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STATE OF MICHIGAN

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EMPLOYMENT RELATIONS COMMISSION
ACT NO. 312 ARBITRATION PROCEEDING

IN THE MATTER OF
COUNTY OF BAY

Act No. 312
MERC No. L83 J-880

-and-

BAY COUNTY SHERIFF'S
DEPUTIES ASSOCIATION

FILE COPY

Bay County

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OPINION AND AWARD

PROCEDURE

This arbitration has been involved with numerous procedural matters as reflected in the official pleadings of the parties. Originally, the Petition filed with MERC covered two units, Unit I consisting of all dispatchers of the Bay County Sheriff's Department, and Unit II consisting of Deputies, Correctional Facility Officers and Road Patrol Officers. The Employer filed a Motion to Dismiss or Clarify the Petition as to the inclusion of Correctional Facility Officers within the arbitration.

This Motion was denied by the Commission. Court Proceedings were then instituted to enjoin the hearing of any evidence regarding the Correctional Facility Officers. (County of Bay v Michigan Employment Relations Commission, Bay County Sheriff's Deputies Association and S. Olof Karlstrom, Bay County Circuit Court Case No. 84-3330-PAA).

A Restraining Order was issued and a Show Cause set on September 25, 1984. The Court dissolved the Restraining Order, remanded the issue regarding the Correctional Facility Officers to MERC, and stayed further Court proceedings pending completion of the arbitration and MERC hearings.

At the arbitration held November 12, 1984, the parties agreed that evidence regarding wages for Correctional Facility Officers would be taken, but that no decision would be made in

regard to the wages of Correctional Facility Officers pending a decision by MERC (Transcript pages 6 & 7).

As of this date, the arbitration panel has not heard from the parties or MERC regarding the status of the MERC hearing and decision. Accordingly, no decision will be rendered regarding wages for Correctional Facility Officers. Thus, this award will consider only the following employees from the two units:

Unit I: All members of the bargaining unit which consists of Dispatchers.

Unit II: All members of the bargaining unit below the rank of Lieutenant consisting of Deputies, Detectives and Sergeants in the pay classification Road/Detective and Dispatchers (See Employer Exhibit 1 and Union Exhibit 3). Specifically excluded are Clerk Typists and Correctional Facility Officers.

The sole issue for determination by the arbitration panel are the wages to be granted these employees for the period of January 1, 1984 to December 31, 1984.

The parties stipulated to the admission of numerous exhibits. The Employers 48 exhibits consisted of information regarding the Bargaining Unit Employees combined with an analysis of their wages and benefits, and comparisons to other counties and cities. Data was also provided regarding comparable units of government, SEV data and budget data for Bay County.

The Union's 19 exhibits consisted of Collective Bargaining Agreements from Bay County and other governmental units, bargaining history information and an extensive salary survey (The Morley Study - Union Exhibit 1 A-M, which was agreed to and submitted in its entirety). Other information was submitted regarding wage comparisons to other communities and budget information regarding Bay County.

GENERAL INFORMATION

From the Exhibits submitted and the testimony, the following information can be determined. Bay County is an area of approximately 447 square miles with population approximating 119,000 people.

Since 1979 the County has functioned under an Executive form of government with an elected County Executive who is in charge of day to day operations. He is responsible to a Board of Commissioners consisting of nine members, which is the policy making body of the County. In 1978, the County had approximately 887 employees. In 1984, there were 440 employees. The reduction in staff has incurred as a result of economic conditions. Said reduction includes the loss of 120 CETA employees.

The County currently levies a tax of 5.19 mills. This revenue represents slightly over fifty-seven (57%) percent of its general fund revenues. At the end of the 1983 fiscal year, it

had an audited fund balance of \$308,660.00 (Transcript page 131, Employers Exhibit 5). Its adjusted budget for 1984 was \$13,873,402 (Employers Exhibit 48). Budget adjustments had apparently reduced the fund balance to approximately \$73,500.00 as of September 30, 1984 (Employers Exhibit 45). In addition to the general fund undesignated balance, there is a revolving delinquent tax fund which has at least \$1,000,000.00. It has been recommended by the County Executive that \$725,000.00 of these funds be used to balance the proposed 1985 budget of \$14,258,747.00 (Transcript pages 160, 161; Employers Exhibit 48).

The roster of employees involved in this arbitration includes 11 Sergeants, nine Dispatchers and 27 Deputy/Detectives (Employers Exhibit 1). The annual top wage paid Deputies in 1983 was \$21,980.00. The top wage paid to Sergeants was \$25,311.00, while the top wage paid to Dispatchers was \$15,572.00. It should be noted that the parties analysis of wages has concentrated on the Deputies.

