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10/11/84  
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OCT 15 1984  
OCT 16 1984

IN THE MATTER OF THE INTEREST  
ARBITRATION BETWEEN:

MONROE COUNTY BOARD OF COMMISSIONERS;  
MONROE COUNTY SHERIFF

AND

FRATERNAL ORDER OF POLICE, STATE  
LABOR COUNCIL (UNIT 1 - DEPUTIES)

OCT 16 1984

ARBITRATION OPINION, AWARD, AND ORDER

ARBITRATION PANEL

Hiram S. Grossman, Chairman  
Richard Rod, Employer Delegate  
Eljay Bowron, Union Delegate

*Monroe, County of*

APPEARANCES

Employer Representation: Thomas Derderian, Esq.  
Union Representation: John Lyons, Esq.

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IN THE MATTER OF THE INTEREST  
ARBITRATION BETWEEN:

MONROE COUNTY BOARD OF COMMISSIONERS;  
MONROE COUNTY SHERIFF

AND

MERC ACT 312  
CASE NO. V83 A-85

FRATERNAL ORDER OF POLICE, STATE  
LABOR COUNCIL (UNIT 1 - DEPUTIES)

ARBITRATION OPINION, AWARD, AND ORDER

APPEARANCES:

For the Monroe County Sheriff's Department:

Geoffrey Harrington  
Clayton Charron  
Kimberly Hooper  
Robert Patterson

For the Fraternal Order of Police:

Kenneth Sieg  
Roy Crews  
Michael Davison  
G. T. Shinkle

WITNESSES

Kenneth Sieg - Union  
Clayton Charron - Employer  
John Kryston - Employer  
Michael Kirchner - Employer  
Kimberly Hooper - Employer  
Arden Westover - Employer

INTRODUCTION

Upon petition for arbitration under Act 312, Public Acts

sessions took place on April 26, May 26, June 8, and July 8, 1983. Subsequently, on July 11, 1983, the Fraternal Order of Police filed its petition for arbitration under Public Acts of 1969, Act 312, MCLA Section 432.201 et seq.

#### Use of Comparables

The parties were unable to agree upon comparables that could be used for comparing the various economic requests. The Union selected and used three contiguous counties of Lenawee, Wayne, and Washtenaw, and the City of Monroe for purposes of comparison. The Union's selection of these comparable counties was bottomed upon the fact that they are contiguous with and adjacent to Monroe County. The City of Monroe was suggested by the Fraternal Order of Police as a comparable since the Sheriff's department and the Monroe City Police Department share the modern law enforcement facility, and the City of Monroe previously has been used as an agreed comparable by both parties. On the other hand the County and the Sheriff suggest the following counties be used as comparables, Berrien, Ottawa, Jackson, Muskegon, Calhoun, St. Clair, and Bay. The Employer determined to use these counties as comparable because they reflect a similar county service population, similar industry-agricultural mix, and comparable financial capacity based upon the State Equalized Valuation. Each party was afforded ample opportunity and availed itself of the opportunity to raise objections and the basis for the objections with respect to comparisons selected by the other party on each economic matter. However, testimony was adduced during the hearing, each party's final economic offer was made

and the briefs in support of their final offer, and each party has expressed their respective position on each economic matter presented for determination and has relied upon their comparables whether accepted or protested, and other Monroe County employees, were referred to or proposed for support or refutation of a particular position vis a vis the economic items in dispute.

#### STATUTORY AUTHORITY

Statutory basis for these proceedings are Act 312 of Public Acts 1969, as amended (MCLA 423.231 et seq.) Section 8 provides in pertinent part:

At or before the conclusion of the hearing held pursuant to section 6, the arbitration panel shall identify the economic issues in dispute, and to direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive....As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 9.

Section 9 of the Act provides in pertinent part:

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or an amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors, as applicable.

- (a) The lawful authority of the employer.
- (b) Stipulation of the parties.
- (c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.

(d) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of 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 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.

### ISSUES

The issues in dispute will be identified as economic and noneconomic. The economic issues in dispute will be listed first followed by the noneconomic issues in dispute. Finally, I will list those areas that the parties acknowledge agreement has been reached.

#### Economic Issues in Dispute

1. Duration of contract.

2. Wages.
3. Shift differential.
4. Sick pay program.
5. Duty disability pay.
6. Lost or damaged property.
7. Hospitalization for retirees.
8. Improved vacations.

#### Noneconomic Benefits in Dispute

1. Shift preference.
2. Annuity withdrawal.
3. Discharge/suspension.
4. Reduction of probationary period for filing grievances for disciplinary purposes to 90 days.
5. Promotions.

#### Areas of Tentative Agreement

1. Uniform and clothing allowance \$300.00.
2. Holiday pay.
3. Funeral leave.
4. Hours of work.
5. Rotating days off.

#### BACKGROUND

The testimony reveals that the approximate population of Monroe County is 135,000 people and the State Equalized Value of real property situated therein is 1.9 billion dollars. The County is still primarily agricultural although there is some industry situated within the City of Monroe. The largest taxpayer in the County, Detroit Edison, particularly its Enrico Fermi nuclear reactor facility located within the County. The

testimony reveals that for at least as long as John Kryston has been auditor of Monroe County, the County has always lived and spent within its budget and has not incurred any deficits at the end of its year. Further, the testimony revealed that the cost of law enforcement in Monroe County runs approximately 32% of the County's budget. This figure of 32% has remained relatively constant over the a several year period of time. Within the last couple of years, a new law enforcement complex has been put into place by Monroe County. This law enforcement complex is rather unique in that the building is also shared with the City of Monroe's police department. There is contact and side-by-side working between these two law enforcement agencies and departments.

#### DISCUSSION AWARD AND ORDER RELATIVE TO DISPUTED ISSUES

In the Fraternal Order of Police's brief in support of their last offer a request was made that the awards and order be incorporated into the existing collective bargaining agreement. While, ordinarily, this might not present an unusual or difficult task, in the instant matter, however, this may not be true. The reason is that the parties have yet to agree on the placement of Arbitrator Tanzman's award and order into the collective bargaining agreement that expired 12/31/1980. When Arbitrator Tanzman issued his award for the collective bargaining agreement covering the periods January 1, 1981, through December 31, 1982, his award have yet to be engrafted and incorporated into a collective agreement that both parties can agree to and execute. In spite of this, I will endeavor to incorporate into the

collective bargaining agreement that expired on December 31, 1980, the award and order portions of Arbitrator Tanzman as well as the award and other portions of this proceeding.



## ECONOMIC ISSUES IN DISPUTE

### I. Duration of contract.

- A. Employer's last offer three year contract.
- B. Union's last offer two year contract.

Although the Union has made economic proposals for a three year contract in the event it is concluded that the duration of contract will be three years.

