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STATE OF MICHIGAN

ARBITRATION UNDER ACT NO. 312

PUBLIC ACTS OF 1969

In the Matter of the Statutory Arbitration between
GENESEE COUNTY SHERIFF'S DEPARTMENT

-and-

LOCAL 214, STATE, COUNTY AND
MUNICIPAL WORKERS

Michigan State University
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Genevieve County

6/19/73

ARBITRATION OPINION AND ORDERS

This arbitration is pursuant to Act 312, P.A. 1969, as amended by Act 127, P.A. 1972, MCLA 423.231, MSA 17.455(31), providing binding arbitration for the determination of unresolved contractual issues in municipal police and fire departments.

Arbitration was requested by Local 214, State, County and Municipal Workers, herein referred to as the Union, by letter dated December 26, 1972. Alan Walt was appointed chairman of the Arbitration Panel, with Paul Gully serving as Union panelist and Raymond E. Knott as Employer panelist. The hearing opened on February 23, 1973, at which time the parties requested an interim opinion from

Walt, Alan

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the chairman as to whether the 1972 amendments to the statute applied to the instant proceeding. The chairman issued his interim order on February 27, 1973, finding that the instant proceedings were initiated prior to January 1, 1973, the effective date of the amendments and accordingly, the 1972 amendments to Act 312 were not applicable.

Pursuant to notice duly given, the hearing was continued and concluded on March 22 and 24, 1973. By agreement, the parties exchanged exhibits and at the conclusion of the hearings, waived the statutory time limit for issuance of the Panel's opinion and orders. The Union's post-hearing brief was filed with the chairman on April 10, 1973, at which time the record was closed as stipulated at the hearing.

THE STATUTORY STANDARDS

Section 9 of Act 312 establishes the criteria to be applied by the Panel in resolving disputed questions and formulating its Orders. These are:

- (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 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.

Much of the evidence adduced at the hearings consisted of testimony and documentation obtained by interview, telephone contact, surveys based on published data, and other forms of evidence generally unacceptable in a court of law. Technical application of the rules of evidence was avoided to permit each party to fully present its case. Notwithstanding, the arbitration panel has based its findings, opinions, and orders solely upon competent and material

evidence, guided by the specific statutory standards above set forth, and after a thorough review of the record and all the exhibits presented by the parties.

UNRESOLVED ISSUES

At the opening of the hearing the Union delineated 19 issues for resolution:

1. Salary - Wages
2. Stand-by Time in the Detective Bureau
3. Clothing Allowance for Detectives
4. Vacation Computation
5. Teamsters Eye and Dental Care
6. Gun Allowance
7. Cost of Living
8. Holiday Pay
9. Personal Leave Days
10. Workmen's Compensation
11. Sick Leave
12. Mileage Allowance
13. Callback Time and Court Appearance
14. Shift Differential
15. Shift Preference
16. Working in Higher Classification

17. Promotion Procedure
18. Jurisdiction of Union
19. Maintenance of Standards
20. Agency Shop

GENERAL BACKGROUND

Genesee County is the fourth largest county in the State and includes the City of Flint. Oakland, Wayne, and Macomb are the only larger counties; following Genesee in size are Kent, which includes the City of Grand Rapids, Ingham, which includes the City of Lansing, and Saginaw County.

The Union was certified as the collective bargaining representative of the non-supervisory employees of the Genesee County Sheriff's Department on September 18, 1972 under proceedings conducted by the Employment Relations Commission in Case No. R72 H-267. The certified bargaining unit was described as follows:

All patrolmen, security officers, detectives, bailiffs, matrons, parking lot officers and police trainees; excluding sheriff, under-sheriff, supervisors, and all other employees.

The parties agreed that the classifications of "dispatcher" and "cook" should be added to the unit description represented by the Union. Local 214 replaced the former bargaining agent of the em-

ployees in question, Genesee County Lodge 145, Fraternal Order of Police, whose contract with the Employer expired on December 31, 1972. The Union presented its contract demands to the Employer on October 18, 1972, and after some bargaining the Union requested compulsory arbitration by letter dated December 26, 1972. Mediation was undertaken through the offices of the Employment Relations Commission, and the last offer of the County is dated January 15, 1973. The parties were close to agreement in early January but removal of Pay Board restrictions apparently resulted in a change in the Union's demands.

One of the contentions of the Employer is that a tentative contract was in fact reached between the parties on January 4, 1973, disposing of all remaining issues, both economic and contractual, and that the Union cannot unilaterally overturn that agreement. The Employer contends the tentative agreement was based on wage - price guidelines and that both parties are responsible for adhering thereto on a voluntary basis. Accordingly, the Employer argues the Union is improperly attempting to force the County to exceed established wage - price guidelines and that the tentative agreement between the parties should be implemented in regard to all issues.

