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STATE OF MICHIGAN
COMPULSORY ARBITRATION

IN THE MATTER OF:

COUNTY OF MONROE (SHERIFF'S DEPARTMENT),

Employer,

-and-

Case No. D91 E-1140

POLICE OFFICERS LABOR COUNCIL,

Union.

Arising pursuant to Act 312, Public Acts of 1969, as amended.

OPINION AND AWARD

Appearances:

For the Compulsory Arbitration Panel

Karen Bush Schneider, Chairperson
Thomas H. Derderian, Employer Designee
Richard Ziegler, Union Designee

Appearing on behalf of Employer

Thomas H. Derderian, Esq.
Michael R. Kluck & Associates
4265 Okemos Road, Suite G
Okemos, MI 48864

Appearing on behalf of Union

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Troy, MI 48083

Dated: October 21, 1994

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INTRODUCTION

This matter arises pursuant to Act 312 of the Public Acts of 1969, as amended, between the County of Monroe Sheriff's Department (hereinafter referred to as "Employer") and the Police Officers Labor Council (hereinafter referred to as the "Union"), for the purpose of determining unresolved bargaining issues existing in the contract dispute between the parties, as well as to arrive at a successor collective bargaining agreement to the one which expired December 31, 1991. (Employer's Exhibit "3," Tab 4).

The Union filed a Petition for Arbitration with the Michigan Employment Relations Commission on or about December 18, 1991. The Petition identified 17 economic issues and 16 non-economic issues. (Employer's Exhibit "3," Tab 2). The Employer answered the Petition on or about January 2, 1992. (*Id.*)

The Union amended its Petition for Arbitration by correspondence dated March 12, 1993. (Employer's Exhibit "3," Tab 3). In said correspondence, the Union identified the following issues:

1. Wages:
 - 1992-2%
 - 1993-3%
 - 1994-4%
2. Pension:
 - A. 25 years of service or 50 years of age with a minimum of ten years of service.
 - B. Increase the multiplier to 2.25.

- C. Annuity withdrawal language agreed to by Command.
- D. CETA time—buy CETA time for retirement.
- 3. Two more personal days.
- 4. Uniform allowance increase to \$400 with a voucher system.
- 5. Orthodontic rider.
- 6. Lost/damaged property—Employer to cover property with full insurance.
- 7. Grievances and procedures.

The Employer answered the Union's amended petition by correspondence dated March 18, 1993. In said correspondence, the Employer agreed to identify no more than seven (7) issues for the Act 312 panel as Employer-raised issues. (Id.)

In accordance with Act 312 of the Public Acts of 1969 as amended, Karen Bush Schneider, Esq., was appointed by the Michigan Employment Relations Commission to serve as Chairperson of the Arbitration Panel in this matter. Chairperson Schneider held a Prehearing Conference on September 24, 1993. Subsequently, a hearing was held on March 21, 22, 23, and May 10, and May 18, 1994, before the Arbitration Panel composed of Karen Bush Schneider, Chairperson, Thomas H. Derderian, Employer Designee, and Richard Ziegler, Union Designee. Last Best Offers were submitted by the parties on or about June 10, 1994, and Post Hearing Briefs were submitted on or about July 15, 1994.

This Arbitration Panel has the jurisdiction to resolve disputes involving the following contract issues: Wages, pension, personal leave days, uniform allowance, dental insurance, lost or damaged property, job bidding, and long-term disability. Additionally,

the Arbitration Panel has been requested to rule on an issue involving the grievance procedure, but its jurisdiction on this issue is disputed by the Employer.

The parties, by stipulation, waive the time lines attendant to these proceedings and this stipulation of the parties is recorded at Volume 1, T-3-4. All issues are economic, with the exception of the Employer's issue of job bidding.

THE PARTIES

The Union is the exclusive bargaining representative for all Deputy Sheriffs employed by the Employer. (See Union Exhibit "1," Tab B).

Additionally, the Union represents three other bargaining units of employees of the Employer including the Monroe County Command Officers Association, the Monroe County Correction Officers Association, and the Monroe County Communication Center Association. (See Employer's comparables, Tabs A, B, and C).

Currently, there are approximately 70 deputies employed by the Employer. (See Employer's Exhibit "3," Tab 21).

The Employer is a county sheriff's department located in southeastern Michigan with a total area of approximately 562 square miles and a population of approximately 135,000. (See Union Exhibit "31").

The Union's bargaining unit members perform all of the duties commonly associated with sheriff's deputies and, in addition, provide contract services to various municipalities within the county of Monroe, as well as to a higher education institution.

STATUTORY AUTHORITY

Section 9 of Act 312 (MCLA 423.239), establishes the criteria to be applied by the Arbitration Panel in resolving disputed issues in formulating its award. These are as follows:

- A. The lawful authority of the Employer.
- B. The 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 the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally;
 - 1. In public employment in comparable communities.
 - 2. 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 wages compensation, vacations, holidays, and other excused times, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

- G. Changes in any of the foregoing circumstances during the pendency of the arbitration proceeding.
- H. Such other factors, and 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.

LAST BEST OFFERS

Comparability

As afore-quoted, Section 9 of Act 312 of the Public Acts of 1969, as amended, establishes the criteria that this Arbitration Panel must utilize in resolving this dispute. One such criterion involves the comparison of the wages, hours, and conditions of employment of the employees involved in this arbitration with those of employees performing similar services in public employment in comparable communities, as well as in private employment in comparable communities.

With regard to the issue of external comparability, the parties do not agree as to the external comparables which this Arbitration Panel should consider and utilize. The Union has offered as comparable communities the counties:

Lapeer
Lenawee
Livingston
Macomb
Oakland
St. Clair
Washtenaw

Wayne

It has also asserted the City of Monroe as a comparable.

In its Post-Hearing Brief, the Union also relies on the Employer's other Sheriff's Department bargaining units as internal comparables.

The Employer has asserted as external comparables the counties of:

Bay
Berrien
Calhoun
Jackson
Livingston
Muskegon
Ottawa
Saginaw
St. Clair

The Employer proposes, as internal comparables, the following:

The Monroe County Command Officers Association
The Monroe County Corrections Officers Association
The Monroe County Communication Center Association

Thus, the parties do have two external comparables in common, that is, the county of Livingston and the county of St. Clair. The Arbitration Panel accepts those counties as external comparables as if the parties had so stipulated.

Further, both parties have now asserted the other bargaining units within the Sheriff's Department as internal comparables. Therefore, the Arbitration Panel will accept the Monroe County Command Officers Association, the Monroe County Corrections Officers Association, and the Monroe County Communication Center Association as internal comparables as if the parties had so stipulated.

The Arbitration Panel must now turn to the other comparables asserted by the parties and examine the evidence submitted in support of those comparable communities.

With regard to the comparables asserted by the Union, Union Exhibit "1," Tab C analyzes asserted comparable communities by comparing their populations, number of households, housing and income, and commuting and worker characteristics. In addition to those characteristics, the Union also asserts that a primary consideration should be geographical proximity to the County of Monroe since the Union's comparables either border Monroe County or are within a 100 mile radius. The Union asserts that neighboring counties are particularly relevant since law enforcement personnel often provide back-up to one another and, thus, have similar working conditions. In this regard, the Union asserts that in 1993 the City of Monroe Officers assisted the Employer and its Deputies almost 500 times (Volume 2, p. 12).

In addition to its exhibits, the Union presented as its expert witness on the issue of comparability, Patricia C. Becker, a professional demographer. Ms. Becker opined that Monroe County was part of the Detroit Primary Metropolitan Statistical Area and the Detroit-Ann Arbor-Flint Consolidated Metropolitan Statistical Area. (Volume 1, p. 26, et seq.) In analyzing the Detroit PMSA and Ann Arbor PMSA in terms of the counties asserted, Ms. Becker determined that the counties of Lapeer, Lenawee, and St. Clair were the primary comparables. Those counties were the most similar to the county of Monroe in the characteristics identified in Union Exhibit "1," Tab 3. Recalling the testimony of Ms. Becker at Volume 1, p. 45:

Answer: Among these counties, I consider Lapeer, Lenawee and St. Clair to be primary comparables. Those are the counties that are the most similar to Monroe across a variety of characteristics.

Question: Lapeer, Lenawee and St. Clair?

Answer: Yes.

Question: Okay.