### Union's Basis for Its Position

- 1. The past two collective bargaining agreements were each of a two year duration.
- 2. It will be difficult to project what the cost of living will be over the life of the collective bargaining agreement whose term would be three years. Thus, there could be a further erosion of the living standards of the Union's members.

### County's Basis for Its Position

- 1. A three year collective bargaining agreement will provide the County and its sheriff's department employees a period of stability and give the terms of the contract opportunity to take hold.
- 2. All other County employee units' collective bargaining agreements will expire December 31, 1985, and a three year collective bargaining agreement would put the sheriff's department on track with the other units.
- 3. A two year collective bargaining agreement would put the parties back at the collective bargaining agreement shortly after the issuance of this award and order. There would be no time for the parties to work and live under the collective

bargaining agreement shortly after the issuance of this award and order. There would be no time for the parties to work and live under the collective bargaining agreement and make efforts to foster a more harmonious relationship.

4. There will be a significant change in the membership of the Monroe County Commissioners as five of the nine commissioners are not seeking re-election. A three year collective bargaining agreement will give the County Commissioners the opportunity to become acquainted with their positions before undertaking negotiations.

AWARD: DURATION OF CONTRACT

A majority of the arbitration panel conclude that the Employer's position, a contract of three years duration, is well taken. Therefore, the award shall read the duration of the contract shall be three years commencing January 1, 1983, and effective and in full force through 11:59 December 31, 1985.

After considering the arguments of both parties and taking into consideration the factors set forth in Section 9 of Public Act 312 of 1969, a majority of the panel conclude a collective bargaining agreement whose duration is three years will much better serve not only the County but members of the unit covered by this collective bargaining agreement. A three year collective bargaining agreement will afford the parties approximately a 15 month period of rest and recuperation and for the possibility that a basis and beginning of a more harmonious relationship can be nurtured, developed, and grow. After considering the fact there will only be a period slightly in


excess of one year in time before the parties are back at the negotiating table, a majority of the panel is unconvinced by the Union's argument that there could well be a further erosion of the bargaining unit's purchasing power since no one knows what the cost of living will be in the years 1984 and 1985. By the time the award issues much of the year 1984 will have already past and as previously mentioned the contract will have approximately a period of 15 months before it expires.

Thus, for all the reasons previously stated a contract whose duration is three years is awarded and ordered.

Dated: 10-1-84

  
Hiram S. Grossman, Chairman

  
Richard Rod, Delegate

  
Elajy Bowron, Union Delegate

## II. Wages.

A. County's proposal: 1/1/83 6%, 1/1/84 4%, 1/1/84 4%.

B. Union proposal. (in the alternative)

Two year proposal: 1/1/83 7.5%; 1/1/84 7%

Three year proposal: 1/1/83 7.5%; 1/1/84 7%; 1/1/85 5.5%

### County's basis for its position.

1. The County contends and points out that a 3% wage increase would make the unit competitive with the Employer comparables. Further, the County stated its position why the Union's comparables should not be considered nor used for wages. The counties in fact are not similar nor comparable to Monroe County in population, mix of industry and agriculture, or State Equalized Value of property. However, the Employer further points out that it is offering a 6% wage increase for the year 1983.

Thereafter, the comparables of the Employer have less use and meaning as most if not all of their comparables collective bargaining agreements expired with the end of the year 1983 with one exception, and we have no comparable wage figures to look for the year 1985.

2. While the County acknowledges the City of Monroe's police force has been used as a comparable previously and there is an unique sharing of function and facility between the sheriff's department and the City of Monroe's police department, it points out that the City of Monroe and its police officers do not participate in social security; thus, there is an expense the City does not incur that the County does since the County

employees including the sheriff's department are covered under social security. Thus, the fact City police are receiving higher wages than the sheriff's department does not reflect the County employer's true wage cost; during the year 1983 the Employer was paying 6.7% of the unit's wages into social security and in the year 1984 it has increased to 7%, the County contends these attendant wage costs must be considered.

3. The County has argued that the inflation rates for the year 1983 and for much of 1984 has been dramatically reduced from what it was in the years 1980, 1981, and 1982, which were years that the sheriff's department employees received 23% in wage increases through two separate arbitrations.

4. The sheriff's department unit employees received considerably greater wage increases over the past several years than the other County employees, and this has caused an upward push with respect to all of the County's other employees.

5. Currently the County pays 32% of its total budget for law enforcement and this is one of the highest percentages of any county in the State of Michigan. The Employer feels an adoption of the Union's proposal would cause the portion allocated to law enforcement to increase unless layoffs were to occur to keep the law enforcement budget at 32% of of the County's expenditures.

6. Consideration must be given to the entire financial package including rollup costs and the proposed cost of the sick and accident policy that the Employer has proposed.

Union's basis for its position.

1. The comparables selected by the Employer truly are

not comparable in fact. As these are counties not contiguous to Monroe and in many instances are located quite a geographic distance from Monroe. Additionally, most of the Employer's comparable contracts expired as of December 31, 1983, and thus they are not in the position to compare the wages for the years 1984 and 1985.

2. An important comparable is a Patrol Officer in the City of Monroe with a Deputy in the County of Monroe. In past negotiations the City of Monroe's Police Department has been used by both parties as a comparable. Even in the instant matter, the Employer has used the City of Monroe arguing the County's indirect wage cost is at least 6.7% for the year 1983 and 7% for the year 1984 greater because of the County's contributions into the social security system in behalf of its employees.

3. The comparison of the top pay of deputies based upon the offers of the two parties.

<u>County offer</u>	<u>Union's Position</u>	<u>Difference in Total</u>	
\$21,715 (base salary)	\$21,715 (base salary)	Difference	Total
<u>1,302</u> (1-1-83)	<u>1,629</u> (1-1-83)	<u>per year</u>	<u>Diff.</u>
\$23,017	\$23,344	\$327	
<u>920</u> (1-1-84)	<u>1,634</u> (1-1-84)		
\$23,937	\$24,978	\$717	\$1041
<u>957</u> (1-1-85)	<u>1,373</u> (1-1-85)		
\$24,894	\$26,351	\$416	\$1457

4. The difference between what a City police officer receives as of 1-1-83 and 1-1-84 in comparison to what the County has offered and what the Union has sought.

DATE	CITY	COUNTY OFFER	DIFFERENCE	UNION OFFER	DIFFERENCE
1-1-83	23,212	23,017	(\$195 less)	23,344	(\$133 more)

1-1-84 24,876 23,937 (\$939 less) 24,978 (\$102 more)

AWARD: WAGES

A majority of the arbitration panel adopt the last offer of the Union of wage increases of: 7.5% 1-1-83, 7% 1-1-84, and 5.5% 1-1-85. Although retroactivity is being awarded, only employees who are currently employed on the Employer's payroll or who are on approved workers' compensation leave and or disability leave would be entitled to the retroactive award of wages for the years 1983 and 1984. Employees who have left the Sheriff's Department employ prior to the date of issuance of this award shall not share and/or receive from the retroactive portions of this wage award.

