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IN THE MATTER OF THE
ARBITRATION BETWEEN:

SHIAWASSEE COUNTY SHERIFF

AND

MERC Case No. L03 L-1001

TEAMSTERS LOCAL 214

COMPULSORY ARBITRATION

Pursuant to Act 312,

Michigan Public Act of 1969, as amended

FINAL OPINION AND AWARD

Arbitration Panel

**William E. Long
Arbitrator/Chair**

**Bonnie Toskey
Employer Delegate**

**Michael Fayette
Union Delegate**

Date: February 20, 2006

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SHIAWASSEE COUNTY SHERIFF
OFFICE

INTRODUCTION

These proceedings were initiated by petition for arbitration dated December 14, 2004 pursuant to Act 312 of the Public Acts of 1979, as amended. The arbitration panel is comprised of Independent Arbitrator William E. Long, County Sheriff Delegate Bonnie Toskey and Union Delegate Michael Fayette.

A pre-hearing telephone conference was held July 7, 2005. It was agreed by the parties to allow the Independent Arbitrator to issue a decision on comparability based on briefs and supporting evidence submitted by the parties prior to beginning the hearing on other issues. The parties submitted briefs and evidence on August 17 and 18, 2005 in support of their respective proposed comparables. A partial opinion on comparability was issued by the Independent Arbitrator August 23, 2005. The parties agreed that the partial opinion and order on comparable communities will be considered incorporated in and part of this final order and opinion. Communities found to be comparable to the County of Shiawassee in this proceeding are: the Counties of Barry, Isabella, Tuscola, Clinton, Ionia, Montcalm and St. Joseph.

A hearing on the issues in dispute was held September 22, 2005 at the Bureau of Employment Relations offices in Lansing, Michigan. The Shiawassee County Sheriff's office was represented by Attorney Bonnie Toskey. The Union was represented by Attorney Michael Fayette. The record consists of 139 pages of record testimony in one volume; twenty-one (J-A through J-U) Joint Exhibits; thirty-nine (E-1 through E-39) County Exhibits; and four (U-40 through U-43) Union exhibits. References to record testimony will be identified as TR- page number and references to exhibits will be: (J-A, E-10, U-40, etc.

Last offers of settlement were submitted by the parties on November 9 and 11, 2005. Post-hearing briefs were submitted by the parties on January 13, 2006 and reply briefs were submitted January 26, 2006.

By written stipulation, which is contained in the case file, the parties waived all time limits applicable to this proceeding, both statutory and administrative.

- At the September 22, 2005 hearing, the Union stated it agreed to the Employer's revision to Article 22 as proposed by the Employer during pre-arbitration discussions. The parties also agreed that the duration of the contract, which is the subject of this proceeding, will be for three (3) years beginning April 1, 2004 through March 31, 2007 and that decisions in this proceeding related to wages would be applied retroactively to all employees subject to this agreement employed at the date this award is issued and to employees who retired from active employment during the period of this agreement, but prior to the date this award is issued. (Tr. 138-139).

The above agreements result in the following issues to be addressed by this panel. They are grouped separately as economic (7 issues) and non-economic (3 issues); identification of the party initiating the issue; and listed in the order in which they appear in the contract.

Economic Issues

1. Article 19 – Wages (joint proposals)
2. Article 24 – Pension (Employer proposal)
3. Article 28 – Insurances (joint proposals)
4. Article 29 – Long Term Disability Insurance (Employer proposal)
5. Article 34 – Leaves of Absence (Union proposal)
6. Article 35 – Sick Leave (Union proposal)
7. Article 36 – General[uniform/boot allowance] (Union proposal)

Non- Economic Issues

8. Article 23 – Shift Preference (Employer proposal)
9. Article 26 – Vacations (Employer proposal)
10. New - Conversion of Hour Accruals for 12 Hour Shift Purposes (Employer proposal)

Contract provisions not before the panel for determination that are in the current collective bargaining agreement will be advanced into the new agreement the same as under the old agreement.

When considering the economic issues in this proceeding, the panel was guided by Section 8 of Act 312. Section 8 provides that "as to each economic issue, the arbitration panel shall adopt the last offer of settlement, which in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in Section 9."

The applicable factors to be considered as set forth in Section 9 are as follows:

- ... 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.*
- (a) *Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:*
 - (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 service or in private employment.*

Where not specifically referenced, the above factors were considered but not discussed in the interest of brevity.

COMPARABLE COMMUNITIES

As noted above, a partial opinion on comparability was issued by the Independent Arbitrator on August 23, 2005. The findings and support for that opinion and partial order are incorporated by reference into this opinion and award. The parties agreed that the communities of Barry, Isabella and Tuscola Counties were comparable communities. The Employer proposed the counties of Montcalm, St. Joseph and Ionia be added. The Union proposed Clinton County be added to those agreed to. The Independent Arbitrator found the following communities as comparable to the County of Shiawassee: the Counties of Barry, Isabella, Tuscola, Clinton, Ionia, Montcalm and St. Joseph. Therefore the panel chooses the following communities as comparable to the County of Shiawassee:

The Counties of Barry, Isabella and Tuscola

Employer: Agree Bonnie G. Tschery Disagree _____
Union: Agree Mike D. [Signature] Disagree Mike D. [Signature]

The Counties of Ionia, Montcalm and St. Joseph

Employer: Agree Bonnie G. Tschery Disagree _____
Union: Agree _____ Disagree Mike D. [Signature]

The County of Clinton

Employer: Agree Mike D. [Signature] Disagree Bonnie G. Tschery
Union: Agree _____ Disagree _____

ECONOMIC ISSUES

General Comments

Before addressing the specific economic issues I will address the general comments and arguments the parties put forth in their closing briefs and reply briefs.

The Employer points out that Michigan Courts have held that the petitioning party on an issue in Act 312 proceedings has the burden of establishing why its proposals should be adopted. The Employer says the Union in this proceeding failed to meet that burden in support of the proposals it put forth for panel consideration because it failed to present any evidence, let alone sufficient evidence, related to the factors upon which the Arbitration Panel must base its findings, opinion and order.

The Independent Arbitrator agrees that it is expected in Act 312 proceedings that the party advancing a proposed change or addition to a contract bear the responsibility to present evidence or arguments in support of its position. In this proceeding, it is noted that the parties introduced 21 joint exhibits, J-A through J-U, which provided substantial evidence related to external comparables. Many of the Employer exhibits were extrapolated from these joint exhibits with agreement by the parties that there was no need to enter duplicative exhibits into the record and others were common information such as CPI indexes. The Union also put forth 4 exhibits, one of which, U-41, the Employer relies upon in its post hearing brief. The Independent Arbitrator finds the party advancing a proposed change in a CBA in an Act 312 proceeding has the responsibility to present the basis for the proposed change, just as a party who seeks the status quo needs to argue why the status quo should be maintained in response to a proposed change. But both parties can rely upon all evidence and exhibits within the record to support their positions, regardless of who presented the evidence. In this case, I find the Union appropriately relied upon evidence presented in the record, regardless of source, to support its proposals.

