

446

10/21/70  
Howlett  
ARB  
Brendel

Leelanau County of

ARBITRATION OPINION AND AWARD

In the matter of the dispute between  
Leelanau County Board of Commissioners,  
Leelanau Sheriff, and  
Leelanau Police Officers Association

RE: Contract Arbitration pursuant to Act No. 312 Public Acts of 1969

10/70

Arbitration panel:

C. Keith Grotv, Chairman  
John Bacon  
Ellis R. VanHoesen

Appearances:

James R. McCormick, Attorney  
A. J. Brendel, Commissioner  
Elmer Warner, Commissioner  
O. Dale Reynolds, Commissioner  
Otto Mork, Commissioner  
Arthur Borsch, Commissioner

Leelanau County Sheriff

Richard C. Steffens, Sheriff

Leelanau County Police Officers Association

Frank D. Allen, President  
David W. Gill, Treasurer  
Harold A. Weinert, Vice President

Hearings took place on September 30, 1970 and October 21, 1970 in the  
Leelanau County Court House, Leland, Michigan. The arbitration panel was  
selected in accordance with the provisions of Act No. 312 Public Acts of 1969  
with the chairman appointed by Mr. Robert Howlett, Chairman of the Michigan  
Employment Relations Commission.

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ISSUES:

There are no pre-hearing stipulation of outstanding issues by either of the parties. It was therefore necessary to spend considerable time at the outset of hearings to ascertain the exact nature of the dispute between the parties and the positions of the parties on those issues. The arbitration panel chose to hear the parties on all issues on which a three way agreement between the commissioners, the sheriff, and the police officers could not be achieved. The following report and award will reflect all of those issues presented before the panel.

CHECK OFF:

The panel believes that the request for check off is reasonable and will not present a hardship upon the county. Therefore, as Section C of Article 2, the following language shall be inserted in regard to check off:

"The employer will deduct, upon signed authorization by individual officers all initiation fees, dues, and assessments as certified by the Association and forward same to the Association's authorized treasurer each month. The authorization shall be irrevocable for the term of the agreement."

AGENCY SHOP:

The demand for an agency shop provision is rejected by the panel. Since all persons covered by the bargaining unit are now members of the Association, it is the determination of the panel that this provision is unnecessary at this time, and the matter should be decided by collective bargaining in subsequent years.

PAID PRESENTATION TIME:

Since the unit is very small, the panel foresees the possibility that some members of the Association negotiating team may always be on duty. Therefore, Article 4 Section B shall read as follows:

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"On-duty officers who are members of the bargaining committee shall be paid during negotiations. It is intended, however, that bargaining shall be scheduled when the least number of persons on the negotiating team are on-duty. If in the course of a bargaining session, it is necessary for the on-duty officer to answer calls, bargaining sessions will be postponed and rescheduled, if necessary. The processing of grievances may also be done during on-duty time without loss of pay or benefits provided, however, that off-duty time is unavailable."

#### GRIEVANCE PROCEDURE:

The panel found it necessary and desirable to modify the grievance procedure to agree with other provisions to be awarded and provide certain procedural guarantees. Therefore, Article 5 Section B shall read as follows:

- "1) A grievance is a written dispute, claim, or complaint arising under and during the terms of this agreement that may be filed by any employee in the bargaining unit. Grievances are limited to matters of interpretation or application of express provisions of this contract or violations by the employer of any federal or state laws governing the working conditions and compensation of the members of this bargaining unit.
- 2) The individual employee shall within three days of the alleged occurrence, discuss the grievance with the supervisor with an attempt to resolve the grievance informally. An individual not satisfied with the results of the personal conference with his supervisor may take his grievance to the Association for assistance. At the informal conference the employer or the individual employee may request the presence of an Association representative. Failing resolution of the grievance at the informal step the Association and the grievant shall place the grievance in writing within three days following the informal conference.
- 3) Grievances shall be processed and answered by the employer within seven calendar days. Any grievance not carried to the next step by the Association within the time limits or any extension agreed upon shall be automatically closed upon the basis of the last disposition. Failure to follow the time limits for answering the grievance shall permit that grievance to be carried to the next step of the grievance procedure by the Association and the grievant.
- 4) Any employee wishing to file a written grievance shall in the company of the Association present it in writing to the Sheriff or the Board of Commissioners, depending upon whether it is a matter of departmental concern or a matter within the original authority of the Board of Commissioners. No grievance shall be denied because of initial filing with the wrong agency of the employer.

5) When an employee is discharged or layed off for cause, is given a written reprimand or warning, or where discipline is to be made a matter of permanent record, the Association will be promptly notified by the employer of the action taken. In such cases, the time limits for filing a grievance shall begin to run from the date of such notice to the Association.

6) The Association shall represent all employees fairly and equally, without discrimination on the basis of membership or non-membership in the Association."