LAST BEST OFFERS

Subsequent to the closing of proofs, the parties submitted their last best offers as follows:

For the Employer: All classification rates in the bargaining units (Number 1 and 2), except the Correctional Facility Officer and

Clerk Typist, shall be increased by four (4%) percent, retroactive to the first pay period on or after January 1, 1984.

For the Union: Unit I Dispatchers:

January 1, 1984 six (6%) percent increase;

July 1, 1984 five (5%) percent increase;

Unit II Deputies, Detectives, Sergeants, and Correctional Facility Officers:

January 1, 1984 six (6%) percent increase;

July 1, 1985 five (5%) percent increase.

An analysis of these offer reveals the following. As of July 1, 1984, the top wage for a Deputy would be \$22,859.00, if the Employer's Plan is followed. If the Union's proposal is followed, the top wage as of July 1, 1984, would become \$23,298.00. As of January 1, 1984, the top wage would go to \$24,464.00.

DISCUSSION

In arriving at his decision, the arbitrator is sought to consider a number of factors, which will be dealt with in the course of his discussion.

THE PUBLIC WELFARE AND FINANCIAL ABILITY
OF THE COUNTY

There is no question that at one point in time, Bay County was experiencing the results of the generally acknowledged economic downturn in early 1980. However, the record indicates that by 1983, the County was recovering sufficiently to provide a general fund undesignated balance of approximately \$308,000.00 with revenues exceeding expenses by more than \$145,000.00. The evidence presented as to the status of the County for 1984, was somewhat equivocal. It is unquestioned that they still had a fund balance as of September 30th, that as of October 31st the County revenues exceeded expenditures (Transcript Pages 141-143) and that there could be a \$125,000.00 shortfall. It was admitted that the County had a delinquent tax revolving fund of \$1,000,000.00, of which at least \$750,000.00 was proposed to be used in the 1985 budget.

A review of Employers Exhibit 9 indicates that a percentage increase of four (4%) percent, including all roll-ups for Deputies, Correctional Facility Officers, and Dispatchers would cost \$83,972.00. The Union's proposal (a gross impact of eleven (11%) percent over time, with a net impact of approximately 8.6 percent) of 8.6 percent for all affected members of the bargaining unit would be approximately \$175,000.00. (This cost includes Correctional Facility Officers and should be reduced to near

COMPARISON OF WAGES, HOURS AND CONDITIONS
OF EMPLOYMENT TO OTHER EMPLOYEES

The arbitrator has carefully reviewed the various exhibits submitted by both the Employer and the Union regarding Comparative Wage Studies.

The arbitrator notes that in the comparable counties chosen by the management for 1983, the Bay County Deputies ranked fourth in salary. Of the cities selected by the Employer, the Deputies would rank last, out of four cities (even when roll-ups are considered).

In terms of the comparables chosen by the Union, the arbitrator has noted that in the ten comparables listed for 1984, Bay County would be last for 1984, (based on the 1983 wage scales in effect for 1984). If an adjustment is made, using the Employer's figure of \$22,859.00 (the 4% increase), the Deputies would rank eighth. If the Union's proposal is adopted, they would be sixth on July 1, 1984, and fifth on January 1, 1984.

In regard to the comparable cities involved, the proposal of the Union, as well as that of the Employer, would leave them in fourth position.

GENERAL COLLECTIVE BARGAINING INFORMATION

The arbitrator would note the fact that other employees had received generally a twelve (12%) percent increase for 1984. The Union was offered such a proposal, provided they gave up certain of their fringe benefits considered over and above those of other employees. These generally were in the area of cleaning allowance, gun and breathalyzer tests, and some shift premiums. Also included would be their pension benefit costs (five (5%) percent more than the other employees).

Further, the arbitrator notes that the County was willing to pay at least a twelve (12%) percent increase, provided that the Union took some reductions. The Union's proposal, although having the appearance of being substantial, is not equal to twelve (12%) percent in terms of the net benefit to the employee, which is only 8.6%. This is a means of structuring a wage increase, without having the overall impact costs to the Employer.