In arriving at the decision to adopt the Union's award, the arbitration panel has considered and taken into account the factors set forth in Section 9 of Public Act 312. In taking into the account the comparison of wages for the comparables offered by both parties, it must be admitted that the comparables were of little value for the years 1984 and 1985. Most of the comparable communities that the parties were relying upon contracts expired December 31, 1983. Thus, these comparables are of little use and value for determining wage increases for the years 1984 and 1985. Further, the panel truly does not consider the county of Wayne to be a comparable of any note and value in this matter. The counties of Wayne and Monroe are so dissimilar to one another they really do not share any similarities other than the fact that they are contiguous to one another.

However, comparing the City of Monroe's Police Department

to that of the County of Monroe's Sheriff's Unit does seem to make a tremendous amount of sense. In comparing the City of Monroe's Police Department with that of the Sheriff's Department, the panel is mindful of the fact that the City of Monroe does not contribute into the social security system for its law enforcement employees while the County of Monroe does in fact contribute into the social security system. Further, the panel is mindful of the fact that for the year 1983 the Employer's contribution was 6.7% and for the year 1984 it was 7%. However, social security is a two edged sword, the fact that the Employer contributes into the system for the years 1983 and 1984 contributed 6.7 and 7% of the employees' wage, likewise, the employees contribute into the social security system and for the years 1983 and 1984 contributed 6.7% of their wages. Even though the Employer has an additional wage expenditure into the social security system, similarly the employee takes home 6.7% less because of his contribution into the social security system than does his law enforcement counterpart working for the City of Monroe.

The Sheriff's and County's argument is not all that one sided either. In order for the City of Monroe to properly fund its pension system for its law enforcement employees in the absence of their contributing into a social security system, the City of Monroe's pension cost would have to be significant to properly fund such a program as well as the percentage cost of its contribution representing a portion of its police officer's wages to fund such a pension program.



When the wage offers for the years 1983 and 1984 of the Union and the County are compared with the wage increases that the City of Monroe police officers receive, it becomes quite apparent that the Union's offers for the years 1983 and 1984 truly bring the deputy in line with his city police officer counterpart. Further, the Union offer for the years 1983 and 1984 are truly more comparable than the County's offer for the same period of time in a situation of such uniqueness between the two in sharing the same facility and backing up each other whenever needed.

Under the circumstances the Union's offer for 1985 is hereby adopted although there are no wage comparisons that have been considered as none of the comparable communities and counties offered, including Ottawa County, had wage provisions for the year 1985.

Thus, in arriving at the determination that the Union's wage proposal was to be adopted for the years 1983, 1984, as well as 1985, the panel took into consideration in addition to the comparables provided by each of the parties, the overall compensation presently received by the employees as well as the fact that the County's wage proposal was part of a package proposal including a sick leave, pay modification program, which would be relatively expensive, and the other compensation received by employees both directly and indirectly. Further, the financial ability of the County was both considered and weighed. At no time has the County maintained that it lacked the ability to pay the Union's economic proposals including the wage proposal.

Although, 32% of the County's expenditures are for the cost of law enforcement including the housing of prisoners, the County has at no time in the past 16 years ever found itself in a deficit situation at the end of its calendar year. Further, the traditional higher wage and settlement increases in the area of law enforcement recognize the inherent and uniquely potentially dangerous occupation these employees find themselves while performing their duties. The fact this wage award proposal is higher than increases received by the other county employees only takes into account and consideration the additional and higher risk factor involved with the occupations comprising the classifications that are part of Unit I.

This award shall be implemented no later than the first pay period following the issuance of the award with respect to paying the Unit I employees the current 7% wage increase for the year 1984. The retroactive portions of the award for the years 1983 and for the pay periods of 1984, beginning with January 1 of 1984 until the current increase is implemented shall be computed and paid by the County as soon as practical but no later than 45 days after this award issues and only to employees currently on the payroll or on approved workers compensation or non-occupational disability leaves. Employees having left the Sheriff's employ prior to the issuance of this award shall not be entitled nor receive the retroactive portions of this award.

Dated: 10-1-84

Hiram S. Grossman  
Hiram S. Grossman, Chairman

Richard Rod  
Dissent: Richard Rod, Employer Delegate

Eljay Bowron  
Eljay Bowron, Union Delegate

### III. Shift Differential

A. County's last proposal - for all three years 10 cents per hour for the afternoon shift, 15 cents per hour for the midnight shift. The shift differential shall be made effective from the date the award issues.

B. Union's final proposal.

On a two year proposal 10 cents per hour afternoon shift, 15 cents per hour midnight shift with the relief shift considered midnight shift. The Union's proposal is to be effective the date the collective bargaining agreement's 1/1/83 commences or the date that shifts first began whichever is later.

The Union's three year proposal is the years 1983 and 1984 10 cents per afternoon shift, 15 cents for the midnight shift, and for the year 1985 1.5% of the employee's afternoon shift, 2% of the midnight and relief shift.

#### County's basis for its position.

1. The County recognizes the necessity of having a shift differential now that it has regular permanent shifts. The Employer's offer compensating the different shifts at a premium pay is both fair and reasonable.

2. At one time the parties had reached a tentative agreement based upon the proposal was made by the County.

#### Union's basis for its position.

1. The Union is prepared to accept the County's offer on a two year agreement. However, if it is a three year agreement that is determined, the Union made a separate proposal for the third year of the contract.

AWARD: SHIFT DIFFERENTIAL

A majority of the arbitration panel conclude, find and adopt the County's proposal relative to shift differential. Therefore, it is awarded and ordered that the shift differential shall be 10 cents per hour for the afternoon shift and 15 cents per hour for the midnight shift. The shift differential proposal shall be effective commencing with the first full pay period after this award issues. As, it was not clear what position the County has taken relative to treatment of the relief shift employees, the arbitration panel awards and orders the relief shift employees shall be treated as midnight shift employees and will receive 15 cents per hour while working the relief shift.