#### GRIEVANCE ARBITRATION:

The panel believes the intent of the law is to provide for arbitration to settle disputes between public employers and police and firefighters. It would be inconsistent to embrace contract arbitration and deny arbitration of grievances. Mr. Justice Douglas in delivering the opinion of the United States Supreme Court in the case of the Textile Workers Union of America vs Lincoln Mills of Alabama said "Plainly the agreement to arbitrate grievance disputes is the quid pro quo for an agreement not to strike." Therefore, since strikes are illegal under Michigan statute and since the intent of the legislature appears to be the substitution of arbitration to settle disputes between public employers and police officers, the panel directs that Article 6 shall be worded as follows:

"Any unresolved grievance, having been processed through the last step of the grievance procedure, may be submitted to arbitration by either party in accordance with the following:

1) Arbitration shall be invoked by written notice to the other party of intention to arbitration within seven days of the receipt of the written answer from the Sheriff or the Board of Commissioners. Upon receipt of a notice to arbitrate, the employer and the Association shall endeavor to select a mutually acceptable arbitrator. If within five days the parties are unable to agree on an arbitrator, the parties shall file a request with the American Arbitration Association to submit a list of qualified arbitrators. The arbitrator shall then be selected according to the rules of the American Arbitration Association.

2) The decision of the arbitrator shall be final and binding upon the employer, the Association, and the effected employee or employees involved. The arbitrator shall construe this agreement in a matter which does not interfere with the exercise of the employers rights and responsibilities except where they have been expressly and clearly limited by the terms of this agreement. The arbitrator shall have no power or authority to add to, subtract from, or modify any of the terms of this agreement and shall not substitute his judgement for that of the employer where the employer is given discretion by the terms of this agreement or by the nature of the area in which the employer is acting. The arbitrator shall not render any decision which would require or permit any action in violation of the laws.

3) The arbitrator's fees and expenses shall be shared by the employer and the association equally. The expenses and compensation for attendance for any employee, witness, or participant in the arbitration shall be paid by the party calling such employee, witness, or requesting such participants."

#### ABSENCE WITHOUT LEAVE:

The panel believes a period of four (4) days must be the maximum under all but very unusual circumstances for persons to be absent without leave. Therefore, Article 7 Section A-3 shall read:

"He is absent without leave for a period of four (4) days or more. (Exceptions to this may be made by the employer on the grounds of good cause for failure to report.)"

#### SHIFT ASSIGNMENTS AND FURLOUGHS:

The balance between the desirability of recognizing seniority and its practicability in a small department is difficult to find. We direct the following language to represent a recognition of the desirable factors to be considered when making shift assignments or choice of furloughs. Therefore, Article 7 Section D shall be worded as follows:

"In making shift assignments and choice of furloughs consideration and recognition will be given to the seniority of the individuals within the unit. However, because of the small department and the need for experienced personnel at all times, the assignment shall not be limited to seniority."

### DISCHARGE OR DISCIPLINE

Since the panel has decided to award arbitration, Article 7 Section E shall be worded as follows:

"No employee shall be discharged or otherwise disciplined except for just cause. The claim from any employee that he has been unjustly discharged or otherwise disciplined shall be processed as a grievance, including arbitration."

### MAINTENANCE OF CONDITIONS

The counter proposal of the County is felt most desirable for settlement of this issue. Therefore, Article 8 Section 1 shall be worded as follows:

"Wages, hours, and conditions of employment legally in effect at the execution of this agreement shall, except as improved herein, be maintained during the term of this agreement. The employer will make no unilateral changes in wages, hours, and conditions of employment during the term of this agreement, contrary to the provisions of this agreement. No employee shall suffer a reduction in such benefits as a consequence of the execution of this agreement. This agreement shall supersede any rules and regulations governing the Sheriff's Department which are in conflict herewith. The employer reserves the right to adopt reasonable rules and regulations, governing its day to day operations, which are consistent with its obligations under this agreement. Any such new rules shall be subject to the grievance procedure after adoption."

### ADOPTION BY REFERENCE

The demand for the clause "adoption by reference" shall be dropped. There is no necessity for such a clause as the federal and state laws are contained elsewhere.

### NON-POLICE WORK

It was conceded by the parties that reasonable variations in work assignments may be necessary from time to time to meet unusual circumstances. Therefore, Article 7 Section 11 shall read as follows:

"Employees shall not be required to perform non-police related functions. Any variations may be made by mutual agreement."

### RETROACTIVITY

The panel finds its powers are limited in making retroactive the terms and conditions as set forth in this award. It is only within the powers of the parties to extend retroactivity to any increases in rates of compensation awarded by the panel.

### DURATION

The parties have both indicated their interest in a one year contract. Therefore, Article 11 shall read as follows:

"This agreement shall remain in full force and effect until midnight December 31, 1971. All matters mutually agreed upon or awarded by the arbitration panel shall take effect as of the date of the arbitration award, except for those economic issues which because of law must take effect no sooner than January 1, 1971.