The arbitrator further notes that as to the Dispatchers, no substantial evidence was introduced regarding salary increases, or comparisons. The Union has indicated that they are still beneath the comparable Dispatchers in two other counties. That comparison is similar to the analysis of the Deputies' salaries. Although the parties have concentrated their efforts upon the

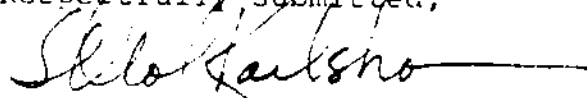
salary scales of Deputies, when one views the Sergeants' pay, it follows logically that it should maintain the same differential as indicated by the parties' percentage increase proposals.

The arbitrator further notes that the Morley Study was, in fact, commissioned by the Board of Commissioners. The arbitrator is familiar with the recommendations in that study, and has reviewed the information and agreements submitted with the Union's Brief regarding how that Study was used to settle certain grievances proposed by the Union. The arbitrator also notes that the Morley Study recommends an increase in the Deputies' salaries to \$23,741.00 for 1984. It also recommends increases accordingly for the Sergeants and the Dispatchers.

AWARD

Having reviewed the evidence as indicated above, the arbitrator concludes that the Union's last best offer of six (6%) percent effective January 1, 1984, for those employees covered by the arbitration award, followed by a subsequent increase of five (5%) percent effective July 1, 1984, should be awarded. This award is to apply to Unit I Dispatchers, and to Unit II Deputies and Detective/Sergeants, and excludes clericals and Correctional Facility Officers.

Respectfully submitted,



S. Olof Karlstrom
Chairman

Dated: April 10, 1985

Concurrence or dissent only
as to the final Order


Peter C. Jensen

Dated: April 11, 1985

CONCUR

DISSENT

Jack R. Clary

CONCUR

DISSENT

Dated: _____

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Dated: April 10, 1985

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Chairman

Concurrence or dissent only
as to the final Order

Peter C. Jensen

CONCUR

DISSENT

Dated:

Jack R. Clafy

CONCUR

DISSENT

Dated: 4/12/85

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EMPLOYMENT RELATIONS COMMISSION
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-and-

BAY COUNTY SHERIFF'S
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SUPPLEMENTAL OPINION AND AWARD AS TO
BAY COUNTY CORRECTIONAL FACILITIES OFFICERS

BACKGROUND

This Supplemental Opinion and Award is the final step in concluding Act 312 procedures involving the parties.

During the course of the proceedings, a restraining order had been issued precluding the Arbitrator from considering the Correctional Facility Officers as follows:

"IT IS FURTHER ORDERED that until a hearing on the application for a Preliminary Injunction is conducted, the Defendant Olof Karlstrom and the Defendant Bay County Sheriff's Deputies Association are hereby enjoined from any consideration of the position of correctional facility officer in any manner in the previously scheduled Public Act 312 proceeding. (County of Bay v MERC, et al, Bay County Circuit Court Civil Action 84-3330-AP)."

This order was dissolved by the court on September 25, 1984.

An arbitration hearing was then held on November 12, 1984. The parties agreed evidence regarding wages for the Bay County Correctional Facilities Officers would be taken but that no decision would be made in regard to the wages of the Bay County Correctional Facilities Officers pending a decision by MERC as to whether they were covered by Act 312. (Transcript pages 6 and 7). The employer, while agreeing that evidence could be admitted, maintained the position that the arbitration panel was without jurisdiction to consider the wages of the Correctional Facility Officers.

On April 10, 1985, the panel issued an opinion and award covering all represented employees except the Correctional Facility Officers. Subsequently, MERC issued an opinion and award holding that the Bay County Correctional Facilities Officers were covered by Public Act 312 proceedings. This decision and order was not appealed and is now final and binding on this arbitration panel.

DISCUSSION

The panel has reconsidered the evidence and briefs of the parties developed in connection with this matter, considering the eight factors enunciated in City of Detroit v DPOA, 408 Mich 410 (1980).

We note that the Bay County Correctional Facility Officers are the lowest paid correctional facility officers in the comparables submitted to the panel (Union Exhibit 1, p 7). A comparison of the various wages represented show the following comparison:

(Union Exhibit F)	Midland County	Year 7/1/83	Wage Range \$16,369-\$24,135	Years 3
(Union Exhibit H)	Saginaw County	1984	\$19,041-\$22,163	3
(Union Exhibit 2)	Bay County	1983	\$17,088-\$20,533	3

The Employer's last best offer of 4 percent would bring the salary range to \$17,711 - \$21,354 while the Union's last best offer of a 6 percent raise effective January 1, 1984 followed by a 5 percent raise six months later would develop ranges of \$18,113 - \$21,765 and \$18,967 - \$22,791.