The basis of this award and award takes into consideration at one time the parties had reached an agreement on this issue based upon the County's proposal of ten cents per hour for the afternoon shift and 15 cents per hour for the night shift. Although the parties subsequently acknowledged a withdrawal of the tentative agreement on this issue, which is the reason it was before the panel for determination, a majority of the panel conclude the Employer's proposal is both fair and reasonable under the circumstances. The parties having only recently adopted a permanent shift, the Employer's proposal to compensate the afternoon shift at a 10 cent per hour differential and midnight shifts with a 15 cent per hour differential is a moderate, reasonable, and sensible approach. If as time goes on, there develops a compelling need or reason to increase such shift differentials, the parties will be in a position to attempt to

negotiate such increases in subsequent contracts. After the considering the factors set forth in Section of Act 312, a majority of the panel conclude and find and adopt the Employer's proposal on shift differential as its award and order of 10 cents per hour shift differential for the afternoon shift and 15 cents per hour shift differential for midnight and relief shifts.

This award shall be implemented no later than the first full pay period following the issuance of this award.

Dated: \_\_\_\_\_

10-1-84



Hiram S. Grossman, Chairman



Richard Rod, Employer Delegate



Eljay Bowron, Union Delegate

#### IV.- Sick Pay - Sick Leave Benefits

A. County's last offer includes a comprehensive weekly income, and long term disability insurance policy, five sick days to be granted at the beginning of each year, the unused sick days to be paid off at the end of the year, and no accumulation of sick days. The employees current accumulation as of 12/31/84 would be frozen, and upon the employees' separation from service one half of the total accumulation would be paid off at the employee's rate of pay at the time of termination or separation.

B. Union's last offer to be effective upon signing of the award if the collective bargaining agreement is two years duration; effective 1/1/85 of the collective bargaining agreement is three years duration. Twelve sick days are to be provided to each year. At the conclusion of each calendar year 1/2 of the unused sick days of that calendar year is to be paid the employee the following January at the employee's daily salary during the calendar year that they were earned but not used. The other 1/2 of unused sick days will be placed in the employee's sick day accumulation bank. The employee will be allowed to accumulate sick days without any maximum limit or cap. When an employee retires, dies, or retires early for health reasons prior to his or normal retirement, the employee shall only receive an amount equal to the sick leave bonuses he received each year with the County effective 1/1/85 for those unused sick days accumulated after 1/1/85 and placed in the employee's sick leave accumulation bank after 1/1/85 provided the employee has not used these sick days prior to a termination that qualified him for these days.

The Union makes no proposal at all relative to the amount the employee would have in sick day accumulation as of 12/31/84 with respect to payout of those days upon retirement.

County's basis for its position.

1. The County contends its proposal will provide greater coverage to employees in case of extended illness or injury.

2. The County would benefit by the elimination of potential liability for earned sick days.

3. Adopting this method would eliminate the abuse of sick days since there would only be five sick days per year provided with a payout at the end of the year for any unused sick days.

4. The benefit of the County's proposal is that it addresses a serious concern of protecting either new employees or employees who do not have a large accumulated sick leave bank for non-occupational illnesses and/or injury with the short and the long term disability provision; further, it provides for a reduction of abuse of the actual sick day program because only five would be offered a year.

5. Finally, it does provide for payout of one half of the accumulated sick days an employee had in his bank upon his separation at whatever the employee's current rate was at the time of his separation.

Union's basis for its position.

1. The Union contends that at no time had it sought a sick pay program similar to what the County is offering.

2. The cost of the program would be very expensive in



comparison to the coverage that would be afforded. This program would only cover non-work related illnesses and/or injuries.

3. The proposal the Union makes is virtually identical to that the City of Monroe's Police Department has and thus with respect to one of the comparables it is right on line.

4. Under the County's proposal once an employee retired and received one half of his accumulated sick days that he had as of 12/31/84, the Sheriff's Department would not replace that person until the county had fully paid off the accumulated sick leave of the separated employee, and the law enforcement strength of the County would be diminished until then.

AWARD: SICK PAY - SICK LEAVE BENEFITS

A majority of the arbitration panel conclude, find, and adopt as its award and order the last and final position of the Union on the sick pay/sick leave benefit proposal.

The reasons and basis for this determination is as follows: The Union's proposal makes very little alteration with respect to the existing sick pay and sick leave benefit program. All the Union has sought was to extend the sick day accumulation from the current 130 to an unlimited accumulation and to provide payoff of the unused sick days at the end of the calendar year. Even in this regard, the Union's proposal only requires the County to pay one half of the unused sick days at the end of the current calendar year with the balance of the other half of the unused sick days to be paid upon the time the employee retires, dies, or takes early retirement because of health reasons.

While it is realized the cost of the County's proposal

covering the weekly income and long term disability insurance programs are just tentative amounts and that the County does not have any actual firm or hard quotes on such a proposal, it is a belief of a majority of the panel that both the monthly and yearly estimate of the cost has been underestimated rather than overestimated. When it is considered that this proposal would only offer coverage for non-occupational illnesses and/or injuries, the cost of approximately \$50,000.00 per year for the weekly income and long term disability insurance policy is quite large for the benefits afforded it. Additionally, when it is considered there would be a coordination of any benefits provided and that at no time would a greater amount than 60% of the employee's earnings be allowed, the cost of this benefit is very expensive for what protection it might afford. An additional consideration and cost that must be taken into account is the County's proposal would provide payment of one half of an employee's accumulated sick days in the sick day accumulation bank on 12/31/84 upon their separation from service for whatever reason and that would be paid at the employee's rate of pay at the time of separation. This clearly would make the cost of the Employer's sick pay and sick leave benefits quite expensive and unnecessary at this juncture.

A majority of the panel has taken into consideration the fact the city of Monroe Police Department has a sick pay/sick leave benefit proposal that virtually mirrors the proposal that the Union has made. Since the City of Monroe is one of the comparables used by the Union and the fact that they share the

law enforcement facility and are in direct and daily contact with one another, it was concluded the Union's sick pay and sick leave proposal is the more logical one to be offered the employees.

Additionally, a majority of the panel has considered the cost of the two proposals, that of the Union as well as that of the County, and determined that the County's proposal would be much more expensive and in return the County and the Sheriff Department employees would not obtain sufficient additional or more comprehensive coverage to justify such great added expenditure.

Thus, for all these reasons, a majority of the panel conclude and find and adopt as its award and order the Union's last proposal on sick leave and sick pay benefits. The proposal shall be effective commencing January 1, 1985 and that for the years 1983 and 1984 the current and existing sick pay and sick leave benefit proposal shall remain in effect.

Dated: 10-1-84

Hiram S. Grossman  
Hiram S. Grossman, Chairman

Dissent: Richard Rod  
Richard Rod, Employer Delegate

Eljay Bowron  
Eljay Bowron, Union Delegate

V. Duty Disability Pay

A. The County's last offer: The County's proposal is to extend the class of employees covered by the duty disability proposal to include corrections officers in addition to the sworn deputies. Additionally, it proposes that the Sheriff and/or County are free to assign the disabled employee to work within or without the Sheriff's unit as long as County work is available for him to perform and he is able to do so and the employee shall be paid at his regular rate of pay.