Answer: They are reasonably comparable in population size. They have the same economic characteristics. They are similar in home ownership, median value, median rent, and median household income. And they are all counties that are sending workers out; that is, they are exporting workers to other counties for jobs.

Ms. Becker went on to testify that, however, in her opinion the counties of Oakland and Macomb were not comparable to Monroe because they were much more affluent than the county of Monroe. (Volume 1, p. 46). In addition to opining that Oakland and Macomb counties were not comparable to Monroe, Ms. Becker also testified that, in her opinion, nor were the counties of Wayne, Livingston, or Washtenaw comparable to Monroe. Therefore, consistent with Ms. Becker's theory of comparability, which views labor market patterns considering population and commuting patterns, the counties of Lapeer, Lenawee, and St. Clair are comparable to the county of Monroe.

The Employer challenged the validity of Ms. Becker's testimony on the basis of her purported lack of expertise in selecting comparables in 312 cases involving counties, her purported lack of familiarity with 312 arbitrators and the utilization of state equalized valuation in 312 proceedings; as well as the purportedly novel approach taken by Ms. Becker in selecting the Union's comparables. The Arbitration Panel, notably the

Panel Chairperson, does not question Ms. Becker's experience or expertise. Her work and testimony were used in a complicated Act 312 arbitration involving the City of Detroit. Nonetheless, the Panel Chairperson is troubled by the fact that despite the exhibits submitted by the Union and its assertion of all counties listed, as well as the City of Monroe, as comparables, Ms. Becker would only sustain the comparability of the counties of Lapeer, Lenawee, and St. Clair.

Ms. Becker also gave her opinion as to the comparables asserted by the Employer. In Ms. Becker's opinion, none of the counties asserted by the Employer were acceptable comparables. (Volume 1, p. 46). The counties of Bay, Berrien, and Calhoun were considerably less affluent than the county of Monroe. Further, Ms. Becker described them as "basically central counties." (Volume 1, p. 46). That meant that they were counties that center their own metropolitan areas rather than counties that export a lot of workers. (Id.)

In Ms. Becker's opinion, the county of Ottawa also had to be discounted since it was much more affluent than the county of Monroe. (Volume 1, p. 47). It had a much higher growth rate and had a high jobs/resident workers ratio. (Id.) Further, all of the counties asserted by the Employer were outside of southeast Michigan and were located in different MSAs. (Id.) There was virtually no commuting between Monroe and any of the counties asserted by the Employer. (Id. and p. 51.)

With regard to the Employer's comparables, the Employer presented Arbitrator O. William Rye of O. William Rye and Company, who proposed a list of comparables by analyzing the population of counties, tax basis measured by state equal-

ized valuation, per capita income, property taxes, population change, population density, staffing of the Sheriff's Departments, and the history of selecting comparables for Monroe County. (Employer's Exhibit "3," Tab 7). The counties asserted by the Employer were substantially within 50 percent of Monroe County on both population and SEV. (*Id.*)

Interestingly, in the most recent Act 312 proceeding between the parties, which occurred in 1990, the Union asserted the counties of Ingham, Saginaw, St. Clair, Washtenaw, and the City of Monroe. The Employer asserted the counties of Bay, Berrien, Calhoun, Jackson, Ottawa, Saginaw, and St. Clair. The Employer's present assertion of comparables fairly closely mirrors the comparables it proposed in 1990, with the addition of the counties of Livingston and Muskegon.

Arbitrator Kenneth Franklin in his decision in MERC Case No. D-88 D1212 found the following counties to be comparable to the county of Monroe: Bay, Berrien, Calhoun, Ingham, Jackson, Ottawa, Saginaw, and St. Clair. (Employer Exhibit's "3," Tab 6). However, Arbitrator Franklin's selection of comparables is not binding on this Arbitration Panel. Nonetheless, it is factor which this Arbitration Panel has considered since at least one of the parties has utilized a number of the same comparables in the instant Act 312 arbitration proceeding and has presented an expert witness who has concluded that such counties are comparable utilizing well-accepted interest arbitration comparability characteristics.

The Panel Chairperson is familiar with the approach taken by Mr. Rye and with the factors he utilizes. In general, the Panel Chairperson recognizes the appropriateness of the selection of characteristics in the Rye approach. However, the counties of Bay

and Saginaw will be eliminated as comparables in this matter since, by admission, they fall outside of the upper or lower end range of population and/or SEV recognized by Mr. Rye to be appropriate in analyzing the characteristics of comparability. (Employer's Exhibit "3," Tab 7).

The parties have stipulated as to the authority of the Arbitration Panel to consider internal comparables, notably the other units represented by the Union. Additionally, they have stipulated as to the counties of St. Clair and Livingston. The Arbitration Panel will also accept the counties asserted as comparables by the various experts, to wit, in the case of Ms. Becker, the counties of Lapeer, Lenawee, and St. Clair (as stipulated) and in the case of Mr. Rye, the counties of Berrien, Calhoun, Jackson, Livingston (as stipulated), Muskegon, Ottawa, and St. Clair (as stipulated), excluding Bay and Saginaw.

The Union also asserts the City of Monroe as a comparable in this matter. It asserts, through the testimony of bargaining spokesperson Kenneth Sieg, that the parties have used the City of Monroe "in discussions" in previous collective bargaining negotiations. (Volume 2, p. 11). Further, the City and the County have frequently backed up one another and assisted in law enforcement activities. In 1993, back-up occurred approximately 500 times in cases where the county responded to law enforcement calls falling within the city's jurisdiction. (Volume 2, p. 12).

The Employer opposes the utilization of the City as a comparable. The 1990 arbitration panel rejected the City as a comparable, based upon its form of government taxing authority and geographical jurisdictional area. Further, Deputy Sieg on cross-examination, did acknowledge that the County has opposed the use of the City of Monroe

as a comparable in collective bargaining negotiations and Act 312 proceedings for approximately the last 13 years. (Volume 2, p. 22). Both expert witnesses, Mr. Rye and Ms. Becker, testified that, in their professional opinions, cities should not be considered as comparable employers to county governments. (Volume 1, p. 67 and 87).

In light of the historical opposition in negotiations to the use of the City of Monroe as a comparable by the Employer, its rejection as a comparable in the 1990 312 proceeding between the parties, and the testimony of both experts as to the inappropriateness of the City as a comparable, the Arbitration Panel finds that the City of Monroe is not a comparable within the meaning of Section 9 of Act 312 of the Public Acts of 1969 in this proceeding. Therefore, it will not be considered as a comparable by the Arbitration Panel.

In conclusion, the comparables which will be considered by the Arbitration Panel are as follows:

Internal Comparables

County of Berrien
County of Calhoun
County of Jackson
County of Lapeer
County of Lenawee
County of Livingston
County of Muskegon
County of Ottawa
County of St. Clair.

Wages

With regard to the issue of wages, the Union has made the following Last Best Offer:

Effective January 1, 1992—two percent increase. The Union agrees, however, to waive retroactivity for all of 1992.

Effective January 1, 1993—three percent increase retroactive to January 1, 1993.

Effective January 1, 1994—four percent increase, retroactive to January to January 1, 1994.

With regard to wages, the Employer's Last Best Offer proposes that all bargaining unit members receive a wage freeze for calendar year 1992.

Effective January 1, 1993—two percent increase retroactive to January 1, 1993.

Effective January 1, 1994—three percent increase retroactive to January 1, 1994.

Utilizing the Last Best Offers made by the parties, the positions of the parties translated into actual dollars allocated to the top step of the salary schedule would be as follows:

Union's Offer:

Effective January 1, 1992—\$34,815.46

Effective January 1, 1993—\$35,859.92

Effective January 1, 1994—\$37,294.32

Employer's Offer:

Effective January 1, 1992—\$34,132.80

Effective January 1, 1993—\$34,815.46

Effective January 1, 1994—\$35,859.92

Effective January 1, 1994—\$37,294.32

In analyzing the foregoing wage offers, the Arbitration Panel has considered the average wages for Deputies employed by the comparables commencing in calendar year 1991 and looking forward to disputed contract year 1994. The wage information presented by the parties for those comparables may be summarized as follows:

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>
Berrien			32,520	33,170/33,833 [33,502]
Calhoun			29,785	30,597
Jackson	29,765	31,262		
Lapeer	26,208	27,248	28,330	Contract expired
Lenawee	28,881	28,881	29,458	30,342
Livingston	32,043	33,325	34,491	Contract expired
Muskegon	32,284	33,575		
Ottawa	33,594			
St. Clair	36,400/37,856 [37,128 av]	39,370 (4%)	Contract Expired 6/30/93	Contract expired
Employer	34,113	34,113	34,815	35,860
Union	34,113	34,815	35,860	37,294
Average	31,415	32,277	30,917	31,480
Median	32,043		29,458	30,597

As can be seen from the foregoing, under both the Employer and Union proposals, the wages of the Deputies of Monroe County are above the average of the comparable communities, as well as above the median. While the data is some skewed

because of the unavailability of wage information for certain of the comparables in certain of the disputed contract years, overall there are sufficient comparables reported to provide the Arbitration Panel with a basis for a comparison of the Monroe County Deputies' wages with those of the comparable counties.

