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MICHIGAN EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

STATE OF MICHIGAN

DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

ACT 312 ARBITRATION

IN THE MATTER OF:

COUNTY OF MISSAUKEE
SHERRIFF'S DEPARTMENT,

and

Reference:
MERC G88 J-0815

POLICE OFFICERS ASSOCIATION OF
MICHIGAN.

_____/

Missaukee County

OPINION AND AWARD

The Hearing was held at the Michigan Employment Relations office in Grand Rapids on September 26, 1990. The Hearing commenced at approximately 10:00 a.m. and ended at approximately 4:30 p.m. The official record of the Hearing was recorded by Raymond J. Marcoux, Supervisor, Court Reporting Section, Michigan Employment Relations Commission. Testimony was taken of witnesses and other evidence was presented in documentation form through exhibits by the Union and the Employer. An Executive Session was held by conference call on October 3, 1990 at approximately 9:30 a.m. The Parties indicated that the filing of briefs was not necessary and the matter was considered closed for the writing of this opinion at that time.

ARBITRATOR: David L. Poindexter was selected as chairman of the arbitration panel by the Parties through the MERC Act 312 procedures.

APPEARANCES FOR THE PARTIES:

Employer:
John H. Gretzinger
Attorney at Law and
Employer Delegate
500 Calder Plaza
Grand Rapids, MI 49503

Union:
William Birdseye
Union Advocate
28815 West 8 Mile
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PRESENT FOR THE PARTIES:

Employer:	Union:
Richard A. Jenema, Sherriff;	Patrick Spidell, Union Delegate;
Gary Briggs, Commissioner;	Ann Maurer, Labor Economist;
Dawn Mills, County Planner;	Daniel Blaszak, President;
Don Molitor, County Clerk, Reg. of Deeds.	Todd Stephan, Vice-President.

OPINION

In writing this decision, the Chairman of the Arbitration Panel is well aware of the statutory criteria upon which an Act 312 Arbitration Award must be based. In the instant matter the most pertinent factors to consider are:

> "(d) Comparison of 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:
>
> (1) In public employment in comparable communities.
>
> (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.
>
> (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." (MCLA 423.239)

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The factors of (a) lawful authority the Employer and (c) the Employer's financial ability to pay were not disputed at the hearing, in the final offers or in the briefs submitted in support of the final offers.

The factors (c) interest and welfare of the public, (e) the average consumer prices for goods and services commonly known as the cost of living, and (g) changes in any of the foregoing circumstances during the pendency of the arbitration proceedings were duly noted and given what this Arbitrator believes is their proper weight.

With regard to factor (b) stipulation of the Parties; the Parties have stipulated that the issues involved which remain to be addressed and settled by the panel are the issue of wages for the years 1989, 1990 and 1991 and the issue of the term of the contract, i.e., two year versus three year. With regard to the issues of Paid Sick Leave and Health Care-Master Medical Coverage, both Parties executed a Partial Stipulated Award prior to the hearing. (Copy attached)

ISSUES

WAGES AND TERM OF CONTRACT

The final offer of both Parties was given at the Hearing. In its final offer the Union offers to accept wage increases of $500.00 plus 2.54% across the board increase for the year 1989, a 5% across the board increase for the year 1990, and a 5% across the board increase for the year

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1991. The Employer offers wage increases as follows: $500.00 for all classes for 1989, 4.5% for all classes for 1990 and 4.5% for all classes for 1991. It should be noted for the record that the Union proposes a two year contract with their wage proposals for two years as opposed to three years. The Union did make the third year proposal due to the fact that this Arbitrator had indicated that he was leaning toward the three year proposal.

Although each year is to be considered a separate issue, the Chairman believes it is best to address the wage issue as a whole, since the same thought processes and reasoning applies to all three years. The Chairman specifically accepts as the most reasonable offer, the Employer's three year proposal for the term of the contract. The reasoning for this is that the contract's first year, 1989, has already expired, and the second year, 1990, will shortly expire, leaving no contract in place for 1991. The continuity and the preservation of labor peace would be afforded by the additional contract year. Although the other factors have been taken into account, as noted above, the Chairman believes that the factors of (d) comparison and (f) overall compensation, and (h) other factors are the main factors to be considered in the instant matter. In the instant matter, the Parties could not agree as to comparables. The Union's comparables included essentially the counties that where contiguous to the County of