B. The Union's last offer: Extend the class to include corrections officers in addition to sworn deputies and in all other respects the language of the duty disability pay shall remain as it is.

County's basis for its position

1. The Employer would go along with the Union's proposal provided it is able to assign such duty incurred injury or illness employee to perform such other duties for the County of Monroe as the employee would be able to perform and that assignment could include work both within the Sheriff's department and outside of the Sheriffs department within the County.

2. Presently, as the duty disability pay proposal applies to sworn deputies, the Sheriff is able to assign the employee to perform work within the department and there has been no objection; thus the objection only can be to the possible assignment of such an employee to perform work outside of the Sheriff's department and within the County.

3. The Union has not made or given any reason regarding why the performance of work outside of the Sheriff's department would be deleterious to the employee and/or Sheriff's department.

4. It is a proper quid pro quo for including the corrections officers as part of the duty disability pay provision to enable the Sheriff or County to assign deputies to work outside of the Sheriff's department within the County especially since the employee is receiving his regular rate of pay.

Union's basis for its position

1. The work of the corrections officer has an inherent danger and that is the reason why it proposes to include corrections officers under the duty disability pay coverage.

2. The Union states the County's proposal is inappropriate in that it is too open ended to insure the employees injured on the job to the protection afforded them by the current language that is controlled by the Tanzman award.

3. The Union contends the Sheriff and County should not be allowed to assign corrections officers or deputies who have a work incurred injury or illness and are entitled to duty disability pay to perform work outside of the Sheriff's department work within the County but that such work assignments should only be within the Sheriff's department.

AWARD: DUTY DISABILITY PAY

A majority of the arbitration panel conclude, find, and adopt as its award and order the last offer of the County on the issue of duty disability pay. Thus, the Tanzman award is modified in the following regard. Corrections officers will be

included within the duty disability pay provisions in addition to the sworn deputies. Additionally, the Sheriff and/or County has the right to assign work to an employee who is receiving duty disability pay through the work either within the Sheriff's department and/or outside of the Sheriff's department within the County employment and the employee should be paid his regular rate of pay. However, while adopting the County's proposal, it is the Chairman's understanding that implicit within the County's proposal is the following: That the Sheriff would make every effort to locate and place the duty disabled corrections officer and/or sworn deputy to a position within the Sheriff's department first. Only if there were no positions, duty, or work which the duty disabled corrections officer and/or sworn deputy could perform, or due to the number of corrections and/or sworn deputies already receiving duty disability pay for which the Sheriff has previously found work for them within the department, there is no further such work available, only under these circumstances and conditions will the duty disabled corrections officer and/or sworn deputy be assigned to perform work within the County outside of the Sheriff's department at the employee's regular rate of pay; this is the understanding of the Chairman of the only circumstances and situations that a duty disabled corrections officer or deputy sheriff would be assigned to work outside the Sheriff's department but within the County.

Accepting the County's offer with respect to duty disability pay, it is concluded that it would only be fair and just to enable the Sheriff and County to place the individual so


that he could perform productive work which would be of a benefit to the Sheriff and/or County and which may very well assist the duty disabled employee to expeditiously recover and return himself to his former employment. It is recognized that the employee's self-work and self-image would benefit from his reporting to work on a regular basis and performing work for which he is paid. The majority of the panel have considered the Act 312's Section 9 factors in arriving at this determination and conclude on balance the Employer's proposal with the Chairman's understanding of how it will be implemented and applied is overall fair and just under the circumstances.

This award shall be implemented no later than the first pay period following the issuance of the award and order.

Dated: 10-1-84

  
Hiram S. Grossman, Chairman

  
Richard Rod, Employer Delegate

  
Eljay Bowron, Union Delegate

## VI. Lost or Damaged Property.

A. County's final proposal. The County proposes putting a dollare maximum cap on lost, broken, or damaged articles used by unit employees that they provide themselves as follows: time pieces and watches - maximum \$50.00; glasses and contact lenses - maximum \$75.00; work shoes and boots - maximum \$50.00.

B. Union's final proposal. Leave the current language as it is, maintain the status quo.

### County's basis for its position

1. The Employer believes that the language in the current contract is vague and open ended and has the potential for abuse by the Sheriff's department employees.

2. There exists under the current language significant potential financial liability.

3. It was never the intention of the parties that the Employer be made responsible for expensive personal items not absolutely necessary in performing the employee's job such as expensive watches.

4. The Employer's proposed maximums are reasonable under the circumstances since employees can find a nice working watch or time piece for \$50.00. While with the current optical program a cost of \$75.00 for broken and/or lost glasses or contact lenses is not unreasonable. The employees can find work shoes and boots for \$50.00.

### Union's basis for its position

1. There has been no need demonstrated or shown by the County to alter the existing language which reimburses the



employee for lost or damaged articles such as glasses, watches, and boots and shoes.

2. There has been no showing of any past abuse by the bargaining unit employees. This is true even with the testimony proffered by the County of the last two instances that claims were made.

3. Before a claim is submitted to the County, the Sheriff's department must investigate the loss or damage claim made by the employee and give its indication whether it approves or disapproves of payment for the loss.

#### AWARD LOST OR DAMAGED PROPERTY

A majority of the arbitration panel conclude, find, and adopt as its award and order the proposal of the Union on lost and damaged property. That is to say the current language shall remain as it is and shall not be altered or amended as proposed by the County.

The reasons and basis for the decision to accept and adopt as its award and order the Union's status quo proposal is: There has been no showing of any abuse in the past on the part of the unit employees; there is no basis to assume or presume that there will be abuse in the future. While, the Employer can think of ad horrendum stories of possible abuse and misuse of the lost or damaged property with the language as currently constituted; the likelihood of such occurring would be extremely remote. The testimony of the County's witnesses reveal that over the last several years there have only been two or three or maybe four claims that have been made relative to lost or damaged property.

Even as to those claims, there has been no indication of any abuse or misuse of the provisions in the current collective bargaining agreement.

Dated: 10-1-84

Hiram S. Grossman  
Hiram S. Grossman, Chairman

Dissent:

Richard Rod  
Richard Rod, Employer Delegate

Eljay Bowron  
Eljay Bowron, Union Delegate

## VII. Hospitalization for Retirees

A. Employer's last offer: Status quo no change. This is not a benefit offered employees.

B. Union's last offer: In a two year contract, hospitalization for retirees as of 1/1/84, and in a three year contract 1/1/85. The coverage is to be the same as offered active employees, family plan if that is what the individual had while employed.

### County's basis for its position

1. The Employer is philosophically against creating economic incentives for employees that leave the County employment.

2. The Employer is opposed to this proposal because of its tremendous cost. The testimony of the Employer's expert witness projected the cost of the Union's proposal could be in excess of \$10,000.00 annually per retiree by the early 1990's.