WAGE ISSUES

Union Contentions

The Union is requesting that patrolmen or deputies in the Sheriff's Department have wage parity with that of patrolmen in the Flint Police Department. Flint patrolmen with five years of service receive \$13,426, compared with \$12,000 for Sheriff's deputies with the same length of service, or a difference of \$1,426. The Union also notes the present contract covering the Flint Police Department will be open on July 1, 1973, and that any wage increase awarded by this panel may again present a "catch up" problem after 6 months. Therefore, the Union requests that deputy patrolmen with five years of service be awarded \$14,000, which would obviate the need for further "catch up". The Union also argues that the average salary of deputies in the Sheriff's Department is an average of \$1,139 below that of the four other largest counties in the State of Michigan, and that the years of service to reach maximum salary is one year more than the average of four years. If the Flint Police Department is added to the four largest counties, the Genesee deputy salary is computed as \$1,136 below the average.

In regard to the detective bureau, the Union is requesting that Genesee County detectives receive the same differential as presently exists with deputy patrolmen, that is, \$1,500 per year.

Accordingly, the Union is requesting that the panel award detectives \$15,500 per year. As for the remaining classifications of bailiff, parking lot officer, security guard, dispatcher, cook, and security woman, the Union is prepared to accept the last offer of the Employer to increase all these classifications by \$736. The only dispute that exists between the parties is the application of the increase, the Employer seeking to include increment increases due employees in the proposed \$736, whereas the Union seeks the increase exclusive of any increment increase. Therefore, the Union asks that the \$736 increase in salary be attached to all present increments. The Union further requests that all security guards who in the past were classified as deputies but who have been utilized as security guards at the jail continue to receive the deputy rate of pay. All newly hired security guards are not deputized, but there are 7 older employees paid at the deputy rate of pay, although their duties are limited to those of security guard at the jail.

The Union's argument for parity is that Sheriff's Department employees have to exercise the same skills as police officers in the City of Flint, and that their work is as dangerous and difficult. The Union notes the various additional training courses deputies are expected to take, and that both law enforcement agencies

are in a mutual aid agreement in fighting crime in the County and City. Thus, the Union argues the general responsibilities of Sheriff Department employees in all cases parallels or exceeds the level of responsibility of the Flint Police Department.

The present minimum and maximum salaries for the various other classifications are as follows:

Security officer, \$8,000 - \$9,659

Cook I, \$5,845 - \$7,363

Cook II, \$6,407 - \$8,091

Radio Dispatcher, \$6,462 - \$8,075

Bailiff, \$6,407 - \$7,717

Security Woman, \$6,407 - \$7,717

Parking Lot Officer, \$7,363 - \$8,882

The aforesaid rates were established under the prior collective bargaining agreement for the year 1972 except for radio dispatcher and cook rates which are newly added classifications. All rates contained various in-grade steps between minimum and maximum.

Employer Contentions

The record does not set forth the actual figures sought by the Employer for the wage package but it would apparently agree to an

across-the-board wage increase of \$736 per employee if all other issues on which tentative agreement previously was reached were ordered into effect. The Employer seeks to stay within the current 5.5% voluntary wage - price guideline for the economic package. It contends no increase above the wage guideline can be justified to the taxpayers of the county nor to the Office of Economic Stabilization, and is unwarranted under the facts in this case. The Employer submits the entire package requested by the Union would cost the County in excess of \$400,000 and would represent a 30% increase in compensation and benefits and that to obtain an accurate assessment of the economic status of the unit members, it is necessary to consider the entire salary and fringe benefit package.

The Employer argues the Union's request for parity is selective, biased, and inappropriate. It notes that employees of the department have had no particular training or police experience before being employed by the County and that most are not high school graduates. It stresses the prime function of the department is keeper of the county jail and that the patrol function has been or remains an auxiliary function provided primarily to urban and outlying county areas. Sheriff deputies cannot be compared with patrolmen of a municipal police force who are responsible for inner city surveillance and law enforcement. It also argues that

counties such as Wayne, which are primarily urban and which have heavy population densities, cannot be compared with Genesee. It submits Genesee must be compared to such counties as Macomb, Kent, Ingham, and Saginaw -- all basically rural with one fairly large population center representing the hub around which county activities revolve. In this regard, the Employer has presented an extensive breakdown of the comparison between Genesee sheriff employees as against similarly situated employees in Macomb, Kent, Saginaw and Ingham Counties.

The parties also presented extensive data pertaining to crime, in an attempt to show that sheriff's deputies have, or have not, the same responsibilities as police in large cities. Suffice it to say the statistics do show a much larger crime rate within the City of Flint than in the outlying areas of the County; deputies are, nevertheless, involved in a significant amount of serious crime investigation and prevention.

