proposal is unjustified and is not supported by any of the Comparables, external or internal and there is no indication of the cost. Plus, in all likelihood, the administrative fee will exceed \$1,000.00 annually. It is also noted that the full survival benefit is currently an option available to the Lieutenants under the MERS plan albeit at a reduced monthly benefit while the employee is living. The RS-50 is an extraordinary benefit that provides 100% to the surviving spouse with no monthly decrease over the retiree's lifetime.

The Employer's proposal that the Lieutenants pay the entire cost of the RS-Rider, including special fees, should be adopted by the Panel.



## **PANEL'S DETERMINATION ON WAGES**

The respective positions of the parties on Wages is as follows: The Union urges that the current 12% differential (spread) between Lieutenants and Sergeants be maintained which yields 4%, 3% and 3% increases for a three (3) year Contract beginning in 2001. It is the Employer's position that the increases should be 3.5% in the first year of the Contract which equates to an 11.5% differential between Lieutenants and Sergeants with subsequent annual increases of 3% and 3%. Ergo, the disparity between the parties on WAGES is .5% in the initial Contract year which represents a maximum of \$625.00 per year or \$1,875.00 for three (3) years. From the Union's standpoint, if the 12% spread is maintained and the 4% increase in the first year is granted, these relatively modest payout costs by the County, will not impinge upon its "ability to pay" and in any event, the County has not made that argument. The County however, posits that based upon the Comparable data as reflected in its Exhibits, a 4% increase in 2001 is unjustified and a 3.5% increase, tested against wage rates in the Comparable communities and the "cost of living" factor, will keep all four (4) Lieutenants in a favorable economic standing with their counterparts. The County asserts that its 3.5% wage proposal for 2001, the disputed Contract year, more than keeps pace with Comparable wage increases. In this connection, it is axiomatic that the Union's 4% proposal for 2001, takes the Shiawassee Lieutenants beyond the salary levels yielded by the Employer's Last Best Offer.

This having been stated, the broader more penetrating question in these proceedings is this: Is there justification based upon persuasive Comparable data and commensurate arbitral principles in the circumstances at bar, to depart from the 12%

differential between Lieutenants and Sergeants already existing in the 1995-2001 collective bargaining Agreement – and to change the relative wage status of Shiawassee Lieutenants in the Comparable communities? The Employer asserts that there is no basis for continuing the 12% spread “indefinitely into the future.” The Union cites the previously consummated internal wage relationship (Comparable) between Lieutenants and Sergeants which should not be changed because of the small dollar disparity (.5%) in the parties’ positions on Wages and the overall lack of justification to alter the *status quo*. It is the Panel’s determination that the 12% differential between Lieutenants and Sergeants will be maintained based upon the reasons set forth below.

The current existence of the 12% spread between Lieutenants and Sergeants in the 1995-2001 Contract is the major element in this determination. This wage differential is the result of bargaining between Teamsters, Local 214 and Shiawassee County negotiators for their first collective bargaining Agreement (Joint Exhibit #1). Plainly put, “it’s in there.” This means that the Employer finds itself in the position of having to present a compelling justification for changing the existing formula, indeed a difficult and challenging endeavor. That is because, if for no other reason, a major “*quid pro quo*” from the Employer in negotiations would be necessary, to “bargain out” the 12% differential, if at all possible. The Panel finds that the .5% monetary disparity in the parties’ proposals on Wages is insufficient to dislodge the 12% differential, a contractually operative provision of the Agreement for eight (8) years running.

A close study of Article XXX of the 1995-2001 current Contract on WAGE SCHEDULES, indicates that the specified wage differentials between Lieutenants and

Sergeants was the result of careful consideration by both parties. The differential percentages are graduated and progressive. From April 1, 1995 to March 31, 1998, the spread between the highest paid Sergeant and that of the rank of Lieutenant "shall be eight (8%)." The percentage spread increases to 10.75% effective April 1, 1998. This is followed by an agreement between the parties that is quite significant as the Panel considers whether to change the "bargained for" 12% differential. The 12% spread is in the Contract for two (2) consecutive years, to wit at Article XXX (Joint Exhibit #1):

Effective the first full pay period following April 1, 1999 the percentage differential between the maximum Sergeants wage rate and the Lieutenants be to (sic) twelve percent (12%).