### Union's basis for its position

1. This benefit is offered by the City of Monroe police department. Additionally, this benefit is afforded to retirees by comparables that have been relied upon by both parties.

2. At a time when the retired employee might well have need of health care coverage, during his retirement years, the County does not wish to extend and afford the employee coverage for such benefit.

### AWARD: HOSPITALIZATION FOR RETIREES

A majority of the arbitration panel conclude, find, and adopt as its award and order the Union's last offer on hospitalization for retirees to be adopted effective 1/1/85. The

coverage for the retirees shall be the same as an active employee, the family plan. However, that is to say, if the employee while employed had the family plan coverage, he would be offered such coverage upon retirement. Likewise, if he had individual coverage at the time of employment, that would be the coverage offered to him upon his retirement.


In arriving at such determination great weight was give to the fact many of the comparables relied upon by both parties offer and afford this benefit to its retirees, including the City of Monroe. While a majority of the arbitration panel recognized there is a cost and an expense in offering this benefit, it clearly rejects as out of hand the Employer's expert's testimony the cost of such a program will approach \$10,000.00 per year per retired employee by the early 1990's. It has been ascertained the number of employees who could enjoy this benefit during the term of this contract might be one or two at most, and under all the circumstances, a majority of the arbitration conclude, find, and adopt the Union's proposal on hospitalization for retirees.

This award and order will be implemented effective  
1/1/85.

Dated: 10-1-84

  
Hiram S. Grossman, Chairman

  
Dissent: Richard Rod, Employer Delegate

  
Eljay Bowron, Union Delegate

VIII. Improved Vacation.

A. County's last offer: Status quo language is to remain the same.

The Union originally withdrew its vacation proposal and it was not part of the matters for consideration during the 312 hearings.

B. The Union's last offer: With a three year contract, increased paid vacation days; 1.5 days at each of the steps.

County's basis for its position

1. The Union withdrew this proposal previously and it should not be considered.

Union's basis for its position

1. Since the panel is going to consider a three year term and if it determines a three year term is applicable, one of the economic proposals it should have to consider, is improvement of vacation entitlement.

AWARD: IMPROVED VACATION

A majority of the arbitration panel conclude, find, and adopt as the award and order on vacation improvement the County's position. While the County is incorrect in stating that improved vacation is not contained within the Union's petition for arbitration made under Act 312, the County is correct that the issue was withdrawn by the Union at the time of the hearing based upon its proposal for a two year agreement. With the possibility of having a contract whose duration is three years, the Union renewed its vacation improvement offer. Since there was no testimony on this subject, there is little direct evidence

adduced at the hearing relative to this issue.

A majority of the panel has considered this proposal in light of requirements set forth in Section 9 of Public Acts of 1969 and based upon such considerations and the factors contained therein, conclude the County's position that vacation entitlement should remain as set forth in the parties' collective bargaining agreement is the better position. Therefore, a majority of the panel reject the Union's position to increase the vacation entitlement 1.5 days at each of the incremental levels and conclude that the vacation entitlement provision shall remain as presently provided in the collective bargaining agreement.

Thus, a majority of the panel conclude the County's position is well taken and there shall be no change in the contract this year with respect to vacation entitlement, but leave it to subsequent negotiations between the parties.

Dated: 10-1-84

  
Hiram S. Grossman, Chairman

  
Richard Rod, Employer Delegate

  
Eljay Bowron, Union Delegate

## NON-ECONOMIC TERMS

### I. Shift Preference.

A. County's last offer: Status quo to leave as is.

It is opposed to the proposal of the Union.

B. Union's last offer: To be provided all members on an annual basis by seniority along with the permanant shifts, rotating shifts, and long weekends provided as days off.

#### County's basis for its position

1. The Sheriff has the right to assign personnel at the exercise of its reasonable discretion, and management is best able to determine the distribution of its work force in order to carry out the Sheriff's statutory and constitutional duties and responsibilities.

2. The determination of which person is best suited for the particular assignment must be left to the Sheriff.

3. The Sheriff's concern with permanent shifts if shift preference can be exercised on an annual basis is that the less senior members of the department would always wind up on the less desirable shifts such as afternoons, midnights, and relief shift.

4. Since the Employer is now prepared to compensate employees for working second and third shift and relief shift by paying shift differential, it is inappropriate to have members on an annual basis express and exercise shift preference.

#### Union's basis for its position

1. It is not unreasonable to afford employees an opportunity to express and exercise shift preference on a regular basis based upon the employee's seniority.

### AWARD SHIFT PREFERENCE

A majority of the arbitration panel conclude, find, and adopt as its award and order the following shift preference provision:

Effective 12/1/85 and every two years thereafter on the 1st of December, all employees desiring to switch shifts from the shift they are presently working to a different shift must submit in writing to the Sheriff during the seven day period immediately preceding December 1st their shift preference. The Sheriff shall grant the request of those employees making such timely written request, based upon their seniority, the particular shift be it permanent or rotating that they have requested to the extent that it will not unduly hinder the operation, control, effectiveness, and efficiency of the particular involved classification on any shift. In the event the Sheriff denies a shift preference request submitted during the appropriate period of time, he shall so indicate in writing the denial along with the reasons therewith. An employee may grieve the Sheriff's denial of his shift preference request. However, the Sheriff's determination to deny shift preference shall not be reversed or set aside unless the basis and reason for denial are arbitrary, capricious, or for no reason at all. The Sheriff shall make every effort to accommodate a shift preference request of its employees.

The basis of accepting the Union's proposal as modified is that on a periodic basis employees should be allowed to move from one shift to another based upon their seniority with the Employer. However, in so exercising their right, there should not be a total disruption of the entire work force of the Employer. Thus, there is reserved by the language the right of the Sheriff to deny such shift preference request where there would be created such a total imbalance of seniority and experienced employees on any of the remaining shifts so as to



have it too top weighted on one or some shifts and not sufficiently balanced on the remaining shifts.

The idea of having the bidding procedure take place every other year commencing just before the expiration of this contract will give the parties an opportunity to see how the procedure works before they conclude negotiations on the new contract. Additionally, with this shift preference being exercised once every two years, there will not be such frequent, regular, or total disruptions of the work force. A majority of the panel has considered that some law enforcement agencies do permit shift preference and that there is not a total disruption of those units nor is there such a weighting of senior employees on the first shift so as to make the afternoon and night shift under represented by seniority employees.

This award and order shall be implemented effective 12/1/85 when the first shift preference can take place.