Findings

The panel rejects the Union's request for parity between Sheriff's Department employees and similarly situated employees in the Flint Police Department. It concludes the duties and responsibilities of the largely rural Sheriff's Department are not necessarily comparable to the duties and responsibilities of a

large municipal police force, and that parity between such law enforcement agencies could even be detrimental to solving the problems of the large cities. This conclusion is not meant in any way to minimize the duties and responsibilities of a county sheriff's department but the panel realistically must look to the actual conditions under which both law enforcement departments work on a day-by-day basis. It agrees, however, that the differential of \$1,500 between a deputy's salary and a detective's salary should be maintained. This differential is important in order to meaningfully reward those who undertake the duties and responsibilities of the office of detective in light of its close involvement with serious crime.

On the wage issue itself, the panel has made careful comparison of other similarly situated counties outside of the largely urban counties of Oakland and Wayne and of the salaries paid to Flint Police. While Genesee compares favorably with the wage and benefit rates of such counties, it falls far below the Flint wage scale. While strict parity concepts should not apply here the proximity between Flint and Genesee County and the real possibility that both departments may be involved in the same police work mandates that a substantial wage increase be ordered by the panel. Viewing the comparisons as a whole, the panel concludes that a 7%

across-the-board increase for the period January 1 through June 30, 1973 on the 1972 salary base, and a 3% across-the-board increase applied to the base in effect from January 1 through June 30, 1973, for the period July 1 through December 31, 1973, is fair and equitable and should be ordered. Because male security guards are paid well in comparison to similar positions in other counties, a 7% across-the-board pay adjustment on the 1972 salary base will be ordered for this classification for the 1973 calendar year. The panel also believes that in light of past practice and in recognition of the nature of the job requirements, the \$1,500 pay differential between deputies and detectives should be maintained.

The panel further concludes that the rates of male security guards who were formerly deputies should not be reduced but should be maintained at their current levels until matched or exceeded by the security guard rate, at which time they will be maintained at the maximum rate for security officers.

ORDER

An across-the-board wage increase of 7% on the 1972 salary base for the period January 1 through June 30, 1973, and an additional 3% applied to the January 1 - June 30, 1973 salary base for the period July 1 through December 31, 1973, is ordered for all bargaining unit employees except male security

guards, and the "red circled" security guards noted below.

The differential of \$1,500 between deputies and detectives will be maintained.

The 7 security guards who were formerly deputies will maintain a red circle rate until the salary scale of security officer rates match their existing rate, after which they will be given the maximum security officer wage rate.

SCHEDULED STANDBY TIME FOR DETECTIVES

The detective bureau of the Sheriff's Department is composed of 10 detectives and 2 detective sergeants. In the past, there has been a practice of having 2 detectives stand by during off hours and off days in the event they are needed for emergency assignments. Standby time was allocated a week at a time and the detectives so assigned were compensated an extra hours' pay per day and two hours on weekends at straight time rates in addition to any hours actually worked when called in. The prior contract limited the amount of standby pay to 9 hours per week for 2 detectives, or a total of 18 hours. When on standby, the detective remained at home or in some other place where he readily could be contacted in case of need. The schedule for standby duty was published well in advance. At present, the second detective on standby duty frequently is one of the two sergeants.

The Employer contends the assignment of standby time is a management function and can be eliminated or altered in its sole discretion. The Union, on the other hand, requests that standby time be recognized as a regular part of the duties of detectives and that the past practice be maintained whereby detectives were assigned to stand by once every four to six weeks. The record does not indicate how, if at all, the Employer intends to modify the practice.

Findings

The record is clear that for at least 4 or more years the Employer has maintained a practice of utilizing detectives on a standby basis. The panel finds this practice has become an accustomed part of the duties and remuneration of a detective and will order that a contractual provision be added recognizing standby time as part of the working conditions of detectives but permitting the Employer to fill the second of the two standby positions, if needed, with a non-bargaining unit employee in the department.

ORDER

The collective bargaining agreement will contain a provision requiring that one detective

from the bargaining unit be scheduled in advance for standby duty, as in the past, but that if the Employer so desires, a second standby position may be filled with a non-bargaining unit employee from the department.

CLOTHING ALLOWANCE FOR DETECTIVES

Under present policy, each detective is allotted \$200 per year as a clothing allowance, payable in two equal payments on the first of January and July. In the event the employee terminates his employment, he must pay back this allotment on a pro rata basis.

The Union argues the present clothing allowance is unrealistic, and it is unfair that an employee be required to pay back a pro rata portion of his clothing allotment in the event of termination. The Union notes the Employer furnishes and maintains all uniforms necessary for uniformed officers. Therefore, the Union requested the panel award a clothing allowance of \$500 to be paid at the beginning of each contract year to all personnel required to wear civilian clothing.

The Employer would maintain the present clothing allotment of \$200, the requirement of pro rata return of any allotted share in the event of termination and would provide that any detective furnished a uniform may have it cleaned at County expense. The Employer would also continue the practice of two equal payments

made on January 1 and July 1 of each year.