The Arbitration Panel has also considered the rank of the county of Monroe vis-a-vis the comparables in each of the disputed years to determine the validity of the parties' offers. Using the comparables determined by the Panel, the rank of Monroe in calendar year 1991 would have been second amongst all comparables. In calendar year 1992, Monroe County still would have maintained its second place ranking, regardless of whether the Employer's proposal or the Union's proposal was selected.

In 1993, Monroe County would advance to the rank of first under both the Employer's and the Union's proposals and that ranking would be maintained during calendar year 1994. Thus, under both the Union and the Employer's proposal, Monroe County either maintains its historical ranking or advances in rank in comparison with the comparable communities from whom wage information is available.

The Arbitration Panel has also reviewed and considered the internal wage adjustments made regarding the other employees in the Sheriff's Department during the disputed contract years. The Monroe County Command Officers Association and the Monroe County Corrections Officers Association, as well as all other Monroe County employees, with the exception of the Monroe County Communication Center employees received the following increases during the disputed contract years:

1992-0%
1993-2%
1994-3%

With regard to the Monroe County Communication Center Association, the increases received for those bargaining unit employees were as follows:

1992-0%
1993-2%
1994-3.5%

In light of the foregoing, the Arbitration Panel is convinced that the wage offer proposed by the Employer in each of the disputed contract years is appropriate and should be awarded. The Employer's offer maintains the ranking of Monroe County Deputies vis-a-vis other comparables or improves such ranking. Further, acceptance of the Employer's offer in each of the disputed contract years is consistent with the wage adjustments received by other county employees and, theoretically, maintains any historical wage differentials between various employee classifications. While this fact alone is not controlling, it is persuasive in light of the external comparables and where the Monroe Deputies fall in connection with them. The Arbitration Panel notes that the county presented testimony as to its financial condition circa 1992, and years following. See, for example, the testimony of Jim Beck, Finance Director of the Employer. In 1992, the County was experiencing a negative financial condition which Mr. Beck described as the worst financial condition he had experienced in his ten year history with Monroe County. (Volume 2, p. 86). The County's bond rating fell from A to BAA1 for the first time in its history. (Volume 2, p. 84). To deal with this economic situation, the county lowered its budget by approximately 5.15 percent in 1992. It eliminated positions, gave county

employees days off without pay, offered early retirement incentives and took other steps to improve its financial condition. (Id.) Since all other county employees accepted a wage freeze in 1992, and since the Deputies' economic ranking compared to external comparables appears quite favorable, an increase to the Deputies in calendar year 1992 is not sustainable. Further, the wage offers made by the Employer in contract years 1993 and 1994 are generally consistent with the offers it made to its other county employees and compare favorably to the external comparables who have 1994 wage information available.

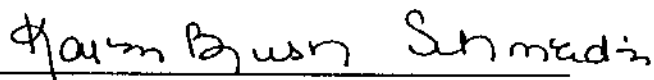
AWARD

WHEREFORE, the Arbitration Panel hereby awards the following wages:

Effective January 1, 1992—a wage freeze for calendar year 1992.

Effective January 1, 1993—a two percent increase retroactive to January 1, 1993.

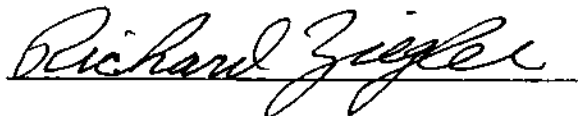
Effective January 1, 1994—a three percent increase retroactive to January 1, 1994.

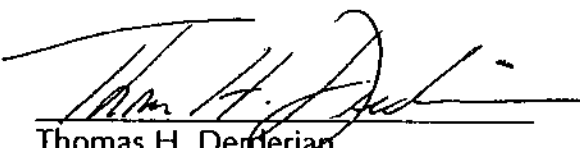

Karen Bush Schneider, Panel Chairperson

Concur:

Richard Ziegler

Dissent:




Thomas H. Denderian

Pension Eligibility

The parties submitted Last Best Offers regarding a possible amendment to Section 13.4(b) of the collective bargaining agreement which describes a Deputy's eligibility to receive a retirement allowance. That provision, as it existed in the expired collective bargaining agreement provided as follows:

(b) For employees covered by the terms of this Agreement, the eligibility requirements of sixty (60) years of age and eight (8) or more years of service are modified to fifty (50) years of age and twenty-five (25) years of service.

In its Last Best Offer, the Union proposed to modify Section 13.4(b) of the contract as follows:

For employees covered by the terms of this Agreement, the eligibility requirements shall be twenty-five (25) years of service or age 50 with ten (10) years of service.

In its Last Best Offer, the Employer proposes that the current contract language be maintained.

In considering this issue, the Panel has reviewed the pension eligibility requirements of the external comparables, the pension eligibility characteristics of the internal comparables, as well as has reviewed the demographics of the Union's bargaining unit.

With regard to the external comparables, the comparable counties have the following pension eligibility:

Pension Eligibility

Berrien	Age: 0 Years of Service: 25
Calhoun	Defined contribution plan
Jackson	Age: 60 or 55 or 0 Years of Service: 8 or 10 or 25
Lapeer	Age: 50 Years of Service: 25
Lenawee	Age: 55 Years of Service: 25
Livingston	Age: 55 Years of Service: 15
Muskegon	Age: 55 Years of Service: 25
Ottawa	Age: 60 or 50 Years of Service: 10 or 25
St. Clair	Age: 0 Years of Service: 25

As can be seen from the foregoing chart, none of the external comparables proposed by either party have the pension eligibility features proposed by the Union. Most have either a 25 year service requirement at age 50 or no minimum age limitation or, have a higher age threshold, such as age 55 or 60. Thus, the external comparables do not support the proposal offered by the Union on this issue.

The Arbitration Panel next looked at the internal comparables to determine whether or not those comparables supported the position of the Union herein. All of the other bargaining units in the Sheriff's Department have the eligibility requirements

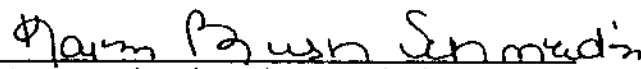
currently in effect for the Deputies. (Employer's Exhibit "3," Tab 9). Thus, internal comparables do not favor the proposal of the Union.

Finally, the Arbitration Panel has looked at the demographics of the Union's bargaining unit to determine whether some internal forces might sustain a change in the pension eligibility requirements. A review of the seniority list does not establish that large numbers of Deputies would be eligible to retire under modified pension eligibility requirements. (Employer's Exhibit "3," Tab 21). Therefore, the Arbitration Panel cannot say that there is any unique factor associated with this bargaining unit which would compel an award of the proposal made by the Union on the issue of pension eligibility.

AWARD

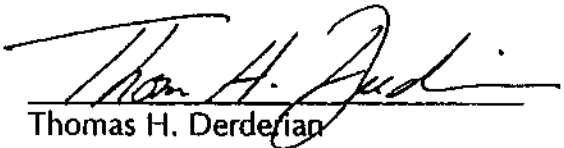
WHEREFORE, the Arbitration Panel awards the Last Best Offer of the Employer to maintain Section 13.4, as follows:

(b) For employees covered by the terms of this Agreement, the eligibility requirements of sixty (60) years of age and eight (8) or more years of service are modified to fifty (50) years of age and twenty-five (25) years of service.