Dated: 10-1-84



Hiram S. Grossman, Chairman



Richard Rod, Employer Delegate



Dissent: Eljay Bowron, Union Delegate

## II. Annuity Withdrawals.

A. The County's last position: Opposed, leave as it is maintain the status quo.

B. The Union's last offer: The employee should be allowed to withdraw his contributions upon retirement and have the pension reduced accordingly. In a two year contract proposal it will be effective 1/1/84 and in a three year contract in 1/1/85. The pension is reduced based upon the assumption rate contained in the actuary's report for the period of time immediately preceding the employee's retirement.

### County's basis for its position

1. It is philosophically opposed to this request as it feels it is contrary to the purpose, intent, and essence of Monroe County's Retirement System.

2. The Employer sees no reason to allow the employees to withdraw their contribution which the Employer has prudently invested and administered on behalf of such employees.

### Union's basis for its position

1. There is little or no cost in allowing this.

2. The City of Monroe enjoys this benefit.

3. The request would allow the employee to withdraw at the time of retirement the monies that are represented by the employee's contributions. Thereafter, the employee would receive an actuarially reduced pension if the employee follows through by withdrawing the monies he has contributed into the retirement system.

### AWARD ANNUITY WITHDRAWALS

A majority of the arbitration panel conclude, find, and adopt the Union's proposal with respect to annuity withdrawal effective January 1, 1985, and award and so order it. The award language shall read as follows:

Effective January 1, 1985, employees shall at retirement be allowed to withdraw the contributions they have made into the retirement system and will subsequently receive an actuarially reduced pension in accordance with actuarial computations based upon actuarial principles. The pension is to be reduced based upon the assumption rate contained in the actuary's report for the period of time immediately preceding the employee's retirement.

In adopting the Union's position with respect to annuity withdrawal, a majority of the arbitration panel considered and concluded the fact that there would be no cost or such a very small cost involved with this proposal. The employee is only being granted permission to withdraw that portion of funds he has contributed into the retirement system. Additionally, the fact the City of Monroe permits and allows its employees to withdraw the monies they have contributed into the pension system was taken into account and entered into the determination of the award and order on this issue.

This award and order shall be implemented effective January 1, 1985.

Dated: 10-1-84

Hiram S. Grossman  
Hiram S. Grossman, Chairman

Dissent: Richard Rod  
Richard Rod, Employer Delegate

Eljay Bowron  
-42-  
Eljay Bowron, Union Delegate

### III. Discharge/suspension.

A. The County's last offer: Two year washout on prior discipline. Employer will not destroy or remove disciplines from the employee's file even though they may not rely upon such prior discipline happening more than two years prior in imposing subsequent discipline. If past discipline is directly related to a current incident that discipline is being imposed, the Employer can consider a prior discipline even if it occurred more than two years previously.

B. The Union's last offer: Status quo, the language should remain exactly as it is.

#### County's basis for its position

1. Many of the comparables permit and allow the Employer to consider for a two year period records of previously imposed discipline. Only after two years is there the washout.

2. The Employer feels it has the right to rely upon past discipline of more than two years if it is related to the current charge.

#### Union's basis for its position

1. The status quo should remain as is provided in the present collective bargaining agreement.

2. The Union would not have minded considering a proposal as long as it would not have permitted the Employer to rely upon a prior disciplinary action that occurred more than two years ago if it was related to the current discipline.

### AWARD DISCHARGE/SUSPENSION

A majority of the panel conclude, find, and award and

order the following language relative to discharge and discipline:

The Employer will be able to rely upon in imposing disciplinary action on its employees' prior disciplines that occurred within two years of the discipline it is presently seeking to impose upon the employee. While the Employer need not destroy and/or remove prior disciplinary action from the employees' personnel record after a period of two years, the Employer shall not and will not be able to rely upon those prior disciplines in imposing discipline upon an employee for a current incident or matter.

In adopting a modified approach to the Employer's proposal on discharge/suspension a majority of the panel is persuaded by the contentions of the Sheriff in many instances a one year washout as presently provided is not sufficient nor adequate. Additionally, a majority of the arbitration panel is persuaded by the fact that in an area as sensitive as law enforcement prior disciplines and/or suspensions should not, ought not, and must not be removed from the employee's personnel file even after the two year washout period has expired. However, the fact that prior discipline and/or suspension is in the employee's file, the Sheriff cannot and will not and should not use it in imposing discipline for a current incident if the prior discipline and/or suspension and/or reprimand occurred more than two years prior to the current matter or incident which the Sheriff is contemplating imposing discipline.

A majority of the panel has taken into account and consideration that many of the comparables, included by both parties, have a two year washout and thus are persuaded to adopt the Sheriff's proposal as modified as its award and order.

The award and order is that the Sheriff's proposal regarding a two year washout as modified by the language proposed above becomes the award and order.

Dated: 10-1-84

Hiram S. Grossman  
Hiram S. Grossman, Chairman

Richard Rod  
Richard Rod, Employer Delegate

Eljay Bowron  
Dissent: Eljay Bowron, Union Delegate

IV. Reduction of probationary period for filing grievances for disciplinary purposes to 90 days.

A. Employer's last position: Status quo, leave as is - one year probationary period.

B. Union's last offer position: Reduce probationary period to 90 days so employees can file grievances for discipline imposed after 90 days employment in all other respects the probationary period is to remain a year.

County's basis for its position

1. A 90 day probationary period is not sufficient, in management's view, to determine whether the employee will turn out to be a competent and capable employee.

2. At one time the probationary period for Sheriff's department employees was 90 days and through negotiations it was changed to one year.

3. Management has instituted a regular objective performance evaluation of probationary employees and a sufficient and adequate period to evaluate these employees requires one year probationary period.

4. Many of the comparable contracts relied upon by both parties provide for a one year probationary period.

Union's basis for its position

1. There is a need for a revision of the current provision because of a situation that recently occurred. The Union maintains that some of the comparable counties do provide for a six month probationary period.

AWARD AND ORDER

A majority of the arbitration panel conclude, find, and award and order the following language:

The probationary period of employment for new employees shall remain one year. However, any new employee who is given a disciplinary suspension or discharge may grieve his disciplinary suspension or discharge up to and including arbitration, provided however the scope of the arbitrator's authority in an arbitration of a disciplinary suspension or discharge of new employee with more than six months but less than one year of employment service shall be confined and restricted to the following determination: Was the basis of the Sheriff's decision to discipline, suspend, and/or discharge the employee arbitrary, capricious, or done in bad faith or for discriminatory purposes. An arbitrator shall only have the authority to rescind a disciplinary suspension and/or discharge if it is established that the Sheriff's actions were based upon arbitrary, capricious, discriminatory, or bad faith reasons or motives.