Findings

The panel concludes that a modest increase in the clothing allotment is justified. However, as a general principal it finds that the full cost of civilian clothing should not be borne by the Employer in view of the fact that civilian clothes worn by detectives can be utilized elsewhere than on duty and their higher salary is some recompense in this area. Further, the utilization of civilian clothes places the detectives in the same position as most other County employees, and there is no necessity to completely subsidize their work clothing.

The panel concludes that a clothing allowance payment of \$60 per quarter to cover both the purchase and maintenance of civilian clothing of detectives is equitable. This \$60 payment shall be made on the first of January, April, July, and October, and since the payments are made in small quarterly amounts, the provision for pro rata reimbursement should be eliminated.

ORDER

A clothing allowance in the amount of \$60 per quarter for detectives required to wear civilian clothing is ordered, payable on the 1st of January, April, July, and October, to cover the purchase and maintenance of such clothing.

VACATION COMPUTATION

The only dispute as to vacations is the method of computing vacation time. The Union complains the present system of computation does not take into consideration the time an employee is off the job due to illness or injury but is based only on actual hours worked. It further requests that vacation time be paid on the anniversary date of hire and that in computing vacation monies, shift premiums be used for those working the second and third shifts.

The Employer maintains that the present practice of computing vacation at the rate of one 8 hour day for each 208 hours worked beyond 1,040 hours should be retained. Vacation pay is computed at the current rate of the employee, exclusive of shift premium. Vacations are granted by seniority and the requirements of the department as determined by supervision.

Findings

The panel agrees with the contention of the Union that vacation time should be computed on the basis of both actual hours worked and legitimate excused absences based upon sickness or the injury of an employee. However, due to the changeable nature of shifts, it agrees with the Employer's position that shift premium should not be considered in computing vacation monies, and the

present method of payment for vacations should be continued as in the past.

ORDER

Vacation pay will be determined on actual hours worked by employees and excused time due to sickness or injury, and shall be computed on the base rate of the employee exclusive of shift premium. Vacation pay will be payable in the same manner as under prior contracts.

TEAMSTERS EYE AND DENTAL CARE

The Union requests that the Employer pay the full cost of the Teamster eye and dental care program for employees and dependents. The cost of this benefit is estimated to be \$3.00 per week to the Employer. The Employer submits this program is not present in any other comparable county, nor does any major employer in Genesee County provide such benefit. Therefore, the Employer maintains the benefit is not justified under the circumstances herein.

Findings

The panel agrees with the Employer that the Teamster eye and dental program is not justified in this case. The Employer is

providing adequate Blue Cross and Blue Shield coverage in line with that provided by other counties of the State. While the eye and dental care program is undoubtedly a good one and is desirable, the panel concludes that with the other benefits provided hereunder, including the granted wage increase, the eye and dental care program is not justified at this time.

ORDER

No change shall be made in the medical benefits provided under the contract.

GUN ALLOWANCE

The Union notes there is a present requirement that officers carry a weapon on off-duty hours. The standard, or service, revolver is claimed by the Union to be totally impractical to carry as an off-duty weapon. Accordingly, the Union requests establishment of an off-duty weapon allowance for the purchase of a handgun and that officers be granted a \$1 per day gun carrying allowance. The Union argues that a law enforcement officer's job is a professional one and he should not be required to purchase from his own funds an off-duty weapon or additional equipment in order to perform his job.

The County contends a gun allowance is not granted in any comparable county and is not justified under the facts in this case.

Findings

The panel concludes that a gun allowance for the purchase of an off-duty weapon at the option of a particular officer is not justified. The Employer provides the regulation service revolver and if an officer wishes to carry a substitute weapon, he has liberty to do so. However, there should be no obligation on the part of the County to provide such alternate weapon.

ORDER

The Union's demand for a gun allowance is denied.

COST OF LIVING ALLOWANCE

The Employer takes the position that cost of living adjustments should be incorporated into the base rates of compensation and that previously granted cost of living allowances for certain classifications should not be continued in the future.

The Union argues that due to high and rising living costs, a cost of living allowance is justified. Employees are steadily

losing spending power due to increases in the cost of living. The Union requests a cost of living allowance, at the rate of 1¢ for each .4 rise in the cost of living index, with no cap, for all bargaining unit employees.

Findings

Due to the short term nature of the contract in this case, the fact that most employees receive a second increase on July 1, 1973 under this award, and the existence of compulsory arbitration in Michigan, the panel finds no justification for the cost of living allowance requested. Such an allowance is not prevalent in other counties or in public employment generally.

ORDER

The Union demand for a cost of living allowance is denied.