The Employer also argues, in its post hearing brief, that the financial forecast for Shiawassee County is not good and that the County will be faced with the prospect of significant expenditure reductions with minimal likelihood for significant revenue

enhancements. The Employer points to the Counties' recent use of its Budget Stabilization Fund transfer of funds from its tax delinquent revolving fund to the General Fund, reduction in the County's fund balance and the uncertainty of the impact of recent changes in the disbursement of State Revenue Sharing as a basis for the bleak financial outlook. The employer says this evidence should weigh heavily on the Panel's decisions as it considers wage and benefit improvements and Act 312 factor, Sec. 9 (c): "The interests and welfare of the public and the financial ability of the unit of government to meet those costs."

The Union, in its reply brief, argues that the factor of ability to pay should not be given any greater weight than it was given by comparable communities as reflected in wage and benefit data in exhibits J-A through J-U and other exhibits derived from that data. The Union says the Employer has not demonstrated any financial crisis in this proceeding and, therefore, the Employer's financial condition should be afforded the weight normally given to all factors mandated by Sec. 9 of Act 312.

The Independent Arbitrator finds that factor 9(c) should be given the same consideration as other factors in Section 9. Both parties have relied on record testimony and exhibits, particularly U-41, the County Audit ending December 2004, in their post-hearing briefs to address the financial status of the County. This information will be given proper consideration along with other evidence in the record as a basis for the Panel's findings, opinion and order.

The Union argues in its post hearing brief that it is not appropriate for the panel to give "internal" comparables the same weight it gives to "external" comparables as it considers the comparison of wages, hours and conditions of employment to employees subject to Act 312 proceedings to other employees. Sections 9(d) (h). The Union's position basically is that more weight should be given to comparables in which the

parties are subject to Act 312 compulsory arbitration provisions. Courts have traditionally given Act 312 panels latitude in determining the weight given to individual factors specified in Section 9 of Act 312. Section 9(h) allows the Panel to base its findings on factors "normally or traditionally taken into consideration --- through voluntary collective bargaining, mediation, fact-finding, and arbitration or otherwise between the parties, in the public service or private employment." The Independent Arbitrator finds the weight given to internal or external comparables will be determined through consideration of a combination of factors within Section 9, including the process by which the parties may have arrived at agreements.

ECONOMIC ISSUES

ISSUE 1

Article 19 – Wages

The Employer and Union have each submitted last offers of settlement on wages. Both proposals address the wages of Deputy Sheriffs and Dispatch/Office Manager positions. The Union's last offer of settlement included the positions of Secretary/Secretary Clerk. The Employer's did not. The Union acknowledges in its post hearing brief that the Union cannot legally oppose the Employer's position to not include the Secretary/Secretary Clerk positions so these will not be included. The parties proposed and the panel agrees that wage proposals be considered by the panel separately for each year of the contract period. Proposed wage adjustments are therefore considered separately for the period 4/1/04 through 3/31/05; 4/1/05 through 3/31/06; and 4/1/06 through 3/31/07 and are retroactive for employees actively employed upon the date of this Act 312 Award and employees who retired from active employment during the period of this agreement but prior to the date this award is issued.

Employer Position

The Employer proposes pay adjustments for Deputy Sheriffs equally applied across all pay levels of 0% for the period 4/1/04 through 3/31/05; 1% for the period 4/1/05 through 3/31/06, and 0% for the period 4/1/06 through 3/31/07. The Employer proposes pay adjustments for Dispatch/Office Manager equally applied across all pay levels of the same percentage amounts as proposed for Deputy Sheriffs for the same time periods as those proposed for Deputy Sheriffs. The Employer refers to exhibits E-18 through E-26 to support its position. These exhibits compare the employees' base wages in this bargaining unit with comparable employees in the comparable communities and with other Shiawassee County employees. The Employer says even with a 0% increase the first year, the employees in this bargaining unit would fare well pointing out that the Deputy base wage would exceed the average of the comparable communities by .3% and Dispatch base wage would exceed the average by 8.07%.

The Employer refers to exhibits E-23 and E-24 which display comparisons of total compensation, wages and benefits, among the Comparable communities with the employees in this bargaining unit and argues that this comparison demonstrates that direct compensation rates for this bargaining unit exceed those of employees in comparable communities by 14.37% for deputies and 25.06 % for dispatchers. The Employer says its proposal on wages will result in the wage rates for these employees remaining close to the average among the comparable communities over the 3 year period of this contract and is consistent with the overall rates of inflation over the last nineteen years (E-9 through E-16).

The Employer argues the Union's wage proposal would result in wages in 2004 and 2005 for these employees of 3rd highest for Deputies and the highest for Dispatchers

compared to other comparable employers. The Employer says there is no support for the Union's proposal and, if adopted, would cause total compensation to far exceed any of the comparables. In its post hearing reply brief the Employer says the bottom line is that the County has exhausted its ability to continue to pay generous annual wage increases with the highest levels of fringe benefits. The Employer says that Section 9(d) of Act 312 speaks to a comparison with other employees generally and a comparison of wage patterns between the Employer and other County employees is essential. The Employer points to exhibits E-25 and E-26 to demonstrate that the Employer's wage proposal for this bargaining unit is the same as that applied to 6 of the 8 County employee groups displayed in those exhibits. The Employer urges adoption of its proposal.

Union Position

The Union proposes wage adjustments equally applied across all pay levels applicable to both Deputies and Dispatchers of 3% for the period 4/1/04 through 3/31/05; 3% for the period 4/1/05 through 3/31/06 and 3% for the period 4/1/06 through 3/31/07. Drawing information from the exhibits presenting the contracts of the comparable employers the Union prepared attachments to its post hearing brief which demonstrate that 5 of the 7 comparable communities increased wages by 3% or more in 2004, 2005 and 2006 and two had increases of 2% and 2.7%. Only Ionia County had no increases during that time period. The Union says the comparables clearly support the Union's position and are at odds with the Employer's position.

The Union argues for maintaining the same percentage wage increases as the comparable employers and says granting the Union's proposal will ensure that result. The Union says the comparable employers are experiencing the same economic

conditions that this Employer is and there is no reason to vary from the wage increases given by the comparable employers.

The Union refers to exhibits E-9 through E-16, cost of living indexes, and says these demonstrate that these employees have gained very little with regard to cost of living in over 17 years. The Union references page 2 of E-9 which shows a 3.4 point change for the CPI-W for the period December 2003 to December 2004 resulting in a percentage change of 1.9%, and a percentage change of 2.7% for the November 2004 to November 2005 time period. The Union says its proposal, when compensating for inflation, will result in a modest 3/10% increase in real buying power for each of these two years. On the other hand, the Union says the Employer proposal would result in the employees making less, compared to the cost of living, than they did 20 years before. The Union urges the panel to adopt its proposal.

Discussion and Findings

The Independent Arbitrator finds, in the context of decisions made on other issues presented to the panel in this proceeding, that the Union's last offer of settlement on this issue is more reasonable. The financial ability of the unit of the Employer to meet the overall costs encompassed within this agreement is not that different from other comparable communities. [Section 9(c) of Act 312] The evidence related to cost of living [Section 9(e)] supports the Union's position over the Employer's position.