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Missaukee, which included Clare, Kalkaska, Osceola, Roscommon, and Wexford. The Employer included in its comparable data, Crawford, Gogebic, Iron, Lake, Mackinac, Montmorency, Ogemaw, Ontonagon, Oscoda, and Presque Isle counties. For various reasons, both Parties argue that their comparables should be used by this Arbitration panel. The Union proposed that the labor market is that of those counties that are contiguous to Missaukee County. Taking that into account, the Union should have used Grand Traverse and Crawford under that argument. The Employer is using the population, SEV, and similar type standards for their choice of comparable data. This Arbitrator is of the opinion that a middle ground between the two arguments is appropriate. In other words, this Arbitrator is not in agreement with the Employer's use of counties in the Upper Peninsula as comparable counties with Missaukee County. However, this Arbitrator is not in complete agreement with the Union in using only contiguous counties. If only the Union's argument of contiguous counties is used, Crawford and Grand Traverse should be included. During the Hearing and Executive Session, however, Grand Traverse was definitely considered not a comparable to Missaukee. Due to the geographical distance of Presque Isle county, it also was not considered a comparable. The panel Chairman therefore, believes Wexford, Crawford, Roscommon, Clare, Osceola, Kalkaska, Ogema, Lake, Oscoda, and Montmorency

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Counties to be comparable counties. However, if this Arbitrator were to use just the comparables offered by the Union, these comparables received a 3.75% increase in 1989, received a 3.03% increase in 1990, and an increase of 2.57% for 1991. Although for the year 1990, Wexford was not included, and for the year 1991, Kalkaska, Roscommon, and Wexford were not included in the percentages, the Union comparables do offer a guide as to what the wage increases given for that time frame are. For the year 1989, the Employer gave a $500.00 increase across the board to all county employees. This represented approximately a 2.46% increase for the Sheriffs of Missaukee County. This does appear to be substantially lower than the 3.5% of the comparables submitted by the Union, however, the Employer did base its argument on the fact that the increase was across the board for all employees of the county. One of the factors to be considered is other employees and other circumstances. It is this Arbitrator's opinion that under the circumstances, the Employer's offer for 1989, is the best offer of the two. The Union's offer of 2.54% added to the $500.00 already given, would give an increase of approximately 5% for the year 1989, which would be substantially greater than the 3.75% given for the comparables submitted by the Union. For the year 1990 and 1991, it is this Arbitrator's opinion that the difference between 4.5% and 5% is minimal at best and either offer

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could be considered the best under the circumstances. After long and hard deliberation and viewing the offer given in 1989 of $500.00 and the insignificant difference between the Employer's offer and the Union's offer for 1990 and 1991, this Arbitrator is of the opinion that the Union's last best offer for the years 1990 and 1991 is appropriate. The reason for this opinion lies in the fact that the $500.00 increase in 1989, was only approximately a 2.54% increase. It did not keep the Missaukee Sheriff's deputies in line with comparable county sheriff's deputies with regard to their wage increases for that time period considering the comparable counties that are addressed above. Giving the deputies of Missaukee County a 5% wage increase for the years 1990 and 1991 will keep them in their relative positions with the comparables addressed above.

This conclusion is based on the relative position of the Missaukee unit within the units of the comparable counties and the labor market. After reviewing the comparables submitted by the Parties and the data submitted for those comparables, it can be shown that the wages of the sheriff deputies of Missaukee County are within the bounds of the comparable counties under the wage proposals of the Union. Actually, the wage proposals of both parties keep the sheriff deputies at the low end of the comparables which considering the other factors of the population, tax base, and so forth, of the county, appears to make it appropriate.

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CONCLUSION

Considering all the statutory criteria of Section 9 of Act 312, MCLA 423.238 and in particular 9(d), 9(f), and 9(h), it is the opinion of the Chairman that the following shall be incorporated into the collective bargaining agreement of the County of Missaukee and the Police Officers Association of Michigan:

WAGES

> The agreement shall incorporate a wage increase of $500.00 for the year 1989, a 5% wage increase for the year 1990, and a 5% wage increase for the year 1991.

TERM OF CONTRACT

> The agreement shall incorporate a three year term of contract.