Karen Bush Schneider, Panel Chairperson

Concur:

Richard Ziegler


Thomas H. Derderian

Dissent:



Richard Ziegler

Pension Multiplier

Under the Deputies' current retirement plan, a Deputy's retirement allowance is computed by taking two percent (2%) of the employee's final average compensation multiplied by the years of service not to exceed seventy-five percent (75%) of the final average compensation. The Union proposes that the two percent pension multiplier be maintained while the Employer offers to increase the multiplier to 2.25 percent for all Deputies.

This issue presents the unusual circumstance whereby the Employer's final offer on this economic issue is actually higher than the Union's economic offer. This phenomenon is due not so much to a desire on the part of the Union to maintain the 2.0 pension multiplier as to its strategy to put its economic eggs in a different basket, namely, pension eligibility and wages. Therefore, the Arbitration Panel will look at this issue not in the context that the Union opposes the Employer's position, but that if the Union did not gain economic advantages in the other areas identified, an increase to the pension multiplier should be considered favorably by the Arbitration Panel.

Here again, the Arbitration Panel has looked to the external and internal comparables in reviewing this issue, as well as the bargaining history of the parties. With regard to the external comparables, the following pension multipliers are utilized by the comparable counties.

Pension Multiplier

Berrien	2.2/2.0
Calhoun	Defined contribution plan
Jackson	2.0
Lapeer	2.0
Lenawee	2.0
Livingston	2.0
Muskegon	2.25
Ottawa	2.0/1.7
St. Clair	2.4 (variable max)

As can be seen from the foregoing, approximately half of the comparable counties utilize a 2.0 multiplier factor. However, the other counties do enjoy either a higher pension multiplier or a variable multiplier depending on age and years of service. Therefore, there is some support from the external comparables as to a pension multiplier improvement.

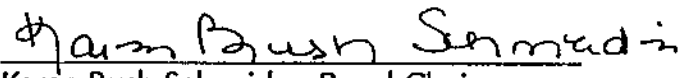
With regard to the internal comparables, the Arbitration Panel notes that the 2.25 multiplier factor offered by the Employer is currently utilized with regard to the retirement allowance negotiated by the Monroe County Command Officers Association, the Monroe County Corrections Officers Association, and the Monroe County Communication Center Association. (Employer's Exhibit "3," Tab 10). Therefore, there would seem to be overwhelming internal support for the position of the Employer.

Lastly, the Arbitration Panel notes that in these negotiations, as well as in previous negotiations, the Union did seek to increase the pension multiplier on behalf of the Deputies, but was unsuccessful in negotiating an improvement. Therefore, it would appear to have been the historical intent of this unit to negotiate an increase if at all possible.

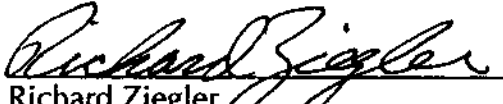
Therefore, given the support for the Employer's position from both the internal and external comparables, as well as the bargaining history of the parties, this Arbitration Panel awards as follows:

AWARD

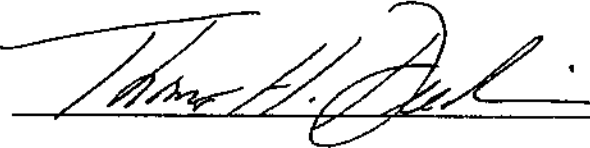
The Arbitration Panel hereby increases the pension multiplier factor from 2.0 percent to 2.25 percent effective October 21, 1994.


Karen Bush Schneider, Panel Chairperson

Concur:


Richard Ziegler

Dissent:



Thomas H. Derderian

Retirement Credit for CETA/EEA Time

The Union proposes the addition of a new Section 13.4(d) as follows:

Effective immediately, members of the bargaining unit who have previous service time under the CETA or EEA programs will, upon request of the employees, be allowed to purchase service credits equal to the time served under those programs for purposes of retirement eligibility and benefits.

The Employer proposes that the present contract language be maintained on this issue. Presently, the collective bargaining agreement does not provide that employees may obtain or purchase retirement credit for CETA or EEA time.

The Panel has reviewed both external and internal comparables regarding this issue, as well as has carefully considered the proposal itself and its impact on the bargaining unit, as well as the retirement plan.

With regard to the external comparables, the issue of credit for CETA/EEA time may be charted as follows:

Credit for CETA/EEA Time

Berrien	No
Calhoun	No
Jackson	No
Lapeer	No
Lenawee	No
Livingston	No
Muskegon	No
Ottawa	No
St. Clair	No

None of the external comparable counties permit employees to purchase retirement credit for their CETA or EEA time. Thus, external comparables do not favor the position of the Union.

With regard to the internal comparables, the Arbitration Panel also notes that none of the other bargaining units in the Sheriff's Department permit employees to purchase credit for CETA or EEA time. Accordingly, the internal comparables do not favor the position of the Union herein.

While the Panel Chairperson is generally inclined to consider proposals which permit employees to purchase, at an actuarial cost, service time under an Employer's retirement system, neither the external nor internal comparables favor such a proposal in this case. Further, while there was testimony at the hearing that the purchase

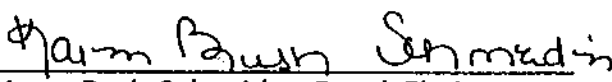
price of the CETA/EEA time would be on an actuarial basis (Volume 1, pp. 230-231), the Union's Last Best Offer did not so state. Any favorable consideration of so proposal would certainly need a clear articulation that the purchase price of such credit would be on an actuarial basis such that there would be no negative financial impact on the retirement system or plan.

Finally, the Arbitration Panel notes that this proposal impacts only a small number of the members of the Union's bargaining unit. Thus, it is unlikely that the parties would have agreed to this proposal in collective bargaining.

AWARD

WHEREFORE, the Arbitration Panel awards the Employer's position on the issue of CETA/EEA time as follows:

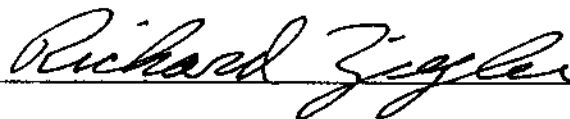
The present contract language on this issue will be maintained.

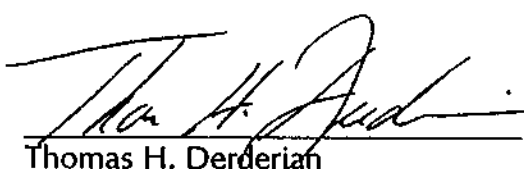

Karen Bush Schneider, Panel Chairperson

Concur:

Richard Ziegler

Dissent:




Thomas H. Denderian

Personal Days

The Union is proposing to increase personal leave days from three days to five days effective January 1, 1994. The Employer responds to the Union's proposal by proposing that the present contract language be maintained on this issue.

The Arbitration Panel has reviewed the evidence presented on this issue in the form of testimony, exhibits, and underlying collective bargaining agreements. The personal leave days of the external and internal comparables may be summarized as follows:

Personal Days

Berrien	1
Calhoun	6
Jackson	5
Lapeer	3
Lenawee	Included in Annual PTO
Livingston	1 [3, but 2 are deducted from sick leave]
Muskegon	0
Ottawa	0
St. Clair	Included in sick leave
Deputies	3
Command	5
Corrections	3
Communications	3

As can be seen from the foregoing, the external comparables provide anywhere from 0 personal days to a high of 6 personal days in Calhoun County. (Although the Employer's Exhibit states that Calhoun County provides 4 personal days, the collective bargaining agreement states that it provides 48 hours of personal leave). Since most of the

comparables fall in the 0 to 3 range, it would appear that the position of the Employer, at face value, would be favored by the external comparables.

However, the Arbitration Panel has reviewed not simply personal days, but total paid days off, which include vacation, holidays, sick leave, and personal days, in computing a total number of paid days off for all external comparables. Those may be summarized as follows:

Total Days--Vacations, Holidays, Sick Leave and Personal

Berrien	41
Calhoun	38
Jackson	44.5
Lapeer	47
Lenawee	36 1/2 plus S&A
Livingston	44
Muskegon	47
Ottawa	34
St. Clair	49.5

In reviewing those days, it would appear that the total paid days off currently provided to the Deputies of Monroe County, that being 38.5 days, is actually low. Most of the external comparables provide 41 or more paid days off to their Deputies. Accordingly, the Arbitration Panel concludes that the external comparables favor the position of the Union herein.