Sections 9(d) (f) (h) of Act 312 speak to the comparison of wages and overall compensation and other factors normally taken into consideration in determining wages and other compensation through voluntary collective bargaining between the parties. The Union's wage proposal basically maintains the employee's wages at generally the higher end of similar employees of the comparable communities. But considering this panel's decision on the additional costs these employees will have to

assume for employee contributions to the health insurance premium, a sizable percentage of the wage increases granted here will be taken away, at least prospectively, to meet the obligations of the employee share of health insurance premium costs. That factor, coupled with the effects of cost of living, will result in a modest, if any, increase in net compensation for employees during the period of this contract.

On the other hand, as noted in the discussion on the Insurance issue, it is the Independent Arbitrators view that the evidence relative to a change in the health insurance premium cost sharing favored the Employer. The employer's arguments on the wage issue pointed to total compensation and benefits and referred to exhibits E-23 and E-24 to support its position that total wage and benefits for these employees greatly exceeded those of comparable employers. Total compensation costs for the Employer displayed on those exhibits will decrease substantially, however, under the Employer health insurance proposal adopted by this panel, thereby freeing up some of that money for wage increases. A review of the internal comparables reveals that at least two of the other bargaining units within Shiawassee County within the health department received wage increases during this time period equal to or greater than those proposed by the Union in this proceeding.

Taking all of these factors into consideration, the panel finds the Union's last offer of settlement on the change in Article 19 – Wages to more nearly comply with the applicable factors in Section 9. Therefore base wage adjustments will be:

Deputy Sheriff

For the period 4/1/04 through 3/31/05 = 3% increase in base wage amount

For the period 4/1/05 through 3/31/06 = 3% increase in base wage amount

For the period 4/1/06 through 3/31/07 = 3% increase in base wage amount

Dispatch/Office Manager

For the period 4/1/04 through 3/31/05 = 3% increase in base wage amount

For the period 4/1/05 through 3/31/06 = 3% increase in base wage amount

For the period 4/1/06 through 3/31/07 = 3% increase in base wage amount

Article 19 of the contract will be modified to reflect the Union' last offer of settlement with the pay rates to be retroactive to April 4, 2004 for employees actively employed on the date this Award is issued and for employees who retired from active employment during the period of this agreement but prior to the date this Award is issued.

Employer: Agree _____

Disagree _____

Union: Agree _____

Disagree _____

ISSUE 2

Article 24 – Pension

The Employer proposed a revision to Article 24 by adding a subsection D. to Section 1 to read:

“The Employer’s pension cost shall be capped at 40.7% for employees hired prior to September 12, 1996 and 12% for employees hired after September 12, 1996. Employees shall pay the difference by payroll withholding.”

The Union’s position is to maintain the status quo.

Employer Position

The Employer refers to exhibits E-23, E-24, E-37 and E-38 in support of its position. Those exhibits reveal that the Employer percentage contribution rate to the pension plan for the members of this bargaining unit hired prior to September 1996 far exceed the contributions of other comparable external communities for employees performing similar work and for other employees of the Employer. The Employer points out that the cost to the Employer for 2003 for Deputies hired before September 1996 is 40.7% of payroll and 28.75% of payroll for Dispatch Operators hired prior to

September 1996. The Employer paid an 8.24% contribution rate for both Deputies and Dispatchers hired after September 1996 (U-42, pg 90, U-43).

The Employer says the pension plan provided to these employees is the best plan offered by the Municipal Employees' Retirement System (MERS) and the employer cannot continue to bear the cost of payment for this plan alone. The Employer says its proposal maintains the high level of cost to the Employer compared to the level paid by comparable communities but that it is reasonable to expect employees to contribute to the increasing costs of funding the pension liability, just as many employees are participating in defined contribution pension plans as a method of containing the sky rocketing cost of pension benefits.

Union Position

The Union points out that the Employers' pension plan administration has created problems because it has multiple groups categorized within the system. Three of those groups are involved with this bargaining unit. Deputies hired prior to 9/96, Dispatcher hired prior to 9/96, and Deputies and Dispatchers hired after 9/96. By separating these groups the Employer emphasizes the excessive Employer contribution being paid for the Deputies and Dispatchers hired prior to 9/96. The Union points to exhibit U-43, which contains information, drawn from exhibit U-42, to demonstrate that the contributions for all three groups, when added together and divided by the total payroll for all three groups' results in a contribution rate of 24.19%.

The Union says it is not seeking a change in the pension benefits but there is no basis for the Employer to transfer the cost of the pension it has bargained for in the past to the employees. The Union says the general health of the pension fund is presently at the high end of the funding percentage for the last decade and therefore the pension plan is not in difficulty. (U-42, page 30) The Union also points to U-42, page 37 which displays a chart showing the Plan changed its assumptions in 2004 resulting in an

increase in accrued liability by \$260,275 in one year for the group involving deputies hired prior to 9/96. The Union says that changes in assumptions and transfers of assets and liabilities can impact greatly whether the maximum contribution the Employer would pay under this proposal would be exceeded, thereby transferring that additional cost to the employees. The Union says these decisions could be influenced by the Employer and the employees will be left with no safeguards to ensure against being exploited. The Employer, in its post-hearing reply brief, says the Union's suggestion that the Employer has the ability to influence the actuary is absurd since the MERS system imposes uniform actuarial assumptions on all members of MERS and provides no opportunity for any members to customize their actuarial.

Discussion and Findings

The evidence presented clearly demonstrates that the Employer is contributing a substantially higher rate for pension benefits for this bargaining unit than comparable external employee groups or other employee groups within the County. Exhibits E-23 and E-24 also demonstrate that every external comparable Employer plan requires some contribution from employees.

The Independent Arbitrator believes a re-evaluation of the Employer's pension plans and restructuring of them, including the possibility of employee contributions is reasonable. The difficulty is that this particular proposal is not one which the Independent Arbitrator believes the parties, if negotiating in good faith, would devise as a reasonable revision to the pension plans.

Under the proposal put forth by the Employer it appears the impact on the employees would be disparate, impacting some greatly and others not at all. For example, Exhibit U-42, page 38 shows the December 31, 2003 Employer contribution rate for deputies hired prior to 9/96 was 40.70%. For December 31, 2004 it was 41.98%. The difference between these amounts is 1.28%.

During the course of the hearing it was revealed that there are approximately 10 Dispatchers and 18 to 21 Deputies in this collective bargaining unit. If it is assumed that 10 of the 21 Deputies were hired prior to 9/96, each of these 10 Deputies would have to pay the difference between 41.98% and 40.70% or 1.28% of his or her annual payroll. The 2004 Base Wage for Deputy for Shiawassee County was \$41,342.00 without any increase as a result of this proceeding (E-18). That would mean each of these 10 Deputies would have to pay \$529.00 ($\$41,342.00 \times 1.28\%$) in annual payroll withholding as a contribution to the pension cost. And this amount does not take into consideration additions to the base wage that may occur as a result of this opinion and order, overtime or other wage compensation.