Effective the first full pay period following April 1, 2000, the percentage differential between the maximum Sergeants wage rate and the Lieutenants be to (sic) twelve percent (12%).

In other words, the 12% spread represents a solid yardstick pursuant to which both parties reinforced their intention to tie the wages of Sergeants and Lieutenants together with a 12% spread not for just one (1) year but for two (2) years. The upshot is that there is simply not enough evidentiary justification to "break the mold" and reduce the that differential.

Further addressing the Union's proposed 4% wage increase for Lieutenants in 2001 which is yielded by maintaining the referenced 12% spread, it is importantly observed that Shiawassee County Sergeants bargained a one (1) year 4% increase for 2001 with 3%, 3% wage increases for the remaining two (2) years of their Contract (Joint Exhibit #2). This represents the identical wage package the Union is now seeking for

Lieutenants – 4%, 3%, 3%. It is also noted that the concept of maintaining an internal wage differential is applicable to and embodied in the Sergeants' Contract with an established spread between Sergeants/Detectives and Deputies at 10% (Joint Exhibit #2, pages 19).

There is certainly no argument with the Employer's data which shows that in relation to Comparable communities, Shiawassee Lieutenants with the titles of Head of Detectives, Emergency Services Director, Jail Administrator and 911 Director, would continue to receive top or near top wages by virtue of a 3.5% increase for 2001 with 3% increases to follow in the next two (2) years under the new Contract and that a 4% increase in the first year takes them higher. The Panel finds however, that the difference between the respective wage proposals of the parties in dollar amounts, considered in tandem with the long established 12% spread between Lieutenants and Sergeants in the current Contract (six (6) years; now eight (8) years), constitutes an insufficient justification to reduce the spread. On the evidence, the Panel concludes that the ultimate determining factor in this dispute on WAGES, is the historical internal (12%) Comparable between Lieutenants and Sergeants in Shiawassee County.

In these evidentiary circumstances, the Union's Last Best Offer of 4%, 3% and 3% – maintaining the 12% differential, is adopted by the Panel.

#### **PANEL'S DETERMINATION ON PENSION**

The issue here is whether the Employer or bargaining unit members are to

pay administrative costs relative to the RS-50 Rider benefit to the MERS B-4 retirement plan. The Union's position is that employees have agreed to pick up the approximate 2.9% contribution required to implement this benefit; that the Employer should pay MERS' annual administrative charge of approximately \$1,000.00 and can easily afford it for the reasons denoted earlier plus the fact that if some of the other many plans in place for organized and unorganized employees were dropped, it would cost the Employer nothing.

The Employer takes a much less simplistic view on this issue. It questions the absence of Union evidence as to the true cost of such administrative charges and fees; the lack of an actuarial study and the inability of either party to assure that the annual cost will be confined to \$1,000.00. The Employer's Last Best Offer is that all additional costs in charges and fees relative to the RS-50 Rider, be paid by the Lieutenants via payroll withholding. The Panel adopts the Employer's proposal due to the absence of cost data and for more specific reasons as set forth below.

The County now pays 30.04% of gross wages for the Lieutenants' B-4 Plan and as denoted, any payout above that remains unknown. While the minimum annual fee might be a recurring \$1,000.00, an amount beyond that is tantamount to the County having to write a "blank check." A review of the Employer's Comparable Exhibits show that Shiawassee Lieutenants enjoy a Pension Plan far more costly than that which is provided to employees in other counties (Employer Exhibit #32). For example, Clinton County paid only 12.8% of their Jail Administrator's wages to the MERS Retirement Plan while Shiawassee paid 27.27% of wages in 2002 (which increased to 30.04% in 2003) (Employer Exhibit #32). Plus, employees in Cass, Ionia, Montcalm, St. Joseph and Tuscola Counties

contribute significant amounts toward their Pension Plans but Shiawassee Lieutenants have never had to share that cost. Only Barry, Clinton and Isabella County employees paid nothing in 2002 (Employer Exhibit #3).