The Chairman is well aware that the above is not the optimum agreement. However, as both Parties are well aware, the Arbitrator "shall adopt the last offer of settlement which in the opinion of the arbitration panel, more nearly complies with the applicable factors described in Section 9." Since no compromise can be made, the final contract is probably not the best product of the arbitration process or indeed the collective bargaining process. To this end, this Chairman would suggest that with the above knowledge in hand, the Parties may wish to reevaluate their positions prior to the final award being entered. However, if the parties cannot reach agreement, the above represents this Arbitrator's opinions.

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Date: 10/31/90

David L. Poindexter, Chairman

Date: Oct. 25, 1990

John Gretzinger, Employer Delegate
(See attached Concurring and Dissenting Opinion)

Date: 10-26-90

Patrick Spidell, Union Delegate
Concurring

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ACT 312 ARBITRATION

In the Matter of:

COUNTY OF MISSAUKEE
SHERIFF'S DEPARTMENT,

Case No. G88 J-815

AND

POLICE OFFICERS ASSOCIATION
OF MICHIGAN.

CONCURRING AND DISSENTING OPINION OF COUNTY DELEGATE

As indicated in the Opinion drafted by Chairman Poindexter, there were four issues to be decided by the arbitration panel. These were whether the collective bargaining agreement should expire on December 31, 1990, or December 31, 1991; and the wages for 1989, 1990, and if applicable, 1991. As the delegate to the arbitration panel for the County of Missaukee, I concur in the award of a collective bargaining agreement expiring December 31, 1991, and for a wage increase of $500 for 1989. I dissent, however, in the selection of a 5.0% wage increase for 1990 and a 5.0% increase for 1991.

When reviewing the proposals of both parties, it became evident that the Section 9(e)(i) requirement that the arbitration panel should consider a comparison of the wages, hours, and conditions of employment for 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 in public employment in comparable communities was to be given great weight. In support of their arguments, the POAM contended that Clare, Kalkaska, Osceola, Roscommon, and Wexford Counties were comparable to Missaukee, while Missaukee County contended that Crawford, Gogebic, Iron, Lake, Mackinac, Montmorency, Ogemaw, Ontonogan, Oscoda, and Presque Isle were comparable communities.

In his Decision, Arbitrator Poindexter eliminated the counties of Gogebic, Iron, Mackinac, and Ontonogan on the basis that they were upper peninsula communities and therefore not comparable to lower peninsula communities. In addition, he eliminated Presque Isle County as a comparable on the basis of geographic remoteness. All of the proposed comparables from the POAM were accepted, solely based upon geographic proximity.

It is perhaps understandable why the upper peninsular communities would be excluded, but a comparison of the population, state equalized valuation, and per capita income of the remaining communities, criteria normally used by all Act 312 arbitrators for determining comparability, does not support the rest of the distinctions drawn by the Chairman.[1]

The following table indicates those comparisons:

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[1] The Chairman's analysis on geographic distance regarding Presque Isle County is not supported by the facts. At their closest parts, Presque Isle and Missaukee Counties are only 55 miles apart; and at their farthest part they are only 117 miles apart. This equates to an average distance of 86 miles, which is not so geographically remote to disqualify a virtually identical county from being considered comparable for purposes of Act 312.

COMPARABILITY FACTOR COMPARISON

	Population		SEV*		Per Capita Income	
	Diff.	% Diff.	Diff.	% Diff.	Diff.	% Diff.
Crawford	+ 175	101.4%	+ 3,992	102.0%	+ 755	110.7%
Lake	- 3,483	70.9%	- 23,598	87.7%	- 486	93.0%
Montmorency	- 3,151	73.7%	- 21,000	89.4%	- 18	99.7%
Ogemaw	+ 6,629	155.2%	+ 77,000	140.0%	- 518	92.6%
Oscoda	- 4,279	64.3%	+ 57,640	70.1%	- 255	96.3%
Presque Isle	+ 1,637	113.8%	+ 34,000	117.7%	+ 29	100.4%
MISSAUKEE	12,007		193,219		$7,008	
Clare	+12,793	206.5%	+161,000	183.5%	+ 168	102.3%
Kalkaska	+ 1,365	111.3%	+ 82,811	142.8%	+ 451	106.4%
Osceola	+ 8,418	120.1%	+ 84,944	143.9%	+ 293	104.1%
Roscommon	+ 8,418	170.1%	+220,317	213.5%	+ 734	110.4%
Wexford	+14,405	219.9%	+106,129	154.9%	+1209	117.2%

* In 1,000's

As can readily be seen, the six remaining comparables proposed by Missaukee County with the exception of Ogemaw County are all closely related in population, SEV and per capita income. While significantly larger in population and SEV, Ogemaw's low per capita income justifies its consideration as a comparable community.