At the same time, under the current plan, the Employer pays a contribution rate of 28.75% of payroll for a dispatcher hired before 9/96. (U-43) Since this percentage amount is far below 40.70% (the Employer capped contribution amount) the Dispatcher hired before 9/96 would not have to contribute anything to the cost of his/her pension. Similarly, the remaining Deputies and Dispatchers hired after 9/96 would have to pay nothing toward their pension. U-42, page 90 shows the December 31, 2003 contribution rate as 8.24% and a 9.21% contribution rate for December 31, 2004 for this group. The 9.21% rate is still far below the 12% proposed by the Employer to trigger employee contributions for this group. It appears it could be sometime before this group would have to contribute anything and even then the contribution amount might be quite disparate from that required of the employees hired prior to 9/96.

The Independent Arbitrator recognizes the dilemma the Employer is in relative to the structure of the pension funds. However the proposal put forth by the Employer would result in a contract revision that would not equitably address the problem and would have a disparate impact on similarly situated employees. A review of the

external and internal comparables in this case reveals that other comparable Employer collective bargaining agreements have developed methods for employee contributions to pension costs but none have used an approach that would have such a disparate impact on employees.

The evidence indicates that the fiscal status of the pension fund is not such that it will become substantially unstable during the period of this agreement. During that time, and in preparation for negotiations for the next contract period, the parties may be able to work together on a more acceptable way to address this issue.

Taking all of these factors into consideration, the panel finds the Union's last offer of settlement on this issue the more reasonable position. Therefore on the issue of revising the pension contribution there will be no change from the current contract.

Employer: Agree _____

Disagree _____

Union: Agree _____

Disagree _____

Issue 3

Article 28 – Insurances

Both the Employer and the Union have proposed revisions addressing Insurances. Both proposals call for the base insurance plan to be the Blue Cross/Blue Shield Community Blue PPO 6, with \$10/\$20 prescription drug rider (Basic Plan) or another carrier which provides a substantially equivalent benefit level. They differ however in several other respects, particularly in the cost sharing for the premium costs between Employer and employees.

Employer Position

The Employer proposes to revise the life insurance coverage addressed in Section 1 A. from the current \$20,000 per employee to \$25,000 per employee effective January 1, 2006. The Union's last best offer makes no change in this provision.

Much of the current contract language in Article 28 relating to Health/Medical/Hospitalization insurance would be retained in both the Employer and the Union proposals. For example those dealing with Benchmark, Optional Alternative Health Plans, No Double Coverage, Cash in lieu of Insurance, and Cobra would remain basically the same. The major differences between the Employer proposal and the current contract and the Union's proposal is 1) the amount of money the employee and the Employer would contribute annually to the cost of insurance coverage and 2) whether the employees dental and optical coverage would continue to be provided through the Teamsters Group 201 Dental and Optical program as it is in the current contract or whether the employees would be required to participate in the County's Optical and Dental Plan as proposed by the Employer in its last best offer.

The current contract provides that all employees co-pay a minimum of \$20.00 per month (\$240.00 per year) for their insurance plan and 100% of the differential in cost of optional plans in addition to the \$20.00 co-pay if the employee chooses an optional plan. The Employer proposes to change the employee co-pay amount to require all employees who were actively employed by the Employer on December 31, 1995 pay 10% of the premium cost and employees hired on or after January 1, 1996 pay 20% of the premium cost. The Employer also proposes to require all employees to participate in the County's Optical and Dental Plan. Currently the employees are provided dental and optical coverage through the Teamsters Group 201 Dental and Optical Program.

The Employer says it makes this proposal because the cost of insurance has increased dramatically and because the cost of the premium being paid by the

Employer, compared to premium costs being paid by comparable external employers, is exceedingly high; pointing out that in 2005 Shiawassee County paid more than \$3,000.00 per employee above the amount paid by the next highest paying comparable employer (E-32). The Employer argues the plan and premium cost sharing approach it proposes is the same as that applicable to all other Shiawassee County employees. The Employer says substantial premium sharing by employees is not a new concept as evidenced in exhibits E-34 and E-35.

In its reply brief, the Employer says it is proposing the change in optical and dental coverage because under the current contract the Employer is obligated to purchase only the Teamsters dental and vision plan at an annual cost of \$1,687.40 per employee regardless of whether the employee participates as single, double or family subscriber. The Employer says the plan coverage for optical and dental care provided by the County's optical and dental plan would not be in addition to the health insurance premium but would be included in and a part of the cost of the overall health plan. The Employer says the optical and dental care provided in this plan is the same as that provided to all other Shiawassee County employees and comparable to those provided by employers in comparable communities. The Employer says Shiawassee County is paying 46% more for total insurance costs than the average external comparable, not including the cost for Disability Insurance. The Employer says the current \$20.00 per month (\$240.00 per year) amount being paid by employees in this bargaining unit for full family, health, dental and vision insurance is a dinosaur compared to both internal and external comparables.

Union Position

The Union is proposing changing the basic plan, as is the Employer, from the Blue Cross/Blue Shield Community Blue PPO1 to PPO6 Plan. The Union says this change will result in virtually no cost increase for the Employer between 2004 and 2005.

The Union says the increase in costs to the Employer would be 6.7% for a single, 1.3% for a double and less than 1% for a family. Assuming equal distribution among the three groups this would be an annual increase of 2.9% per policy – essentially the cost of living. The Union points out that the rate of change for the PPO6 plan is substantially less than that for the PPO1 plan and therefore will result in no substantial hardship on the Employer in the future. The Union says its acceptance of the change in plan coverage from PPO1 to PPO6 benefits the Employer by keeping the Employer paid premium essentially the same in 2005 as it paid in 2004 and the employees are doing their part in cost sharing because the new plans will result in increased out-of-pocket costs each time services are used.

The Union strongly objects to the Employer's proposal to increase the co-pay amounts the employees would have to pay for the premium. The Union describes this shift in cost and dramatic increase in employee cost sharing and decreases in Employer costs in detail in its post hearing brief. This will be addressed further in the Discussion and Findings paragraphs below.

The Union proposed in its last best offer that the employee co-pay be changed from the current contract. The current contract requires that effective October 1, 2001, all employees co-pay a minimum of \$20.00 per month for their insurance plan and 100% of the differential in cost of optional plans in addition to the \$20.00 co-pays if the employee chooses an optional plan. The Union proposes the Basic Plan (Single, Two-Person or Family) be offered to the employees at no cost and that should an employee choose to upgrade to PPO1 or PPO2 (Optional Plans) the employee would be obligated to pay 50% of the difference between the Basic and Optional Plan and the Employer would pay the other 50%. The Union says that as a result of changing the Basic Plan the Employer will pay approximately \$1,700.00 less annually for a family policy in 2005

than the amount paid in 2004 even though it would pay the full cost of the premium under the Union's proposal. The Union says the Employer annual costs of \$13,259.64 for an employee choosing family coverage under the Union's proposal is in the middle of the comparable external employer costs.