WORKMEN'S COMPENSATION

The present contractual policy is that an employee sustaining an occupational injury "will be considered for payments by the Board of Commissioners of an amount sufficient to make up the difference between what is paid by workmen's compensation and his regular weekly rate" (emphasis added). The practice of the County

to pay an employee the difference between workmen's compensation and his regular weekly salary has apparently been uniformly followed in the past. The Union submits the contractual provision should be changed to clearly establish an employee's right to such pay differential and requests the contractual provision be changed from "will be considered for payment" to "shall receive payment". The Union argues that such change in wording will provide a safeguard against discrimination in payment of this benefit.

The Employer maintains that the demanded provision is not prevalent in any comparable county and is not justified, and the present language should be continued.

Findings

The Union's position that present contract language could result in disparate treatment is justified. As now written, there is no standard in the contract to justify any possible refusal of the benefit in a given case. The panel concludes, therefore, that the language requested by the Union should be granted to insure that any employee suffering an occupational injury will be paid the difference between what is paid by workmen's compensation and his regular weekly rate.

ORDER

The Workmen's Compensation article of the contract will be changed from "will be considered for payment" to "shall receive payment", in regard to the County paying the difference between what is paid by workmen's compensation for an employee suffering an occupational injury and the employee's regular weekly rate.

SICK LEAVE - PERSONAL LEAVE DAYS

Since the issues surrounding personal leave days and sick leave are tied together, at least in the Employer's presentation, they will be treated together herein. In regard to personal leave days the policy of the Employer was to grant 5 personal leave days per year for such legitimate purposes as short term illness, doctor or dentist visits, attending funerals, and necessary family business; if the days were not used they could be carried over from one year to the next. The Union subsequently requested that an additional personal leave day be granted each year, and the Employer agreed to grant a sixth day. Standing alone, therefore, personal leave days are not at issue between the parties.

The Union contends the Employer has no sick leave policy and that the great majority of governmental agencies in the State of Michigan allow 12 days per year to employees. It argues that law enforcement work entails exposure to extreme weather conditions in

addition to other hazards related to the job. Accordingly, the Union requests the Employer grant one sick day per month to a maximum of 12 days per year, and that employees be allowed to accumulate sick leave and carry it forward to a maximum bank of 200 days. In addition, the Union requests that upon the death or retirement of the employee, the Employer pay 100% of any unused sick leave.

The County, on the other hand, maintains its sick leave program, when combined with the 6 personal leave days and its sick and accident policy, is superior to the plans of other employers utilized as comparisons. The Employer provides a sickness and accident policy similar to that provided General Motor employees, granting sick, injured, or disabled employees a sick leave benefit of 60% of their salary rate until age 65. The Employer also notes that this policy costs the County \$500,000 per year for all employees and gives far greater protection against wage loss due to sickness or injury than the limited number of said sick days provided by any comparable employer.

Findings

The panel agrees that the Employer's present sick leave policy of combining personal leave days with a sick and accident insurance

program is superior to the protection granted by comparable employers and should be maintained. While the number of personal leave days is approximately half of the sick days normally accorded similar employees, far longer term protection is available to employees of the County in the event of sickness, injury, or disability when combined with the sick and accident policy. It is also noted there is no limit on the accumulation of unused personal leave days under the Employer's present policy. There is, however, no provision for payment of unused personal leave time upon the death, retirement, or quitting. Consistent with what is a common practice by many other employers, the panel will order that 50% of any such unused time be paid to an employee upon his resignation after 4 years service, retirement or death, at the employee's rate of pay at that time. This will give some incentive to an employee to accumulate the time in the event of future illness or other disability.

ORDER

The Employer's present policy of combining 6 personal leave days with the health and accident policy benefits available shall continue. Personal leave days may be accumulated indefinitely and will be paid at the rate of 50% of the employee's current salary at the time of his or her resignation after 4 years service, retirement or death.

MILEAGE ALLOWANCE

The Employer has granted a mileage allowance of 11¢ per mile when it becomes necessary for an employee to use his own automobile to attend any school held outside of Genesee County, if other transportation is not available. The contract does not provide the same mileage allowance for purposes other than attending school, such as when an employee is required to use his own personal vehicle in the line of duty. The Union requests that the mileage allowance be extended in the contract to an employee's use of his own personal vehicle on any business conducted for and at the Employer's request.

The Employer opposes any extension of this benefit.

Findings

The limitation of a mileage allowance to the attendance of schools or educational functions only is unnecessarily restrictive. A broader provision providing for an 11¢ per mile allowance whenever an employee is requested to use his own personal vehicle in the line of duty is warranted. The granting of such mileage allowance is common practice and should be incorporated in the contract. However, the mileage allowance granted herein does not

apply to the mileage necessary for an employee to report to work and return to his residence.

ORDER

The contract shall provide a mileage allowance of 11¢ per mile whenever an employee is requested by the Employer to use his own personal vehicle in the line of duty and on the business of the Employer.