The Panel has also looked at the internal comparables. While the Corrections Officers and Communication Officers are allocated 3 personal days, the Arbitration Panel notes that the Command Officers enjoy 5 personal days per year. The Deputies argue that they are handling a tremendous work load and that their proposal to increase personal days is in response to the increasing stress level experienced by the Deputies. On

the other hand, the Employer argues that to the extent more time off is granted to the Deputies, the stress level will increase and the burden placed upon the Department to remain operational with its current staffing will be stretched to the limit.

While the Arbitration Panel is cognizant of the arguments raised by the Employer, it is nonetheless persuaded by reason of the external comparables, as well as the number of days already provided to the Command Officers, that an increase in paid time off is appropriate. Whereas this Arbitration Panel believes that it might have been more appropriate to make a proposal to increase vacation leave, since the Union has sought to increase personal days, the Arbitration Panel will not (and cannot) second guess the designation of leave days sought. Nonetheless, it believes that an increase is appropriate and warranted in light of the comparables and in light of the underlying reason for such personal leave days.

AWARD

WHEREFORE, the Arbitration Panel hereby grants the Union its request for two (2) additional personal leave days annually effective January 1, 1994. Therefore, Section 6.7 of the collective bargaining agreement shall read:

Effective January 1st of each year, full-time seniority employees shall be entitled to a maximum of five (5) personal leave days during the following twelve (12) month period, with pay to be computed at the employee's then current straight time hourly rate, exclusive of any premium of any sort whatsoever as of the day such personal leave day is taken. . . .

However, for calendar year 1994 only, the grant of two (2) additional leave days shall be prorated one-sixth since only two months remain in the calendar year.

Karen Bush Schneider
Karen Bush Schneider, Panel Chairperson

Concur:

Richard Ziegler
Richard Ziegler

Dissent:

Thomas H. Derderian

Thomas H. Derderian

Uniform Allowance

The Union requests that the uniform allowance for Deputies be increased from \$300 to \$400 effective January 1, 1994. The cleaning allowance would be maintained.

The Employer proposes that the present contract language be maintained which provides for a \$300 uniform allowance on an annual basis.

The Union's uniform allowance proposal requests that the dollar allotment be increased by \$100 annually to permit Deputies to request acquisition of additional pieces of uniform. The Arbitration Panel has reviewed external as well as internal comparables, and has considered the actual expenditure of bargaining unit members on uniform items as exhibited in Employer Exhibit "23."

With regard to external comparables, the Arbitration Panel notes that in all cases, uniforms are provided by the Sheriff's Departments in the external comparable counties. Beyond that, there are varying ranges of allotments and cleaning allowances provided by those comparables.

Uniform Allowance

Berrien	Provided initially, plus \$400 for life/cleaning provided
Calhoun	Provided initially, plus \$400 for life/cleaning provided
Jackson	Provided initially, plus \$400 for life/\$150 yearly
Lapeer	Provided initially, plus \$400 for life/cleaning provided
Lenawee	Provided initially, plus \$400 for life/cleaning provided
Livingston	Provided initially, plus \$400 for life/cleaning provided
Muskegon	Provided initially, plus \$400 for life/\$350 yearly
Ottawa	Provided initially, plus \$400 for life/\$250 yearly
St. Clair	Provided initially, plus \$400 for life/\$300 yearly

As to internal comparables, all other bargaining units within the Sheriff's Department are provided with \$300 per year for uniforms. The Employer pays all cleaning costs for such uniforms.

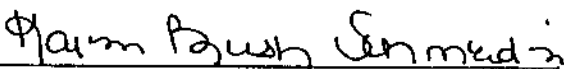
The Arbitration Panel has reviewed whether there is a need for an increase in the uniform allowance in light of the fact that the last increase in the allowance occurred in calendar year 1978. In reviewing Employer's Exhibit "23," the Arbitration Panel notes that in the majority of the cases, the Deputies have not spent the \$300 credit which is theoretically available to them. One wonders whether or not that is due to the fact that the

Deputies know that they have a limited amount of money and are unwilling to expend beyond that amount to purchase uniforms, as opposed to whether there is no actual need for an increase in the allowance. In an attempt to ascertain whether the lack of expenditures is due to a lack of need versus a lack of a desire to expend personal funds, this Arbitration Panel has looked at the remaining balances for 1993 to discern whether the Deputies are unwilling versus do not need to expend monies to acquire uniforms. Twenty-one Deputies had a remaining balance of \$50 or less. (Id.) A number of Deputies had a balance of well over \$150. (Id.) Since the majority of the bargaining unit had a balance in excess of a \$150, this Arbitration Panel must conclude that the current uniform allowance is adequate for the bargaining unit's needs. (Id.)

To the extent that the bargaining unit wishes a greater control over its use of the uniform allowance, the Arbitration Panel suggests that proposals be tendered which clearly express the bargaining unit's desire to retain greater autonomy in the expenditure of the uniform allowance. However, such issue is not before the Arbitration Panel at the present time.

AWARD

In light of the foregoing, the Arbitration Panel accepts the proposal of the Employer to maintain present contract language regarding the issue of uniform allowance.

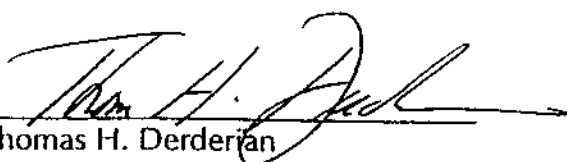

Karen Bush Schneider, Panel Chairperson

Concur:

Richard Ziegler

Dissent:




Thomas H. Derderian

Orthodontic Benefit

In its Last Best Offer, the Union proposes the addition of an orthodontic rider to the current dental policy. The Union proposes the adoption of Delta Dental Plan Class III Orthodontic Benefits, Plan A, which provides Class III orthodontics—50% with a \$1,500 lifetime maximum per eligible person. As part of its proposal, the Union proposes that the Deputies contribute up to \$9.64 per month for the coverage and that the Employer pay any expense over and above that amount per month.

The Employer proposes to maintain the present contract language which does not include an orthodontic rider.

A review of the external comparables shows the following orthodontic benefits:

Plan A Class III—Ortho—50% With \$1,500 Lifetime Per Eligible Person

Ortho Rider

Berrien	No
Calhoun	No
Jackson	No
Lapeer	Yes, 50% up to \$1,000 max
Lenawee	No
Livingston	No
Muskegon	No
Ottawa	No
St. Clair	Yes, 50% up to \$1,500 max


Thus, the vast majority of external comparables, with the exception of Lapeer and St. Clair counties, do not provide any orthodontic benefits.

With regard to the internal comparables, the Arbitration Panel notes that none of the internal comparables provide orthodontic benefits of any kind. Thus, both the internal and external comparables favor the position of the Employer on this issue.

The Arbitration Panel has also considered the fact that this proposal presents a cost to bargaining unit members of the Union. Under this proposal, bargaining unit members, regardless of whether they use the benefits of the ortho rider or not, will be required to expend \$9.64 per month, or \$115 annually to maintain this benefit. In light of the Arbitration Panel's decision regarding wages and in light of the fact that this represents a cost to the bargaining unit members, the Arbitration Panel declines to find in favor of the Union on this issue.

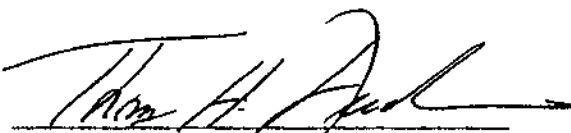
AWARD

WHEREFORE, the Arbitration Panel awards the position of the Employer on the issue of orthodontic benefits maintain the status quo regarding dental insurance.


Karen Bush Schneider, Panel Chairperson

Concur:

Richard Ziegler


Thomas H. Derderian

Dissent:



Lost or Damaged Property

Section 15.14 of the collective bargaining agreement provides as follows:

The Sheriff will designate the equipment required to be used by employees covered by this Agreement, including firearms, and each such employee shall be issued required equipment and receipt therefore. Employees shall be responsible for the proper care and maintenance of such equipment in their possession. Lost or damaged equipment shall be charged to the responsible employee if due to neglect or careless use which may be subject to the grievance procedure. [Emphasis added].

In its Last Best Offer, the Union requests deletion of the last sentence of the current Section 15.14, as highlighted. In response, the Employer proposes to maintain the current language of 15.14.