The Union's proposal allows employees to "buy back" the level of insurance they have been receiving under the current contract if they choose to. The Union says its proposal to have the Employer pay 50% of the difference in cost would result in only an 8% increase in cost to the Employer in 2005 from its 2004 costs but would result in a 400% increase in the employee's cost for family coverage if the employee chooses to purchase this level of insurance. The Union questions how many employees would choose this option anyway and if none do the Employer would not be obligated to pay anything other than the basic premium.

The Union says its proposal will result in essentially no cost increase to the Employer at this point and the Employer's cost will be in line with several other comparable employers whereas the Employer's proposal would be out of line in the massive amounts the employees would have to pay.

Discussion and Findings

The parties have been very thorough in their presentation of evidence and briefs on this issue. There is no question that with the rising cost of health care, the scope of coverage and cost for health insurance has become a growing concern for many employers and employees. The parties have demonstrated their cooperation in attempting to address this issue during negotiations in this proceeding by agreeing to switch from the PPO1 to the PPO6 plan. They differ on what share of the cost for the annual premium, if any, should be borne by the employees. The Union proposes the Employer pay the total cost for the basic premium and 50% of the cost difference for an employee who chooses to purchase a higher level of coverage. The Employer proposes

the employees be responsible for 10% of the annual premium cost for employees employed by the Employer on December 31, 1995 and 20% of the annual premium for employees' hired after January 1, 1996. The Employer would also require the employee who chooses a higher level of coverage to pay 100% of the cost difference for coverage and would also require the employees to participate in the County's Optical and Dental Plan.

The Independent Arbitrator has used the data from the exhibits and briefs presented by the parties to construct the information presented below. That information describes the distribution between the Employer and Employees of the annual premium cost under the Employer's proposal. The calculations are made based on an assumption that 1/3rd of the employees would be single coverage, 1/3rd would be double coverage and 1/3rd would be family coverage. The calculations also assume there are an equal number of employees hired on or before December 31, 1995 and after December 31, 1995.

**Health Insurance
Distribution of Annual Costs Under Employer Proposal
2005**

Employee hired on or before 12/31/95			Employee hired after 12/31/95		
	Employer	Employee		Employer	Employee
Single	\$4,670	\$519	Single	\$4,151	\$1,038
H/W	\$10,102	\$1,122	H/W	\$8,981	\$2,245
Family	\$11,934	\$1,326	Family	\$10,608	\$2,652
	\$26,706	\$2,967		\$23,740	\$5,935

$$\begin{aligned} \$26,706 + 3 &= \$8,902 \\ \$2,967 + 3 &= \$989 \end{aligned}$$

$$\begin{aligned} \$23,740 + 3 &= \$7,913 \\ \$5,935 + 3 &= \$1,978 \end{aligned}$$

$$\begin{aligned} \$8,902 + \$7,913 &= \$16,815 + 2 = \$8,407 \\ \$989 + \$1,978 &= \$2,967 + 2 = \$1,483 \end{aligned}$$

Employer annual average cost per employee = \$8,407
Employee annual average cost = \$1,483

External comparable employer annual average cost 2005 (E-32) = \$11,404
External comparable employee (deputy) annual average cost 2005 (E-34) = \$1,178
External comparable employee (dispatch) annual average cost (E-35) = \$1,292

What these figures reveal is that the Employer's annual average cost per employee for 2005 would be \$8,407 and the employees annual average cost contribution to the health, dental and optical coverage would be \$1,483.00. The Employer cost could range from \$4,151 to \$11,934 per employee and the Employee cost could range from \$519 to \$2652 depending on when the employee was hired and whether they were enrolled in single, double or family coverage.

Under the Union's proposal the employees would not pay any annual premium cost for the basic plan coverage. The Employer's annual average cost per employee for health insurance would be \$9,901 plus a \$1,687 annual cost for the Teamsters dental and vision plan per employee for a total annual cost of \$11,588 per employee.

A comparison of external comparable communities (E-32) reveals the average annual employer cost in 2005 was \$11,404. A review of exhibits E-34 and E-35 reveal the average annual employee contribution in 2005 among the comparable external employers was \$1,178 for Road Patrol and \$1,292 for Dispatch employees. One percent of employee 2005 base wage was used to calculate Barry County employee contributions. Of course the other Shiawassee County employees currently pay 10% or 20% of the annual premium cost depending upon date of hire.

The panel is confronted with a choice between two options. It can accept the Employer's proposal which will result in an Employer annual average cost per employee slightly below the lowest paid by the comparable external employers but with an annual average contribution from employees generally equal to that of employees of comparable employers. Or it can accept the Union's proposal that will result in an Employer annual average cost per employee in the mid range of those paid by comparable employers but with a contribution from employees of zero, which is

\$1,178 to \$1,292 less than the contribution paid by employees of other comparable employers.

In reaching its decision the panel has considered the overall compensation received by employees including consideration of its decision on wages and other benefits in this proceeding. It has attempted to give reasonable and proper consideration to factors (c), (d), (f) and (h) listed in Section 9 of Act 312. It finds that the Employer's proposal is more consistent with the manner in which employer-employee health care costs are being addressed in public employment by comparable communities and with other employees generally. It is exceptional when employees are not contributing to annual premium health care costs.

The parties in this proceeding are to be commended for reaching agreement on choosing a less expensive health care plan. But the scope of coverage of that plan is comparable to those in other comparable communities and other Shiawassee County employees and requiring employees to share some of the cost of the annual premium for that plan is consistent with that of other employees in comparable communities and other Shiawassee County employees. Hopefully those costs will not increase as dramatically with this plan. As the Union pointed out in its post hearing brief, choosing a less costly plan may reduce the rate of cost increases and result in no substantial increase for either Employer or employee in the future. Cost sharing may also encourage discussion between the parties on mutual efforts to minimize cost increases.

The Union addressed the issue of optical and dental coverage separately in its post hearing brief and urged the panel to consider the optical and dental coverage as a separate issue. The Employer's proposal encompassed several changes to Article 28 including changes to Life Insurance and Optical and Dental Coverage. The panel considers the Employer's position on Optical and Dental coverage part of and inclusive

in its last offer of settlement on this issue and therefore the panel finds it must accept or reject it in its entirety. The optical and dental coverage offered by the Employer appears to be comparable to those of other comparable employers and even if the panel were to address it as a separate issue would find the Employer's last offer of settlement on optical and dental coverage to be the more reasonable.

Taking all of these factors into consideration the panel finds the Employer's last offer of settlement on the change to Article 28 to more nearly comply with the applicable factors in Section 9. Therefore Article 28 of the contract will be modified to reflect the language contained in the Employer's last offer of settlement on this issue to be effective on the date this arbitration award is issued.

Employer: Agree *Pamela G. Tschery* Disagree _____
Union: Agree _____ Disagree *Timothy J. [Signature]*

Issue 4

Article 29 - Long Term Disability Insurance

Article 29 of the current contract states:

A long term disability insurance plan shall be effective following an elimination period of ninety (90) continuous calendar days of disability through and including the employee's sixty-fifth (65th) birthday or date of return to work or total disability duration of five (5) years, whichever occurs first, subject to the terms of the insurance carrier. The long term disability insurance coverage shall provide sixty percent (60%) of the employee's base salary.

The Employer proposed a change to the total disability duration limit from a duration of five (5) years to a duration of (3) years. The Union proposed to maintain the status quo.