CALL BACK AND COURT APPEARANCE TIME

The Employer has agreed to pay employees in the bargaining unit a minimum of four (4) hours for call-in time at their appropriate hourly rate if they are called back to work at any time. In regard to court appearances, employees who are subpoenaed to appear in court on days off or other authorized off duty time are paid at their regular hourly rate for a minimum of two hours in lieu of any witness fees.

The Union requests that call-in time and time paid for court appearances be paid at the rate of time and one-half the employee's regular hourly rate. It argues the only time an employee is called in is during his regular off-duty hours and it is not unreasonable that such time should be paid at premium rates. Further, the Union contends that the minimum provision for court time should be a guarantee of four hours, rather than two, at the rate of time

and one-half. The County opposes any modification of the benefit.

Findings

The present offer of the Employer in regard to call-in time and court appearances with the stated minimums is more liberal than comparable counties and should be maintained. The appearance of a police officer or other citizen in court is a necessary part of law enforcement work and must be accepted as such. However, the panel agrees the minimum time paid for court appearances should be the same as that provided in the call-back situation, to wit, 4 hours minimum time. This will adequately compensate any employee required to appear in court during his off hours. Call-in and court appearance payments should be made only in situations when the employee is off duty and where overtime pay would not otherwise be applicable.

ORDER

A minimum of 4 hours straight time pay for employees called back to work or required to appear in court during their off duty hours is ordered.

SHIFT DIFFERENTIAL

The Employer pays employees 6% premium pay for the second (afternoon) and third (night) shifts. The Union requests that the Employer continue to pay the 6% shift premium on the second shift but increase the premium to 8% on the third shift, since that shift is considered most difficult for the man and his family. The Employer takes the position that such a shift premium is not prevalent in any comparable county and is not justified.

Findings

The panel finds that bargaining unit members who work the third or night shift should be paid a differential in excess of that provided afternoon shift employees. Not only is the night shift more disruptive of an employee's personal and family life but the practice of paying a higher differential for third shift workers is generally recognized in the private sector and has found increasing application in public employment where such work is required.

ORDER

That the shift differential for employees assigned to the third, or night, shift shall be

paid at the rate of 8%, and that the second, or afternoon, shift differential shall remain at the rate of 6%.

SHIFT PREFERENCES

In the past, the Employer's policy has been that employees with a minimum of two years seniority may, upon request, change shifts on a yearly basis during the first 15 days in April and the first 15 days in October, such shift changes taking effect 30 days from the date of the request. The Employer's present position is that shifts should be rotated every three months and that such rotation is more efficient in promoting greater teamwork in the department. It further argues that the prior system of shift preference is not prevalent in any comparable county and is not justified.

The Union requests the system of shift preference be continued as in the past. It argues that efficiency is promoted when an employee gets used to a certain shift and becomes accustomed to the problems attendant to those particular hours.

Findings

The shift preference policy as it has existed in the county is more favorable than that existing in most other counties. However, it may be desirable for the Employer to make shift assignments

in furtherance of law enforcement objectives for short periods of time. Accordingly, the panel concludes that the past system of shift preference should continue with the provision that the Employer may, upon 15 days notice, make shift changes in furtherance of law enforcement objectives, provided such changes do not extend beyond a 30 day period and provided further, that the Employer may only change the shift preference of an employee once in the calendar year.

ORDER

The present system of shift preference is ordered continued, provided that the Employer may make appropriate shift changes of personnel not to extend beyond a 30 day continuous period when required by the exigencies of law enforcement work, provided that a 15 day notice of change in shift is given and provided further, that no employee shall have his shift changed more than once in the calendar year.

WORKING IN HIGHER CLASSIFICATION

The present policy is that an employee required to work in a higher classification within the bargaining unit shall receive the higher rate of pay upon meeting the job requirements. The Union, however, raises a question concerning the uniformity of job requirements for the various classifications and requests that

specifications for such classifications be outlined for each job and uniformly applied. It further requests that the most senior employee in the classification immediately below the classification which is to be worked be offered work in the higher classification. The Union argues that such policy would honor seniority and aid or compliment the promotion programs by obtaining the employee with the most practical experience.

The Union also argues that in some cases, it is impossible to tell when a man is doing the entire job of a higher classification and thus, he is entitled to the pay of that classification. The specific example raised involves two patrolmen, Jensen and Sabo, who are assigned to work in the detective bureau investigating misdemeanors, hit-and-run accidents, and serving as warrant officers. The Union seeks a higher or premium rate to reflect the specialized assignment of these two patrolmen.

The Employer contends the work in the detective bureau for which the Union seeks a higher rate of pay has always been performed by patrolmen; the deputies in question are under the supervision of the patrol department rather than the detective bureau and are doing work that patrolmen have always done and still do. Thus, the County contends that no special rate of pay is justified for this position, and that it is not the panel's function to draft job classifications, as requested by the Union.