The award and order is a modification of the proposal of each of the parties. In arriving at this award and order incorporating this language a majority of the panel recognizes both the concerns of the Sheriff to have adequate time in which to make its determination on whether an employee would be able to perform his position in an adequate and satisfactory manner as well as the Union's concerns that sometimes decisions of the Employer are made for no rational or justifiable basis at all. The language proposed would take into consideration the concerns of both parties by allowing the probationary period to remain at one year but at the same time to permit access to the grievance procedure after six months in the event the employee and/or Union feel the actions of the disciplinary suspension and/or discharge by the Sheriff are arbitrary, capricious, or motivated by bad



faith or discriminatory purposes.

In arriving at this proposed language, the majority of the panel has taken into consideration that there are comparable contracts that provide both a one year probationary period as well as some contracts providing a six month probationary period. It is the intention of this provision to provide address to each of the parties' major concerns.

Dated: 10-1-84

Hiram S. Grossman  
Hiram S. Grossman, Chairman

Dissent:

Richard Rod  
Richard Rod, Employer Delegate

Eljay Bowron  
Eljay Bowron, Union Delegate

## V. Promotion.

A. Employer's last offer: It applies only to the position of sergeant the first level position outside of the unit, and most likely the position would be filled from the classification of deputy. The eligibility requirement is two years. The Sheriff will take into consideration in filling these positions the abilities and qualifications of the individuals applying. The factors that the Sheriff will consider are indicated in terms of relative importance in descending order, seniority is the determining factor when other factors and qualifications are judged equal. Second, job performance, experience, evaluations, and all past performance in or out of the Sheriff's department. Third, written exam. If the Sheriff determines a written examination is appropriate, it will be administered by an impartial person. Fourth, education. The unsuccessful applicants upon request may obtain the reasons for denial and denial is subject to the grievance procedure. The grievance procedure afforded in this situation shall review the Sheriff's decision based upon his consideration of the enunciated standards to make certain the Sheriff applied the standards fairly and impartially. If it is determined the Sheriff did apply the standards fairly and impartially, the grievance must be denied.

B. The Union's last offer: To be operative the day of the award. It is to apply whenever a vacancy occurs and it applies to classifications within the unit as well as the classification of sergeant. The eligibility requirements are two years

continuous service within the department. The procedures provides for promotion from within the bargaining unit and only if there are no qualified employees within the unit may the Sheriff go outside the unit for candidates. Current employees are to be given preference for all promotional vacancies. The selection process will be based upon the following considerations: 50% written competitive examinations administered by a neutral third party, 25% seniority, 20% work record, 5% veterans preference. The above selection process shall be subject to the grievance procedure.

County's basis for its position

1. The County views the Union's position as taking away from the Sheriff the discretion of determining who it wants to promote. Currently the Sheriff has the absolute discretion without any limitations imposed, if the Sheriff were to abuse his discretion as an elected official the voters can vote him out of office.

2. The proposal of the Sheriff on filling promotional vacancies is workable and is subject to the grievance procedure thereby permitting an aggrieved employee to grieve.

3. The Union's proposal totally undermines the discretion of the Sheriff regarding promotions and provides no guidelines defining the scope of review of the Sheriff's decision.

Union's basis for its position.

1. The Sheriff proposal gives sole judgment and discretion to the Sheriff. Many communities provide for a

competitive type promotional exam.

#### AWARD AND ORDER

A majority of the arbitration panel conclude, find, and adopt as its award and order the following provisions:

This language shall be applicable for the filling of the following positions, corrections officer and/or communication specialist and sergeant. The Employer will post all vacancies for the positions of corrections officer, communication specialist, and sergeant. The posting shall be in conformance with the normal posting procedures. The Sheriff will give consideration first to those employees who have bid on the posted positions. The Sheriff shall base his determination upon the following factors and these are listed in terms of their relative importance. Seniority will be the determining factor amongst and between the Sheriff's employees who apply for a posted position provided the other qualifications of the position are judged equal. Second job performance and experience, the evaluation of the employee's past performance and experience within classifications that are part of the bargaining unit. Third the Sheriff shall determine if a written examination will be given. If he determines that a written examination shall be given, it shall be administered by an impartial third party. Finally, education. The Sheriff shall consider the educational background of all the employees vying for the position.

In the event the Sheriff determines there are no qualified applicants for the position from those who have bid upon the posted position then and only after that determination has been made, may the Sheriff consider outside applicants for the position of corrections officer, communication specialist, and sergeant. Any employee who is not awarded the position, may request from the Sheriff his reasons in writing for denial. An unsuccessful applicant may grieve the Sheriff's decision not to select him for the position. However, if the grievance is taken to arbitration, the arbitrator shall only have the authority to reverse the decision of the Sheriff if it is demonstrated that the Sheriff has not applied the criteria and methods set forth above in a fair and impartial manner or that the

Sheriff's determination was arbitrary, capricious, done in bad faith, and/or for discriminatory purposes.

Additionally, while the provisions set forth above shall not be mandatory nor applicable nor bind the Sheriff in the filling of the position of deputy sheriff, the Sheriff shall make every effort to apply the criteria set forth above in filling a deputy sheriff vacancy. However, the Sheriff's determination to fill a deputy sheriff vacancy shall not be subject to the parties' grievance procedure.

A majority of the panel in fashioning this award and order have taken into consideration both the concerns of the County, that the Sheriff is an elected official whose authority emanates from the State of Michigan's Constitution and that the Sheriff has wide and broad discretion. Along with these considerations, must be recognized the concerns of the Sheriff's employees - they will be given a fair consideration for promotional vacancies that occur from time to time. It must be recognized that as long as employees perceive there is a chance for advancement they will extend themselves and put forth the necessary effort that an Employer has a right to expect its employees to put forth. While at the same time, it must be recognized the employee must perceive there is a chance for advancement and the Employer adheres to a policy of promoting from within. The concept of promoting from within is so ingrained, so a part of the American system of employer-employee relations that one might say judicial notice is taken of such a precept. A majority of the panel has determined the factors of seniority, and job performance should play a greater role in the selecting process for promotional situations than a written

examination. For these reasons a majority of the arbitration panel have weighted the written exam criteria third. It is determined the Sheriff should be afforded the discretion to determine if it wants to provide for a written exam to fill certain positions; however, once that decision is made, the Sheriff must have a impartial written exam prepared and monitered by impartial imdividuals. A majority of the panel in looking at the comparison provided by the parties, concluded the language as proposed is both a fair and an improvement and advancement over that which previously had existed.

Thus, the County's last offer, as modified by the language of the majority of the panel, is awarded and ordered.

This award shall be implemented and become effective with the issuance of the award and order.

Dated: 10-1-84

Hiram S. Grossman  
Hiram S. Grossman, Chairman

Richard Rod  
Richard Rod, Employer Delegate

Eljay Bowron  
Dissent: Eljay Bowron, Union Delegate