The Employer's position as specified above, is more reasonable than that of the Union, particularly in view of the non-availability of cost data. In this, it is noted that the County's historical payment of 100% of the Lieutenants' B-4 Retirement Plan is 8.04% higher than it pays its constitutionally elected officials and over 20% higher than it pays its AFSCME Courthouse Unit (Employer Exhibit #39). Additionally, Shiawassee County's costs on the B-4 have increased 7.71% over the last five (5) years and the Union's proposal that the County pick up the annual administrative fee is not supported by a review of any of the internal employee groups or in the Comparable communities (Union Exhibit #39). Perhaps the Union can prevail upon the Employer to drop one (1) or more of its fourteen (14) other MERS groups for purposes of a reduction of RS-50 administrative costs to its bargaining unit members or otherwise persuade MERS to cut annual fees and charges. In the current circumstances however, based on the evidence, it is directed by the Panel that all such administrative fees for the RS-50 Rider, be paid by unit members.

Pursuant to the elements addressed above and based upon the "total compensation" factor in Section 9(f) of Act 312, the Panel adopts the Employer's Last Best Offer – that all special fees and charges for the RS-50 Rider, be paid by members of the bargaining unit via payroll withholding.

The Lieutenants shall have the right to exercise the following option by written notice to the Employer within sixty (60) days following the issuance of this Act 312 Award by the undersigned Act 312 Arbitrator David W. Grissom:

The Lieutenants shall pay the full cost differential for the RS-50 Rider by payroll withholding as determined by any required MERS actuarial study. The employee cost shall include all additional costs including:

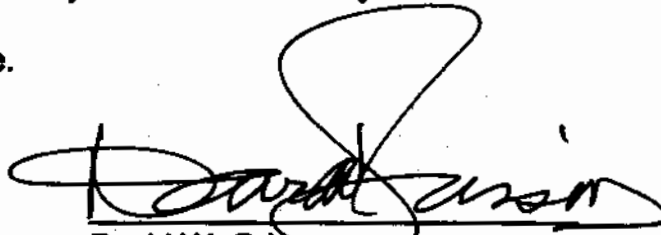
- (1) administrative charges and fees and
- (2) actuarial study costs incurred to implement and maintain the RS-50 benefit.

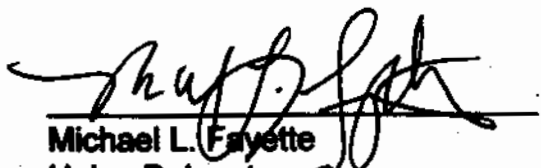
**PANEL'S AGGREGATE DETERMINATION ON  
WAGES AND PENSION - AWARD**

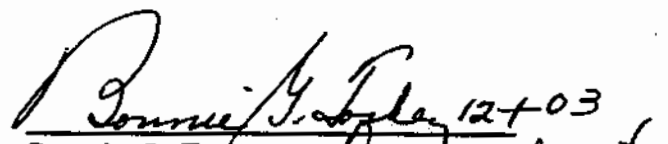
**WAGES** - The Union's Last Best Offer is adopted. The 12% differential between Lieutenants and Sergeants shall be maintained for a 4%, 3%, 3% wage increase.

**PENSION** - The Employer's Last Best Offer is adopted. All special fees and charges for the RS-50 MERS Rider benefit shall be paid by members of the bargaining unit via payroll withholding.

This Finding is based upon a full consideration of the Act 312, Section 9 factors considered in conjunction with a study of all of the evidence presented by the parties in this dispute.

  
David W. Grissom  
Chairperson

  
Michael L. Fayette  
Union Delegate  
*Dissenting on Pension Award*  
December 10, 2003

  
Bonnie G. Toskey <sup>12+03</sup>  
Employer Delegate *Representing as to  
Clyde Award  
Only*