Findings

The panel concludes the present contractual provision pertaining to work in a higher classification is adequate and should be continued. While all ambiguities in a case where an employee is performing work in a higher classification cannot be eliminated, there is a grievance procedure which the Union can follow if it feels aggrieved in any particular instance. To attempt to accomplish this by means of a contractual provision would be extremely difficult and the panel will not undertake to fashion such provision. However, seniority should be followed if the employee is capable of performing the job.

In regard to the two patrolmen handling warrants and hit-and-run complaints, this has always been patrol work and no provision will be made for a premium rate therefor. These assignments are part of the patrol function, and it is conceivable that these jobs may, in many cases, be more desirable than the usual patrol duties because of their close connection with the detective bureau.

ORDER

The present provision in regard to working in a higher classification will be maintained. However, seniority shall apply, with the most senior employee in the classification immediately below the classification to be worked being offered the job, if that employee is capable of performing the work.

PROMOTIONS

The parties are in agreement as to the criteria used for promotions to detective from patrolman: written examination - 55%; oral examination - 25%; and past experience - 20%. A three man panel is responsible for scoring the various individuals seeking promotion, and it is the Employer's position that these three individuals should be his designees. The Union contends only one designee should be named by the Sheriff as his representative and that the other two designees should come, one from the patrol division and one from the detective bureau. The Employer responds that promotions are a management function and bargaining unit personnel should not be involved in these procedures. Protest through the grievance procedure is available if the promotion machinery is improperly utilized. The Union responds that under the Employer's argument, promotions rest totally on the subjective evaluation of the Sheriff, which would enable him, if he were so inclined, to practice discrimination in the selection of employees.

The Union further seeks a provision that the same test will be given to all employees applying for a promotion and that copies of written test results will be given to those taking the examination. The Employer counters that it is always been its practice to give the same examination to all employees applying for a promotion but

it took no position on supplying test results.

Findings

While the panel agrees that the promotion process is a management function, every safeguard should be taken to insure that it operates on a fair and impartial basis. Accordingly, the Employer will be permitted to select all three panelists utilized in the scoring of promotion examinations and criteria, provided that two of the three designees be law enforcement officers at the supervisory level selected from police departments in other communities with the third panelist being the sheriff or his designee.

There does not appear to be any issue between the parties as to the fact that all employees taking a test for a given promotion are given the same test, and as far as test results are concerned, the panel agrees with the Union that employees taking those examinations should be provided with the results thereof. It is noted that the promotions involved in this issue are those from patrolmen to detective, and do not apply to promotions above the rank of detective.

ORDER

The three man panel scoring employees seeking promotion from patrolman to detective shall

consist of two law enforcement officers at the supervisory level selected by the Genesee County Sheriff from police departments in other communities, with the third member of the panel being the sheriff or his designee.

The written test given employees trying for promotion from patrolman to detective shall be uniform and applicants writing such examinations shall be given the results thereof.

JURISDICTION OF UNION

The Union submits the Employer should not assign duties normally assigned to bargaining unit members to others, except in case of emergencies. It maintains the Employer may erode the bargaining unit, apparently by creating additional supervisory personnel. The Union also seeks to curb any arbitrary eroding of bargaining unit work by the Employer giving it to supervisory employees or non-bargaining unit personnel.

The Employer contends the issue which concerns the Union has never occurred and that when it does, it can be resolved through arbitration. It notes the Union brought forth no substantiation that any problems have existed or do exist with regard to the present contractual provisions concerning this item and, therefore, no revision is justified.

Findings

The panel believes there is no necessity for a clause covering

the jurisdiction of the Union. The current proposed agreement contains a preamble, a recognition clause, and a Union Rights clause which adequately protects bargaining unit work of the Union. Accordingly, it is not necessary to add further provisions to the contract in regard to the hypothetical problem raised by the Union.

ORDER

No change in the contract will be made in regard to the jurisdiction of the Union.

MAINTENANCE OF STANDARDS

The Union takes the position that there are certain benefits now being enjoyed by the employees which are too numerous to mention because of the complexity of a governmental agency, and which benefits are contained in the various charters and laws of the county. The Union maintains that it is imperative to have a maintenance of standards clause in the contract to protect these benefits.

The Employer submits that no revision in the contract is justified in this regard, and that the Union has not set forth any problems pertaining to the maintenance of benefits or standards. The Employer maintains that if the Union wishes to submit a list of those items covered by a maintenance of standards clause, it would

consider them; without documentation, however, it will not consider such a catchall clause.

Findings

A maintenance of standards clause is desirable in a contract, especially in the public sector where many rights and benefits may be found in promulgations outside of the particular department under consideration. To obviate a possible argument that such rights and benefits do not pertain to Sheriff's Department employees, a maintenance of standards provision will be ordered.

ORDER

The collective bargaining agreement will contain a maintenance of standards clause whereunder all existing benefits and conditions of employment not specifically proscribed under that collective bargaining agreement will be continued.