Employer Position

The Employer points to E-36 to support its position on this issue. E-36 is a summary of the external comparable community's contractual provisions and the contract requirements of other employee groups within Shiawassee County relative to

the maximum total disability duration period. E-36 reveals that of the 7 external comparable communities, one has a 6 month limit, 4 have a one year limit and 2 have a two year limit. All of the internal comparables have a 3 year limit. The Employer says cost of providing the 5 year limit is just another cost that needs to be reduced and limiting the duration to 3 years will still result in a maximum duration longer than the comparable communities and free up limited funds in the budget to provide future wage increases.

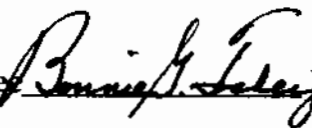
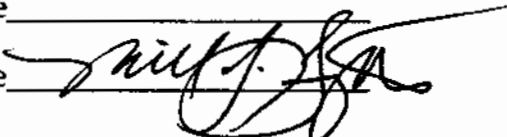
Union Position

The Union acknowledges that most of the comparable employers have maximum total disability duration of less than 5 years. The Union says that it can be assumed that this has always been the case and the Employer has not justified a change in this overall compensation package at this time.

Discussion and Findings

The Employer has demonstrated that compared to comparable communities and other employee groups within Shiawassee County the 3 year maximum total disability duration is more comparable than the 5 year period. The Employer did not present evidence of what cost savings, if any, would result from this change but did indicate that it would free up monies saved from this change for other benefits. The Union did not present evidence that this change would produce no cost savings or that it would significantly negatively affect employees.

Taking all of these factors into consideration the panel finds the Employer's last offer of settlement on the change in Article 29 involving Long Term Disability Insurance to more nearly comply with the applicable factors in Section 9. Therefore Article 29 will be modified to reflect the language contained in the Employer's last offer of settlement on this issue to be effective on the date this arbitration award is issued.

Employer: Agree  Disagree _____
Union: Agree _____ Disagree 

Issue 5

Article 34 – Leaves of Absence

The Union proposed a revision to Section 4 of Article 34 involving Funeral Leave. The current contract provides an employee a leave of absence with pay of 3, 4, or 5 days depending upon the relationship of the deceased to the employee and whether the funeral is an out of state funeral. For an "immediate family" member the employee is granted 5 days. For "other family members" the employee is granted 3 days for in state funerals and 4 days for out of state funerals.

Union Position

The Union proposes shifting "step-son and step-daughter" to the individuals defined as "immediate family" from those defined as "other family members" and add "aunt, uncle" to the individuals defined as "other family members." The effect of this would be to increase the number of days an employee is provided leave of absence for the funeral of a step-son or step-daughter from 3 or 4 days to 5 days. It would also allow 3 or 4 days leave of absence to attend a funeral of an aunt or uncle. The Union says this is a relatively minor proposal and cannot be abused because Section 4A requires the employee to attend the funeral.

Employer Position

The Employer opposes the proposed change and urges the status quo. The Employer says the proposal will result in another increase in Employer paid benefits and the Union offered no evidence as to why the current structure is not satisfactory. The Employer says the current contract provisions provide a significant amount of time off.

Discussion and Findings

Neither party provided a summary of how this proposal compares to funeral leave provided by comparable external employers or to other employees within Shiawassee County. And there is no way to estimate the anticipated use of this provision by the employees.

The Independent Arbitrator reviewed the funeral leave provisions in the contracts of the 7 external comparable communities. Five out of Seven of the external comparable contracts for Deputies and Dispatchers did include step-children in the definitions of immediate family. On the other hand Five out of Seven did not include aunt and uncle in the definition of other family members. Perhaps more notable however was that the majority of the contracts of the external comparables provided 3 days, not 5 days leave of absence to attend "immediate family" member funerals and 1 day, not 3 days to attend "other family member" funerals.

On the other hand, the contracts between Shiawassee County and other employees of Shiawassee County contain language similar to that sought by the Union in this proposal and do provide 5 days leave of absence for "immediate family" and 3 days for "other family members."

The Union, in its post hearing brief and reply brief argued strenuously that not as much weight should be given to employer-employee agreements not subject to the Act 312 binding arbitration procedure. The Union stated in its post hearing brief "what

the Employer has imposed on its other non-312 bargaining units, and on its non-union employees, should not be a significant factor in this Act 312 arbitration." I suspect the Union would not be inclined to emphasize that point on this particular issue.

The Independent Arbitrator is inclined, on this issue, to recognize the manner in which the Employer has treated other employee groups within the County. I believe it is safe to say that the Employer did not "impose on its other non-312 bargaining units" the same funeral leave provision that the employees in this bargaining unit now seek. The Employer apparently has not seen it as an onerous provision in other bargaining agreements.

Taking all of these factors into consideration, the panel finds the Union's last offer of settlement on this issue the more acceptable position. Therefore, Section 4 of Article 34 will be modified to reflect the language contained in the Union's last offer of settlement to be effective on the date this arbitration award is issued.

Employer:	Agree _____	Disagree <u><i>Ronnie G. Talley</i></u>
Union:	Agree <u><i>Wm. J. Smith</i></u>	Disagree _____

ISSUE 6

Article 35 – Sick Leave

The Union has proposed a change in Section 4 of Article 35. The current contract provides employees 9 days sick leave each calendar year, with 5 of those being placed in a sick bank and granted on an individual basis by the Employer. The remaining 4 are available to the employee as needed during the year and must be used prior to the granting of sick leave from the sick bank. Section 4 currently states that 75% of those 4 days not used as sick days in any calendar year shall be paid for by the Employer at the employee's regular rate of pay on or immediately after the first pay period in December of each calendar year.

The Union proposes to change the 75% to 100%. The Employer opposes this change and seeks to maintain the status quo.

Union Position

The Union says the value of this contract provision is to provide an incentive to employees to try to work on those days when they are feeling less than 100% and that as a result of the employee not using that sick day the Employer saves having to replace an absent employee on the spur of the moment for which the Employer might have to pay overtime. The Union argues that it is more appropriate to compensate employees who make those choices at 100% rather than 75%.

The Union says an analysis of the external comparable Employer's treatment of this issue reveals that they have more generous sick leave policies. The Union acknowledges that they have payout rates, if at all, less than 75% but says when the percentage is multiplied by the number of sick leave hours granted by the comparable employers the net amount of days paid off is larger than it would be for these bargaining unit members even at the 100% level.

Employer Position

The Employer argues that the current contract provision calling for the Employer to pay out 75% of all unused sick leave is the highest payout rate of any comparable employer. The Employer sites E-28 and E-29 which summarizes these provisions in external comparable communities to support its position. Those exhibits do support the Employer's statements relative to the rate of payout but they also support the Union's statement that when the percentage is multiplied by the number of sick leave hours granted by comparable employers providing this benefit the amount of days paid is larger than that for the members of this bargaining unit. But exhibits E-28 and E-29 also reveal that 4 of the 7 comparable employers provide no annual pay out for unused sick leave hours.