In support of its position, the Union asserts that in a number of instances, its bargaining unit members have been charged for lost or damaged equipment. Given the increased value of equipment issued to officers, e.g., lap top computers, there is a growing concern on the part of the Union that its bargaining unit members will incur significant expense if Section 15.14 remains in the contract. Given the mandatory nature of the last sentence of Section 15.14, the Union is concerned that even accidental damage or misplacing of the Department property will have a serious financial impact on the Deputies.

In response, the Employer points out that the current collective bargaining agreement language has been in place for approximately 22 years and that there has only been one grievance during that time that has gone to arbitration concerning liability of an

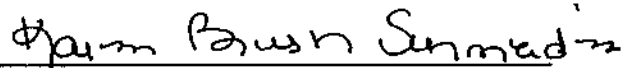
employee for lost or damaged property. Further, the Employer asserts that its practice, as embodied in the collective bargaining agreement, is applied not only to the Deputies, but to other employees of the County as well. Unionized and non-unionized employees of the County alike have reimbursed the County for County property damaged due to their negligence and carelessness. (See, for example, Volume 4, pp. 88-90). Finally, the Employer asserts that Deputies should take responsibility for County property damaged due to their carelessness or negligent behavior, rather than burdening the taxpayers of Monroe County for such liability.

The Arbitration Panel has carefully considered the foregoing arguments and finds in favor of the Employer on this issue. The language in the agreement has been in place for more than two decades. It deals with damage occasioned by "negligence" or "carelessness," as opposed to a mere accident. It is not unreasonable that the Union's Deputies should be responsible for property or equipment damaged due to their negligence or carelessness. Indeed, this has been the agreed upon approach of the parties for more than two decades.

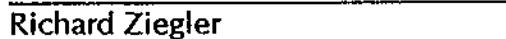
If this issue remains of concern to the parties, the Panel would suggest that future negotiations focus on the acquisition of personal loss insurance whereby the County would pay the insurance premiums, but the Deputies would be liable for the deductible in the event that loss or damage was due to their carelessness or negligence. That approach might be a satisfactory compromise to ensure that the County receives reimbursement for expensive equipment while at the same time not severely penalizing Deputies for their negligence or carelessness.

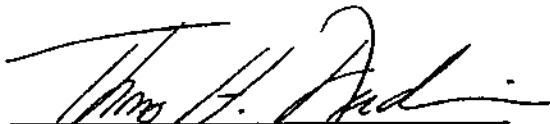
AWARD

WHEREFORE, the Arbitration Panel rules in favor of the Employer on this issue that the current contract language found in Section 15.14 of the collective bargaining agreement be maintained.


Karen Bush Schneider, Panel Chairperson

Concur:


Richard Ziegler


Thomas H. Derdarian

Dissent:



Grievance Procedure

The grievance procedure found in the expired collective bargaining agreement between the parties contains a provision commonly known as a "looser pays" provision in connection with assumption of the costs of arbitrator's fees and expenses. In this regard, the contract provides as follows:

The arbitrator's fees and expenses shall be paid by the party (labor council or county) against whom the arbitrator's decisions shall be rendered, provided, however, that the arbitrator, in the event there is more than one issue involved, or in the event that the decision of the arbitrator is not entirely in favor of one party or against the other party shall have the right to apportion the expenses of arbitration and they shall be born accordingly by the labor council and the county. The labor council and county shall be responsible for their own expenses, if any, in connection with the arbitration proceedings.

In its Last Best Offer, the Union proposes that Section 4.33 (afore-quoted) be amended as follows:

The arbitrator's fees and expenses shall be shared equally by the parties. The Labor Council and the County shall be responsible for their own expenses, if any, in connection with the arbitration proceedings.

The Employer proposes that the present contract language as quoted above be maintained.


The Employer asserts that this issue is not properly before the Arbitration Panel since it was not listed on the Act 312 Petition, nor presented in contract negotiations. In this regard, the Employer asserts that none of the written proposals tendered by the Union articulate the loser pay issue as an issue in collective bargaining. (See Employer's Exhibit "3," Tabs 22 and 23). Indeed, in the Union's articulation of grievance procedure as an issue, it was raised as a non-economic issue, as opposed to an economic issue, which clearly a loser pay provision would be. Therefore, the written proposals tendered by the Union would seem to support the position that the Union had not, at least in writing, raised loser pays as an issue in connection with the grievance procedure during the more formal aspects of collective bargaining.

In its initial petition to the Commission, the Union does list grievance procedure as an issue, but again characterizes it as a non-economic issue. (See Union Exhibit "1," Tab A). When the petition was amended by correspondence dated March 12, 1993, the issue was merely identified as "grievances and procedures."


In response to the foregoing pleadings, the Employer filed an Answer to the Petition for Act 312 Arbitration on January 2, 1992. Interestingly, it raised as an issue "Article 4, Grievance Procedure." However, in the prehearing conference held on September 24, 1993, the Employer objected to "grievances and procedures" as an issue on the basis that it had not been raised in collective bargaining, nor properly identified in the arbitration petition.

The Arbitration Panel has carefully reviewed the pleadings identified and can find no evidence of a loser pay provision being raised in collective bargaining or in the Act 312 Petition. At all times, the grievance procedure, while identified, was identified as a non-economic issue. That would suggest to the Arbitration Panel that the loser pay provision was not an issue which was negotiated or mediated by the parties. Further, it is questionable whether it was an issue raised in the Act 312 Petition since it was characterized as a non-economic issue.

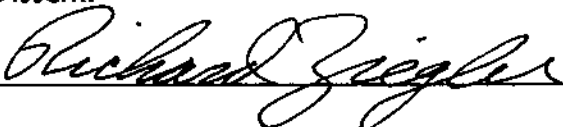

Accordingly, the Arbitration Panel does not have jurisdiction to consider this issue as a part of its Act 312 Award.

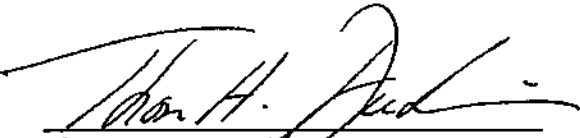

Karen Bush Schneider, Panel Chairperson

Concur:


Richard Ziegler

Dissent:


Thomas H. Derderian

Job Bidding

Under the expired collective bargaining agreement, Section 7.9, entitled "Job Bidding," provides as follows:

When a job assignment becomes available in any unit serviced by a classification in the bargaining unit except for school liaison, and drug or narcotic unit assignment, the job assignment will be posted for a period of ten (10) calendar days. All eligible employees may sign the posting and those who have bid for the job assignment will be considered by the Sheriff. Selection will be made by the Sheriff based on the respective qualifications, ability and classification seniority of the bidders in the classification, with seniority controlling when the other factor [sic] are relatively equal.

Any job assignment put up for bids and for which there are no bidders, or for which the Sheriff determines there are no qualified bidders, will be filled by the Sheriff with the employee who has the least seniority in that classification who is qualified. In the alternative he may fill this assignment by hiring a qualified person for that classification from outside the bargaining unit provided it does not cause the lay off of anyone in the bargaining unit.

Assignments to school liaison and drug or narcotic unit positions will be excluded from the bidding procedure. The Sheriff shall have the right to assign sworn deputies to these positions without regard to seniority. However, such assignments may be turned down by the Deputy selected by the Sheriff. In the event no deputy accepts any of the excluded assignments, the Sheriff shall have the right to assign the least senior of the qualified sworn deputies to these assignments.

Any member of the bargaining unit may challenge what he/she considers the improper application and/or interpretation of this procedure through the grievance procedure.

Given the Employer's concern regarding the Sheriff's need for flexibility in assigning and changing the assignment in contract units and substations, the Employer proposes the following revision of Section 7.9:

When the Sheriff determines that there is a vacant position he desires to fill within the detective bureau, youth bureau, and the traffic and safety bureau, such vacancy shall be posted for a period of ten (10) calendar days. Employees shall also be eligible to bid for the position of road patrol. The parties hereby agree that all contract unit assignments and assignments to individual sub-stations shall be filled from road patrol positions and not individually subject to the job bidding provisions of this section. All eligible employees may sign the posting and those who have bid for the job assignment will be considered by the Sheriff. Selection will be made by the Sheriff based on the respective qualifications, ability, and classification seniority of the applicants. The Sheriff shall award the position to the applicant with the highest seniority in the event he determines that the comparative applicant's qualifications and abilities are equivalent.