A review of the POAM's proposed comparables shows that Kalkaska County matches up well with Montmorency County in population and per capital income, even though its SEV is significantly higher. Osceola County matches up well on per capita income, and its SEV and population comparisons are not so large they could not arguably be considered a comparable community.

The remaining three counties, however, are distinctly different than Missaukee County. Clare County has a population more than double the size of Missaukee, and has an SEV 183.5%

larger than Missaukee. Similarly, Roscommon has a population 70% larger than Missaukee, and an SEV that is 113.6% larger than Missaukee. Wexford County has a population that is more than double the size of Missaukee, has an SEV 54.9% larger than Missaukee, and is clearly out of line on per capita income. The $1,209 difference in per capita income is a difference of a greater magnitude from that possessed by any of the other counties, and amply illustrates that Wexford County is not comparable with Missaukee County. This conclusion is also reflected in the prior arbitrations involving the POAM and Wexford County, since the POAM has adamantly argued and Arbitrator Vernava found that Missaukee County was not comparable to Wexford County.

I would submit that on the facts before the panel, the counties of Crawford, Lake, Montmorency, Ogemaw, Oscoda, Presque Isle, Kalkaska, and Osceola should have been determined to be comparable to Missaukee, while the counties of Clare, Roscommon, and Wexford should have been found to be non-comparable. Utilizing these counties, the following wage comparisons are revealed:

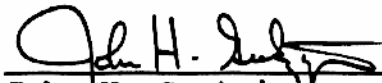
	Deputy		Dispatcher	
	1989	1990	1989	1990
Crawford	10.37	10.90	7.34	7.71
Lake	10.81	11.13	8.70	8.81
Montmorency	9.80	9.80	7.95	7.95
Ogemaw	10.17	10.53	7.00	7.25
Oscoda	8.97	9.47	7.16	7.66
Presque Isle	9.96	10.21	5.00	5.65
Kalkaska	10.94	11.38	8.09	8.42
Osceola	10.52	10.86	8.32	8.68
Average	10.19	10.54	7.44	
Missaukee Proposed	10.10	10.55	8.86	9.25
Clare	11.00	11.44	8.39	8.73
Roscommon	11.06	11.38	8.73	9.05
Wexford	11.36	11.81	8.01	8.33
Average	11.14	11.54	8.38	8.70

As can be seen, under the County's $500 proposal for 1989, the deputies rated sixth out of the nine comparable communities, with a pay rate of $10.10 as opposed to the $10.19 average. Applying a 4.5% increase in 1990, the relative ranking increased to a median position of fifth out of nine, and the $10.55 wage proposal placed them $.01 above the average of those eight communities.

Attempting to determine the appropriate wage rate for 1991, the Chairman correctly reflected that the difference between 4.5% and 5% is not great, although it equates to a $.05 per hour difference in that particular year. However, in determining the appropriate wage rate, the Chairman's analysis only looked at one-half of the unit. Significantly, the POAM put evidence in only concerning the deputies, and completely ignored the dispatcher wage rate. These wage rates were appropriate when the individuals were

performing correctional officer/dispatcher functions, but now that they have been transformed to pure dispatchers are greatly out of line. Significantly, Wexford County now has a pure dispatcher rate which will pay $8.33 in 1990, and $8.62 in 1991. The fact that the union's proposal will send Missaukee County's dispatchers farther out of line with other dispatchers will only compound the problem that will occur in the next round of bargaining, and the County's proposal of a 4.5% increase should have been considered to be the more appropriate of the offers and accepted.

The Chairman has allowed the POAM to utilize Clare, Roscommon, and Wexford counties based solely upon their location as adjacent communities. Had the legislature intended to utilize geographical proximity as a measure for wages, it would have used the phrase "adjacent communities" rather than the phrase "comparable communities". Accordingly, I dissent from that portion of the Opinion that deals with comparability and the 1990 and 1991 wage rates based upon that analysis.



John H. Gretzinger
Missaukee County Delegate

Dated: October 25, 1990.