Discussion and Findings

Neither the Union nor the Employer referred to the manner in which the issue is dealt with for other employee bargain units within the County. A review of those contracts reveals a different approach. For most of those contracts employees earn 1 sick day per month of compensated time and accumulated sick days shall not exceed 30 days. Generally there is no provision for annual payout of unused sick leave but there is a provision that the Employer pay off 50% of the accumulated sick leave up to a maximum of 30 days in the event of a voluntary termination or retirement and for those days the employee accumulates beyond 30 days.

Both the Employer and the Union correctly stated arguments in favor of their positions from information provided in exhibits E-28 and E-29. However the Union failed to point out that if all of the 7 comparable communities maximum hours paid out are added together and divided by 7 the average are 21.17, which is below the 24 hour maximum provided to members of this bargaining unit in the current contract. The panel finds from a review of both the internal and external contracts that the Employer's position on maintaining the 75% pay out rate is more reasonable.

Taking all of these factors into consideration, the panel finds the Employer's last offer of settlement on this issue the more reasonable position. Therefore on the issue of revising the language in Section 4 of Article 35 there will be no change from the current contract.

Employer: Agree Bernie G. Fisher Disagree _____

Union: Agree _____ Disagree [Signature]

ISSUE 7

ARTICLE 36 - General

Section 6 – Uniforms and Cleaning of Uniforms

The Union has proposed additional language in paragraph B of Section 6 of Article 36. The language in the current contract states:

A. The Sheriff shall prescribe the type of uniform to be worn by each employee, and the Employer shall provide said uniform and any necessary replacements thereof at no cost to the employee.

B. Each employee shall be entitled to have up to two(2) uniforms consisting of shirt and trousers per week, cleaned at the Employer's cost. In addition thereto, each employee shall be entitled to have cleaned, at the Employer's cost, up to five (5) hats and (5) coats per year.

The Union proposed adding the following language to Section B: "Each employee shall be entitled to and receive a boot allowance in the sum of One hundred (\$100) dollars per year."

The Employer urges no change to the current contract and to maintain the status quo.

Union Position

The Union argues that appropriate footwear is as much a part of the uniform as the shirt and pants and should be compensated by the Employer. The Union says at least one of the comparable communities, Isabella County, provides for footwear and it is not a substantial cost item.

Employer Position

The Employer argues that the current contract already provides the most generous uniform allowance and provision for cleaning of any comparable employer. The Employer presented E-27 which summarized the comparable community's treatment of this issue in their respective contracts. The Employer says no comparable employer provides a boot or shoe allowance.

Discussion and Findings

Exhibit E-27 and a review of the contracts from which the exhibit was developed supports the Employer's position on this issue. The Clinton County contract applicable to its Deputies makes no reference to a boot allowance and gives the Sheriff discretion to determine what the uniform will be. The Isabella County contract, referred to by the Union, provides for a uniform and equipment purchase system which allows deputies to purchase annually \$230.00 worth of clothing and equipment, including shoes, at previously designated suppliers as the Sheriff and the County determine necessary.

There was no record testimony or exhibits on whether specific shoes or boots are required as a part of the uniform. Based on the record evidence the panel finds that the Union has failed to provide adequate support for its proposed change.

Taking all of these factors into consideration, the panel finds the Employer's last offer of settlement on this issue the reasonable position. Therefore on the issue of a proposed change in the language in Section 6 of Article 36 there will be no change from the current contract.

Employer: Agree *[Signature]* Disagree _____

Union: Agree _____ Disagree *[Signature]*

NON-ECONOMIC ISSUES

ISSUE 8

Article 23 – Shift Preference

The Employer proposes a revision of Section 2 of Article 23 by deleting paragraphs D and F of Section 2. Paragraphs D and F of the current contract read:

D. The Employer will not change shifts of any employee without thirty (30) days advance notice and provided that said change is necessary for proper operation of his office.

F. However the Employer may make appropriate shift changes of personnel not to extend beyond a thirty (30) day continuous period when required by the exigencies of law enforcement work, provided that a fifteen (15) day notice of change in shifts is

given and provided further that no employee shall have his shift changed more than once in the calendar year.

The Union proposes no change and urges the panel to maintain the current language.

Employer Position

The Employer presented its position on this issue by reference to E-39 (excerpts from this section of the contract used during negotiation between the parties) and the testimony of Sheriff Wilson. The Employer says the restrictions placed in paragraph D and F requiring 30 and 15 days advance notice respectively make it extremely difficult to make a schedule and comply with those provisions because of unknown injuries or illnesses. The Sheriff testified that they operate with such minimum staffing that they have to be able to switch people on different shifts to give enough coverage for the time period. (TR-102) The Sheriff also testified that in fact paragraphs D and F have not been strictly followed in a long time because of limited staffing. (TR-130) Shifts have been changed with less than 15 calendar days notice primarily with the cooperation of the employees. On cross examination the Sheriff acknowledged that if the 15 day notice had to be followed it could result in having to cover a shift temporarily with overtime a maximum of seven days before a shift change could be implemented. (TR-131)

Union Position

The Union says it is not clear what the Employer is seeking and testimony at the hearing did not clarify the situation. Therefore the Union proposes to maintain the status quo.

Discussion and Findings

Neither party presented testimony or evidence describing how comparable communities deal with this issue. The Independent Arbitrator, during the hearing, questioned how, if the language in the current contract were deleted, as proposed by

the Employer, it could be assured there would be uniformity in its application. The Sheriff responded that with no minimum notice requirement the biggest factor in determining whether to order a shift change or to order overtime would be how long it is going to be for. (TR-126) The Sheriff did not indicate how there could be assurance of uniformity in its application.

The Independent Arbitrator is concerned that elimination of the language as proposed by the Employer, with no replacement language establishing some guidance for determining how and under what circumstances the decision to make a shift change or order overtime will be made, could lead to more acrimonious employer-employee relations and possible grievances. This is an element of the collective bargaining agreement better resolved through negotiations if at all possible and the Independent Arbitrator is not convinced the parties have diligently attempted to address this issue during negotiations. The Independent Arbitrator finds maintaining the language in the current contract provides the parties a more equal opportunity to address the issue in negotiations than by removing it.

Taking all of these factors into consideration, the panel finds the Union's last offer of settlement on this issue the more acceptable position. Therefore, on the issue of the deletion of language in Article 23, Section 2D and 2F there will be no change from the current contract.

Employer: Agree _____

Disagree _____

Union: _____

Agree _____

Disagree _____

ISSUE 9

Article 26 – Vacations

The Employer proposes to amend Article 26, Section 3 as follows:

B. For 8-hour shifts one vacation period shall be a one (1) work week period taken in consecutive days. Other vacation time may be taken on an individual basis, with sufficient advance notice. No more than five (5) individual vacation days shall be taken in one (1) calendar year.

C. Minimum increments for 12-hour shifts shall be (2) twelve hour days at a time.

The Union position is to maintain the status quo.