Either party may, on or after September 1, 1971, serve a written notice upon the other party of its desire to amend or terminate this agreement, effective January 1, 1971. In such event, the parties shall commence negotiations immediately for a succeeding contract."

### APPENDIX A

After careful deliberation by the panel members the following awards effecting the compensation of the police officers have been awarded. Careful consideration was given to the data on comparability presented by both parties. The panel is indebted to the completeness of data presented particularly through the county's survey.

The panel is aware of the difficulties which have been experienced in budgeting for the wages of the police officers. It is felt however, that such difficulties are the administrative responsibility of the employer and should not prevent the employees from receiving a fair and equitable wage to which they are entitled. It is for this reason that we have determined the salary on the basis of a 44 hour week and designated an overtime rate of pay



which is in excess of straight time compensation. The panel is without power to place any fiscal curbs upon the employer on the maximum utilization of overtime. Whether the county's budget will stand the use of overtime or whether the Sheriff feels overtime is necessary, is a problem which the two employers must administratively work out between them.

### INSURANCE

#### Health Insurance

Since a police officers occupation exposes him to high risk dangers to his health, the panel believes that minimum coverage should provide for his personal security. Therefore, we award full Blue Cross and Blue Shield coverage for the employee and one half Blue Cross Blue Shield coverage for his family.

#### LIFE INSURANCE

It is further reasoned by the panel that a minimum amount of life insurance is necessary to provide security for a police officer. We therefore direct the award of a \$3000 term life insurance policy for each employee in the bargaining unit plus the provision that the employee may buy \$3000 additional insurance at the same rate which the employer purchased the first \$3000 of term insurance.

#### SICK LEAVE

It was not completely explained in the hearings why other county personnel have received a sick leave allotment for the past years and the police officers have not. It is felt by the panel, however, that such a leave policy is necessary for the police officers also. Therefore, the panel directs the establishment of an accumulative bank of six days for each officer and the provision that each officer shall earn one day for each month worked, which shall also accumulate.



HOLIDAY PAY

The panel believes the following holidays should be provided as time off with pay:

New Years Day, Easter Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Those employees scheduled to work these days shall be paid at the straight time rate plus they shall receive one day off with pay at a later date.

VACATIONS

Vacations with pay will be provided by the following schedule.

After one year of employment a one week vacation.

After two years of employment two weeks of vacation.

UNIFORM CLEANING

\$75 per year - full time employee

\$25 per year - part time employee

CALL BACK PAY

A two (2) hour minimum pay at the scheduled overtime rate shall be paid whenever a member of the bargaining unit is called back to work when unscheduled.

WAGES

1	Marine	\$2.80 per hour
2	Part Time	
	A Dispatchers	2.90 per hour
	B Deputy (Patrol)	3.10
3	Full Time Dispatchers	ANNUAL RATE
	A Start - 6 mo.	\$6,000
	B 6 mo. - 1 yr.	6,500
	C 1 yr. - 2 yr.	6,900
	D 2 yr. - 3 yr.	7,200
	E 3 yr. - Over	7,400
4	Full Time Deputy	
	A Start - 6 mo.	6,500
	B 6 mo. - 1 yr.	7,000
	C 1 yr. - 2 yr.	7,300
	D 2 yr. - 3 yr.	7,500
	E 3 yr. - Over	7,800
5	Sergeant	8,000

The above hourly and annual rates of pay covers up to 44 hours per work week. After 44 hours, in a given week, the overtime rate shall be paid.

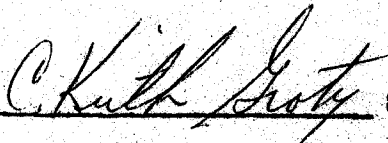
OVERTIME RATE

Dispatchers		
A	Start - 6 mo.	\$3.25 per hour
B	6 mo. - 1 yr.	3.50
C	1 yr. - 2 yr.	3.75
D	2 yr. - 3 yr.	4.00
E	3 yr. - Over	4.25
Deputy		
A	Start - 6 mo.	3.50
B	6 mo. - 1 yr.	3.75
C	1 yr. - 2 yr.	4.00
D	2 yr. - 3 yr.	4.25
E	3 yr. - Over	4.50
Sergeant		4.75

The panel directs that the following demands be deleted from this contract: cost of living, longevity, weapons, ammunition, and furnishing of uniform and equipment.

CONCLUSION

The panel is in unanimous concurrence on the awards outlined above. They feel, after deliberating on the comparable data presented by the parties, that the above award is fair and just to all parties. The panel wishes to express its appreciation for the cooperation and thoroughness of presentation which the parties exhibited.



Signing for the Panel

C. Keith Groty, Chairman  
John Bacon  
Ellis R. VanHoesen