AGENCY SHOP

The Union has had a maintenance of membership clause in its contract in the past and seeks language in the current contract which would permit the incorporating of an agency shop provision if the necessary statutory language is added to the Public Employment Relations Act. The Union position is that if the agency shop

becomes legal in the State of Michigan, the parties will immediately incorporate such clause in their present agreement. It notes that the Employer's last offer included a maintenance of membership provision. The Employer took no position in regard to the agency shop.

Findings

In view of the fact that the parties have in the past had a maintenance of membership provision in their contract, which was policed by a standard authorization card for payroll deductions, that provision should be continued but the panel concludes it would be desirable to authorize a union security arrangement should state law be amended to provide for it. Accordingly, the collective bargaining agreement should contain the maintenance of membership provision but will also direct that in the event union security becomes legal under State law, the parties will forthwith incorporate a contract clause providing for an agency shop.

ORDER

That the maintenance of membership provision from the past contract be continued provided, however, that should union security be authorized by State statute the parties will forthwith incorporate an agency shop provision into the collective bargaining agreement in lieu of said maintenance of membership clause.

HOLIDAY PAY

The parties are in agreement as to 12½ paid holidays granted. On six of the "major" holidays, premium pay at the rate of time and one-half is paid to employees required to work and in addition, the County gives one day compensatory time to such employees. On the remaining 6½ holidays, an employee required to work is paid straight time and given a day of compensatory time in addition. The Union requests that all of the 12½ holidays be paid at the rate of double time if an employee is required to work, plus the holiday pay. If not required to work on the holiday, he or she would receive the usual holiday pay.

The Employer's final offer to the Union was to add 3 more holidays, e.g., Lincoln's Birthday, Washington's Birthday, and Veterans Day, as holidays for which premium pay would be received in addition to compensatory time off at the employee's regular rate. The remaining 3½ holidays would be paid at the regular hourly rate and the employee would be granted compensatory time off with pay at the regular hourly rate.

Findings

The holiday pay benefits of the County are equal to or better than the comparison counties offered in the exhibits. Accordingly,

it is concluded that the County's last offer to the Union of an additional 3 holidays at premium pay of time and one-half, making a total of nine such holidays, is reasonable and should be incorporated in the contract.

ORDER

In addition to the six holidays recognized in the past with premium pay for employees required to work, the contract will add Lincoln's Birthday, Washington's Birthday, and Veterans Day as holidays to be paid at time and one half with compensatory time off. All remaining holidays will be worked at the employee's regular rate of pay with compensatory time off.

THE ARBITRATION OPINION

Only the preceding issues were submitted in evidence or argued by the parties in the course of the hearings. Although initially noted by the Employer as unresolved, no evidence was presented or positions taken in regard to bereavement pay or life insurance and, therefore, those areas were not considered herein.

This Opinion has been prepared by the Arbitration Panel Chairman and represents his analysis of the record and the exhibits presented by the parties. The panel has met in executive session to review and discuss the transcript, exhibits, and the respective arguments of the parties. The County and the Union panelists concur

or dissent in the foregoing orders as set forth below and their views, if desired, may be attached to this Opinion.

The Arbitration Panel unanimously agrees on the following issues:

Clothing Allowance for Detectives

Teamster Eye and Dental Care

Mileage Allowance

Shift Preference

Agency Shop

The Panel Chairman and the County delegate concur and the Union delegate dissents in regard to the following Orders:

Standby Time in the Detective Bureau

Gun Allowance

Cost of Living

Holiday Pay

Personal Leave Days

Sick Leave

Working in Higher Classification

Jurisdiction of Union

The Panel Chairman and the Union delegate concur and the County delegate dissents in regard to the following Orders:

Salary - Wages

Vacation Computation

Workmen's Compensation

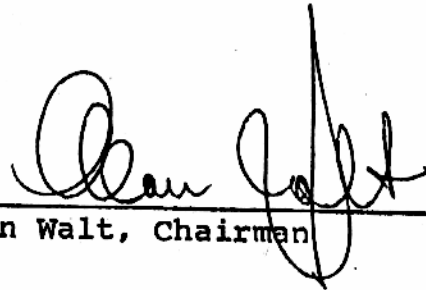
Call Back and Court Appearance Time

Shift Differential

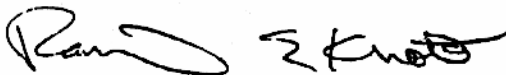
Promotion Procedure

Maintenance of Standards

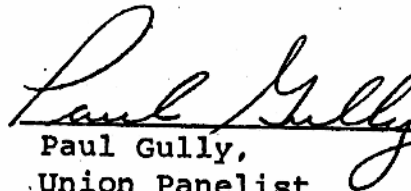
Each of the panelists has appended his signature below, indicating concurrence or dissent as noted above.



Alan Walt, Chairman



Raymond E. Knott,
County Panelist



Paul Gully,
Union Panelist

DATED: June 19, 1973