Any job assignment put up for bids and for which there are not bidders, or for which the Sheriff determines there are no qualified bidders, will be filled by the Sheriff with the employee who has the last seniority and is qualified. In the alternative, the Sheriff may fill such assignment by hiring a qualified person for such position from outside the bargaining unit provided it does not cause the layoff of anyone in the bargaining unit.

Any employee of the bargaining unit may, at any time, submit a request to the Sheriff that he/she desires to work a certain job assignment.

In response, the Union in its Last Best Offer proposed to maintain current contract language.

The Employer has the burden of proof in this matter, since it is the moving party. In support of its position, the Employer asserts that it does not dispute that certain

positions within road patrol should be subject to the bidding process and others, such as liaison officer, detective bureau, and drug or narcotic assignments, should not be subject to the bidding procedure. However, contract unit and substation assignments, which are currently a part of road patrol, should also be excluded from bidding as separate positions under Section 7.9 of the contract. In this regard, the Employer asserts that it views such assignments as part of the general classification of road patrol and to subdivide contract unit and substation assignments within said classification into separate biddable jobs would unduly restrict the Employer's authority.

In support, the Employer asserts that contracting municipalities, since they pay some 80 percent of the Deputies' salary and provide a vehicle for his/her use, have historically wished to retain some "say" in the assignment of Deputies, including their identity and the time of day they are assigned to the unit or substation. The Sheriff testified that in the past he has been approached by officials from contracting municipalities requesting that a Deputy's duty assignment be changed. (Volume 4, p. 165). The Employer believes that it must be responsive to these requests or risk the loss of the contract with the unit of government.

Additionally, the Sheriff entertains the philosophy that the Deputies are Deputies throughout the County of Monroe and benefit from receiving a variety of assignments within the County.

Lastly, the Employer asserts that the comparables also support its position. A review of the external comparables reveals as follows:

Berrien County: All positions or jobs in the Department are posted for a period of not less than five (5) calendar days. All interested employees apply for such jobs or positions to the Sheriff in writing. The Sheriff determines all job assignments.

Calhoun County: The Employer posts all pertinent vacancies that it desires to fill. Posting identifies the classification in which the vacancy exists, the minimum qualifications required for the classification and the general job duties and responsibilities assigned to the classification. The Sheriff determines the job assignments by choosing the best qualified applicant from among those who applied and possessed the minimum qualifications. Seniority of applicants is utilized as a "tie breaker" in the event of similarly qualified applicants.

Jackson County: On filling of vacancies, seniority will not be a determining factor, but is subject to the eligibility requirements. The decision will be made by the Sheriff on the basis of experience, training, education, and the physical or technical qualifications as the job may require as determined by the Sheriff.

Lapeer County: An employee may be granted the opportunity to request a work area (a contracting township). However, a township shall be allowed to choose in writing a Deputy of its choice. Such written request shall be made to the Sheriff and a copy shall be provided to the Union.

Lenawee County: By seniority.

Livingston County: No bidding provision in the collective bargaining agreement. Deputies may register a preference for an assignment, but the ultimate placement is at the Sheriff's discretion.

Muskegon County: The Sheriff shall post, within seven (7) days of such opening, the following assignments which are to be filled: (1) patrol unit positions, (2) jail unit positions. The award of the position to employees who have applied shall be based upon demonstrated capacity and quality of performance. A systematic consideration of the work performance shall be given to the applicants. Length of service shall be the determining factor when other factors are equal. Employees selected shall be on temporary tenure in that position for six (6) months, during which time he/she may be disqualified by the Sheriff or himself/herself and returned to his/her former classification and/or assignment. The vacancy posting process of the Muskegon County Sheriff Department is vested exclusively in the Sheriff except as abridged in this section. The Sheriff has the sole responsibility for the actions of each officer, accordingly he shall the ultimate choice of the personnel who will carry out his demands. The Sheriff shall not be arbitrary or capricious in his method of selection.

Ottawa County: No job bidding provision in the collective bargaining agreement.

St. Clair County: If the position is funded in whole or in part, by a state or federal grant or contract with another political subdivision, it shall not be subject to the seniority provision but shall be scheduled at the discretion of the Sheriff. (Union Exhibit "1," Tab K and Employer Exhibit "3," Tab 18).

As can be seen from the foregoing, the comparables present a range of positions regarding the issue of job bidding and bidding of contract units. These positions range from a straight seniority system to the discretion of the Sheriff.

The Union responds by taking the position that the job bidding language has existed in the collective bargaining agreement and been interpreted, at least under predecessor Sheriffs' administrations, to permit job bidding of all road patrol assignments, including the specific contract unit. The Deputies desire to bid on such assignments and believe that they have the authority to do so under the current collective bargaining agreement language.

The Arbitration Panel has attempted to thoughtfully consider the position of both parties on this issue since both parties present compelling reasons why their proposals should be accepted by the Arbitration Panel. Since this is a non-economic issue, the Arbitration Panel has had more latitude to consider a "middle ground," which takes into account the Deputies' desire to be able to bid on contract and substation units, while permitting the Employer some flexibility to respond to objections by contracting units as to the identity of the Deputy or the time of day during which that Deputy works. Therefore, the Panel believes that some alternate proposal which recognizes the right of Deputies to bid on substation and contract units is appropriate, but which yet recognizes the Employer's ability to make changes given the legitimate and express desires of the contracting unit. Therefore, the Arbitration Panel awards as follows:

AWARD

WHEREFORE, the Panel awards the following language which shall become Section 7.9 of the collective bargaining agreement:

When a job assignment becomes available either mid-year or at the November 1 bidding set forth in Section 5.3, in any unit serviced by a classification in the bargaining unit, including

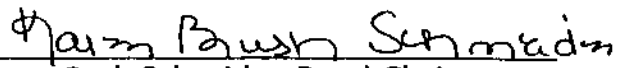
contract units, substations, road patrol, special assignments, and detective bureau, but excluding school liaison and drug or narcotic unit assignment, the job assignment will be posted for a period of ten (10) calendar days. All eligible employees may sign the posting and those who have bid for the job assignment will be considered by the Sheriff. Selection will be made by the Sheriff based on the respective qualifications, ability and classification, with seniority controlling when the other factors are relatively equal.

Any job assignment put up for bid and for which there are no bidders, or for which the Sheriff determines there are no qualified bidders, will be filled by the Sheriff with the employee who has the least seniority in that classification who is qualified. In the alternative, he may fill this assignment by hiring a qualified person for that classification from outside the bargaining unit provided it does not cause the layoff of anyone in the bargaining unit.

Assignments to school liaison and drug or narcotic unit positions will be excluded from the bidding procedure. The Sheriff shall have the right to assign sworn Deputies to these positions without regard to seniority. However, such assignments may be turned down by the Deputy selected by the Sheriff. In the event no Deputy accepts any of the excluded assignments, the Sheriff shall have the right to assign the least senior of the qualified sworn Deputies to these assignments.

In the event an official of a contracting unit or substation assignment requests that an employee who has bid to that assignment/schedule by virtue of his/her seniority be transferred out of the contract unit or substation assignment/schedule, the Sheriff may transfer the employee from that assignment/schedule. Such transfer will only be made, however, after the official from the contracting agency or substation assignment has reduced his/her request to writing and cites specific reason(s) for the request. A copy of the written request and reason(s) must be given to the affected employee at least ten (10) days prior to the transfer. The position will then be subject to the aforementioned bidding procedure or the Employee may accept the change if it involves schedule only.

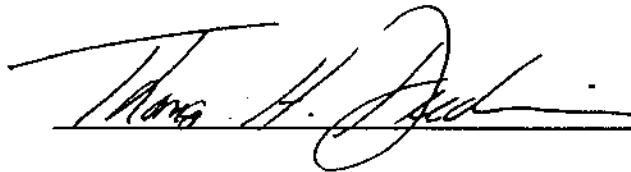
Any member of the bargaining unit may challenge what he/she considers the improper application and/or interpretation of this procedure through the grievance procedure.