The figures illustrate that the salaries proposed by the Union would be less than those in effect for Midland and somewhat higher at the top of the range than Saginaw. It would put the officers in the middle of the ranges and would be closer to the recommendations made by the Morley Study which recommended a range of \$17,420 - \$22,125. (Union Exhibit 4).

The ranges are not unreasonable. It is recognized that the percentage of increase exceeds the cost of living increases since

1982 which Employer Exhibit 6 indicates to have been 7.6 percent. (The Union's figures indicate an increase of 9.3 percent, Exhibit 1, p 8). However the increase presented by the Union is much closer to the Morley Study Recommendation and takes into account the fact the officers received no increase in salary in 1983, whereas other units did. It should also be noted that historically the Correctional Facility Officers have consistently received the same percentage increases as other members of the bargaining unit.

AWARD

In consideration of the eight factors required to be reviewed and for the reasons set forth herein and in the Opinion and Award dated April 10, 1985, which is incorporated herein and adopted by reference, we conclude that the Union's last best offer of six (6%) percent effective July 1, 1984 shall be awarded the Correctional Facility Officers.

Respectfully submitted,



S. Olof Karlstrom
Chairman

Dated: August 1, 1985

Concurrence or dissent only as to the final order:

Peter C. Jenson

Dated: _____

Concur _____ Dissent _____

Jack R. Clary

Dated: _____

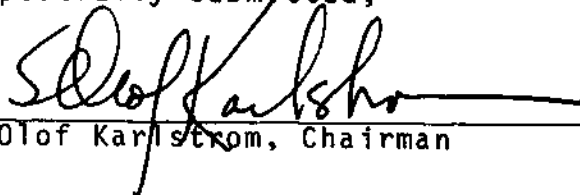
Concur _____ Dissent _____

The panel has been advised that although the discussion portion of its opinion indicated that the Correctional Facility Officers were to receive the same percentage increase as the other members of the bargaining unit, the final award of August 1, 1985, granted only part of that. Accordingly, the panel issues this Amendment of Award to make the salary increases granted Correctional Facility Officers equal to those of the other bargaining unit members.

AMENDED AWARD


In consideration of the eight factors required to be reviewed and for the reasons set forth herein and in the Opinion and Award dated April 10, 1985, which is incorporated herein and adopted by reference, we conclude that the Union's last best offer of six percent (6%) effective July 1, 1984, and five percent (5%) effective January 1, 1985, shall be awarded the Correctional Facility Officers.

Respectfully submitted,


S. Olof Karlstrom, Chairman

DATED: August 16, 1985.

CONCURRENCE OR DISSENT ONLY AS TO THE AMENDED FINAL ORDER:


Peter G. Jensen
DATED: August 19, 1985.

Concur ☒ Dissent ☐

Jack R. Clary
DATED: August _____, 1985

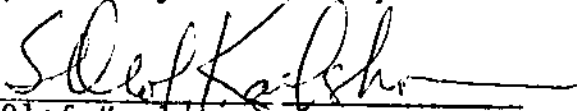
Concur ☐ Dissent ☐

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Respectfully submitted,


S. Olof Karlstrom
Chairman

Dated: August 1, 1985

Concurrence or dissent only as to the final order:


Peter C. Jensen
Dated: 8/2/85

Concur ☒ Dissent ☐

Jack R. Clary
Dated: _____

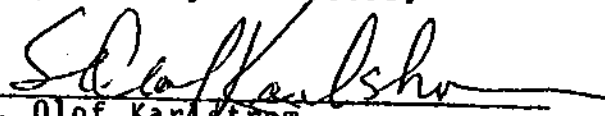
Concur ☐ Dissent ☐

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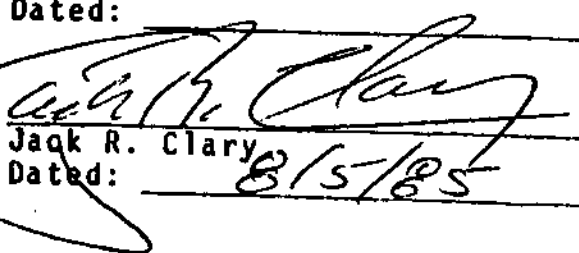

S. Olof Karlstrom
Chairman

Dated: August 1, 1985

Concurrence or dissent only as to the final order:

Peter C. Jenson
Dated: _____

Concur _____ Dissent _____


Jack R. Clary
Dated: 8/15/85

Concur _____ Dissent ✓