Employer Position

The Employer presented this position through E-39 and the testimony of Sheriff Wilson. (TR 104-109) Sheriff Wilson testified that the proposed addition to paragraph B. would focus its application to two classifications in the Department. Those two classifications are secretaries and deputies assigned to the detective bureau. Currently there are 4 deputies assigned to the detective bureau and 3 secretaries. Sheriff Wilson further testified that the reason for the proposed addition of Section C. was to have vacations scheduled in blocks of a week as much as possible "so that we can get everybody in and still give the required time off without it costing a small fortune in overtime." (TR-107) "So it costs a lot of money in overtime. You have to restrict the amount of people that you have off at a time; and it's – If it's just short term we can usually cover it and we do a lot of the overtime on it, but if it's something long term, then it creates a real problem. Scheduling is the worst nightmare in the whole department, I think."

The Employer says a reduction in the cost of overtime would be justification alone to require and employee to use two days of vacation time and it can hardly be argued to be a hardship on employees to be required for planning purposes to use a minimum of two vacation days in one week.

Union Position

The Union argues that the Employer has not put forth a valid reason for the need for the change and has not been clear as to what change it wants. On cross examination in response to a question related to an employee seeking to add a one day vacation to either end of a 3 day period off the Sheriff stated "I guess I would be willing to give a little concession on that, that they could take one day at a time with – with part of their vacation days, but a certain block of it, a percentage of it needs to be scheduled in blocked time periods so they're taking a week or two at a time instead of just a day here and a day there, which plays much havoc with the schedule." (TR-116) The Union says there is no compelling reason to change the status quo.

Discussion and Findings

The parties generally categorized this as a non-economic issue. The Independent Arbitrator, after reviewing the testimony and arguments of the Employer is inclined to view it as an economic issue because of the stated impact on overtime. If viewed as an economic issue however, there would be no recourse but to accept or reject the language as proposed as is. The Independent Arbitrator does find that the proposed language can give the Employer a little better management control over staffing which can impact use of overtime. At the same time, the Employer recognized, as evidenced by the testimony of Sheriff Wilson, that there could be times when it would not be burdensome for an employee to take one day vacation at a time. As a non-economic issue the panel is permitted to modify language proposed by the parties. The Independent Arbitrator believes the Employer has demonstrated a legitimate concern and reason for advancing this proposal. Considering the size of the bargaining unit there are likely to be scheduling problems. The Union has not put forth evidence of major harm to employees as a result of this proposal. And the Employer has recognized that there may be exceptions to the rigidity of the language proposed in sub-paragraph

C. The Panel finds that this is a non-economic issue and as such has slightly modified the proposed language in sub-paragraph C.

Taking all of these factors into consideration the panel finds the Employer's last offer of settlement on the change in Article 26, Section 3 addressing the vacation period to more nearly comply with the applicable factors in Section 9 of Act 312 with a modification to the Employer's proposed language in sub-paragraph C as follows:

C. Minimum increments for 12-hour shifts shall be (2) twelve hour days at a time. Exceptions to this requirement may be granted by the Employer on an individual basis with sufficient advance notice by the employee requesting an exception.

Therefore Article 26, Section 3, sub-paragraphs B and C will be modified to reflect the Employer's last offer of settlement, as modified by this panel, to be effective on the date this arbitration award is issued.

Employer:

Agree

Bonnie J. Leary

Disagree

Union:

Agree

Disagree

Michael J. [Signature]

ISSUE 10

ARTICLE 35 – Sick Leave

The Employer proposed to amend Article 35 by revising the language in this article and throughout the contract to convert contact language to refer to hours instead of days or shifts.

The Union did not address this issue in its post hearing brief or reply brief.

Employer Position

The Employer presented this issue through the testimony of Sheriff Wilson (TR-110-115) and Exhibit E-39. The Employer did not present specific language changes but indicated that the proposal was to "make a mutual agreement and understanding so that sick leave addresses the 12 hours" and that the Employer was proposing that

language "conversion" process not just in the Article 35 but throughout the contract (TR 111-112). On cross examination Sheriff Wilson was asked "So this simply refers to changing the terminology in the contract to refer to accrual pro rata with the 12 hour shifts; you're not changing the amount of the accrual – decreasing it or increasing it; you just want the contract to reflect what actually is in operation now?" Sheriff Wilson responded "Yes." (TR-111)

Union Position

As noted above, the Union did not address this issue in its post-hearing briefs. During the hearing the Employer's witness indicated it would be better to have the language converted in the contract so there is no room for misunderstanding. The Independent Arbitrator observed that perhaps that could be accomplished if the Employer actually presented suggested language that was acceptable to the Union. The representative for the Union indicated "As long as there's no take-away, I don't know why that couldn't happen." (TR-114)

Discussion and Findings

The Independent Arbitrator questions the need for, or value of, specific language in the contract directing the parties to undertake the task of converting the language. The language presented by the Employer in exhibit E-39 does not adequately address the issue. It would seem this issue could best be addressed and move forward by the Employer and the Union each assigning a representative to work together to develop and recommend "conversion" language. If agreeable to both parties that language could be recognized in a separate agreement or the parties might agree to open up the Contract for the sole purpose of revision to reflect the conversion language or it could be ready to be stipulated to by the parties during the next contract negotiations. In any event, it does not appear the Employer is prepared to offer specific language in this

proceeding and developing that language, in this case, is not an appropriate task for the Act 312 Arbitration Panel.

Taking all of these factors into consideration, the panel finds the County's last offer of settlement on this issue is not sufficiently presented to permit the panel to accept it. Therefore on the issue of modifying the language in Article 35 and other portions of the contract pertaining to conversion of hours to reflect 12 hour shifts, as proposed by the Employer, there will be no change from the current contract.

Employer: Agree Bonnie G. Lockery Disagree _____

Union: Agree _____

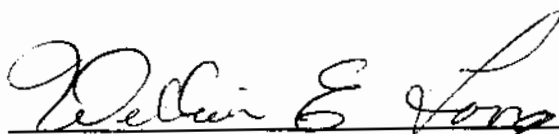
Disagree Michael J. [Signature]

SUMMARY

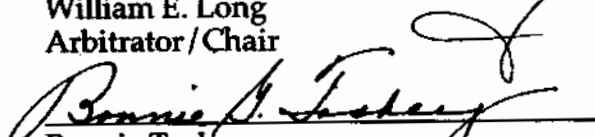
This concludes the award of the panel. The signature of the delegates herein and below indicates that the award as recited in this opinion and award is a true restatement of the award. All agreements reached in negotiations as well as all mandatory subjects of bargaining contained in the prior contract will be carried forward into the collective bargaining agreement reached by the panel.

Re: Shiawassee County Sheriff &
Teamsters Local 214
MERC Case No. L03 L-1001(Act 312)

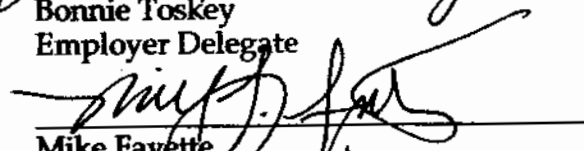
Date: 2-20-06


William E. Long
Arbitrator/Chair

Date: 2-20-06


Bonnie J. Toskey
Employer Delegate

Date: 2-20-06


Mike Fayette
Union Delegate