Karen Bush Schneider, Panel Chairperson

Concur:


Richard Ziegler

Dissent:



Thomas H. Derderian

Long-Term Disability

Under the expired collective bargaining agreement, Deputies are eligible to receive long-term disability benefits in the amount of 67 percent of their gross earnings with a maximum monthly benefit of \$4,000. They may draw such benefits, without time limitation, for the duration of their disability up until they reach age 65.

The Employer seeks to modify the expired collective bargaining agreement to limit disability benefits to a maximum of a two year period. In this regard, the Employer proposes the following language:

Section 9.1: All non-probationary employees of the bargaining unit are covered by the County of Monroe's self-insured short and long-term disability plan. The amount of disability income benefits provided for eligible employees shall be 67 percent of the employee's gross basic monthly earnings, with a maximum monthly benefit of \$4,000 and a minimum monthly benefit of \$100. Such gross basic monthly earnings will be calculated based upon the number of regular scheduled hours

such employee would otherwise have worked, exclusive of overtime. An employee will be eligible for disability benefits under the provisions of this Article after a waiting period of one (1) day for accidents and seven (7) calendar days for illness. An employee who continues to be disabled may draw disability benefits for up to a maximum of 52 weeks. After such 52 week period, all benefits will cease.

Section 9.2: Disability benefits are subject to reduction by any of the following other income benefits for which the employee may be eligible:

- 1) Social security disability benefits.
- 2) Workman's compensation benefits.
- 3) Pension disability benefits.
- 4) Disability benefits under any "no fault" automobile reparation insurance law.

In order to remain eligible for benefits under Article 9 of this Agreement, an employee is required to apply for other income benefits as soon as, and for which he/she may be eligible. Documentation of such application for, denial and/or receipt of such benefits must be promptly provided to the Personnel Director.

Section 9.3: An employee will not be eligible for disability benefits unless he/she is under the care of a physician who certifies, in writing, that said employee is disabled from performing his/her job responsibilities. Such certification must indicate what specific physical or mental limitations or restrictions disable the employee from so performing such responsibilities, and the length of time that such employee is expected to be disabled. The County has the unlimited right, in its sole discretion, to offer "favored work" to any employee so disabled, so long as such "favored work" is within the employee's physical and/or mental limitations and restrictions as certified. The County will attempt to offer such "favored work" within the Monroe County Sheriff's Department, but reserves the right to make such "favored work" offer in any department within the County. Such "favored work" offer may direct the employee to work any scheduled shift and/or job assignment notwithstanding any other provision of this Agreement. Any employee who refuses such "favored work"

offer will not be eligible for disability benefits. Any employee performing such "favored work" will be compensated in accordance with the following:

- 1) For the first 30 calendar days on favored work—90% of salary as defined in Exhibit "A" of this Agreement.
- 2) From the 31st–60th calendar day of favored work—85% of salary as defined in Exhibit "A" of this Agreement.
- 3) From the 61st–90th calendar day of favored work—80% of salary as defined in Exhibit "A" of this Agreement.
- 4) From the 91st–365th calendar day of favored work—67% of salary as defined in Exhibit "A" of this Agreement.

No employee will be eligible for "favored work" beyond 365 calendar days.

Section 9.4: The County retains the unlimited right to direct any employee, at any time, as a condition of receiving disability benefits, to an examining physician of its designation. Such examination will be at the County of Monroe's expense. Should such examining physician disagree with the opinion of the employee's treating physician as to the disability of such employee, or the extent of the restrictions or limitations of such employee, the employee will be cited to an independent third physician for examination and evaluation. This physician will be selected by the County's physician and the employee's physician and his/her examination will be at County expense. The opinion of such physician will be final and binding on the parties herein and all further examinations as may be directed by the County as to said employee will be done by such physician.

Section 9.5: Any employee who has earned and accumulated "sick days" in his/her "sick day bank" under the provisions of previous collective bargaining agreements will keep all such accumulated "sick days" in his/her "bank." Said employee

may, as an alternative to receiving disability benefits under the provisions of this Article, utilize such "sick days." At the exhaustion of said employee's "sick bank," he/she may receive disability benefits under the provisions and limitations of this Article. Documentation of the employee's decision to utilize such "sick day bank" must be provided, in writing, to the Personnel Director, at the time of disability. At the time of the employee's termination of employment or retirement, the employee will receive payment for 50% of all such unused days as accumulated in his/her "sick day bank." Said payment will be calculated at the hourly rate of the employee at the time of his/her termination or retirement.

Section 9.6: Any employee who receives disability benefits pursuant to this Article will continue to accrue seniority as defined in Article 7 of this Agreement, but will not be given credit for vacation benefits as defined in Article 8 of this Agreement during such period of his/her disability.

Section 9.7: In the event that an employee receives benefits pursuant to the provisions of this Article, and it is determined that said employee was not ill or disabled or has in any way misused such benefits and/or falsified his/her condition, said employee will be subject to disciplinary action up to and including discharge. No employee shall engage in any gainful employment whatsoever while they are receiving disability benefits pursuant to the provisions of this Article unless they have obtained the prior written approval of the Personnel Director. Any employee who has improperly received benefits pursuant to the provisions of this Article must, in addition to any discipline that may be imposed, reimburse the County for the amount of such benefits as improperly received.

Section 9.8: No employee will be returned to employment, with the exception of "favored work" as defined in Section 9.3 herein, after the receipt of disability benefits pursuant to this Article, unless he/she has provided a physician's certification that he/she is capable of resuming his/her job responsibilities without limitations or restrictions. Such physician's certification must be presented, in writing, to the Personnel Director.

The Union has responded by proposing that the long-term disability insurance be maintained as it existed in the collective bargaining agreement.

In support of its argument, the Employer asserts that it is fundamentally unfair for the Employer to be theoretically obligated to pay long-term disability benefits for, lets say, 40 years, to a Deputy who is injured very early in his/her career. Some type of time maximum or cap should be placed on the long-term disability benefits.

The Arbitration Panel has reviewed the external comparables of the parties which provide as follows:

Berrien County:	No LTD benefits.
Calhoun County:	LTD benefits in the amount of 67% of salary for maximum period of 26 weeks.
Jackson County:	No LTD benefits.
Lapeer County:	No LTD benefits.
Lenawee County:	LTD benefits in the amount of 65% of salary up to \$360 weekly. Maximum cap of five (5) years.
Livingston County:	No LTD benefits.
Muskegon County:	No LTD benefits.
Ottawa County:	Employees receive between 60 and 70% of salary subject to offsets for other benefits.
St. Clair County:	No LTD benefits.

As can be seen from the foregoing, the comparable counties either provide no LTD benefits or benefits with some type of maximum period.

The Arbitration Panel also notes that the Monroe County Command Officers Association, the Monroe County Corrections Officers Association, and the Monroe County Communication Center Association all have bargained and agreed to the imposition of a two year cap on LTD benefits. Therefore, both the internal and external comparables would seem to favor the Employer's position herein.

The Arbitration Panel acknowledges that it is uncommon to find an LTD benefit without some maximum benefit life. Absent such a maximum, the Employer is correct that a Deputy may continue to collect such benefit for decades if the disability occurs early in his/her career.

Given the support for the Employer's position amongst the comparables, both internal and external, as well as the basic underlying argument in support of the position, the Arbitration Panel believes that the Employer has sustained its burden of proof herein. However, while the Arbitration Panel will award the Employer's proposal, in futuro, it wishes to make clear that its award is not intended to impact any Deputies who have previously and/or are currently drawing LTD benefits. Those Deputies shall continue to draw such benefits, unaffected by any cap awarded herein.

AWARD

WHEREFORE, the Arbitration Panel awards the proposal of the Employer effective the date of the issuance of this Arbitration Award. Further, the Panel holds that this award shall not apply to any past or present Deputies who have or who are presently

receiving LTD benefits. They have and may continue to do so without time limitation or duration cap.

Karen Bush Schneider
Karen Bush Schneider, Panel Chairperson

Concur:

Dissent:

Richard Ziegler
Richard Ziegler

Richard Ziegler

Thomas H. Derderian
Thomas H. Derderian

MISCELLANEOUS AWARD

The Arbitration Panel; hereby awards all tentative agreements and expired contract provisions not addressed herein.

Karen Bush Schneider
Karen Bush Schneider, Panel Chairperson

Concur:

Dissent:

Richard Ziegler
Richard Ziegler

Thomas H. Derderian
Thomas H. Derderian

Dated: October 21, 1994