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STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

ARBITRATION UNDER ACT 312, PUBLIC ACTS OF 1969, AS AMENDED

THE COUNTY OF MUSKEGON,  
Employer,

and

MERC CASE NO. C-88-J-0820

TEAMSTERS STATE, COUNTY AND  
MUNICIPAL WORKERS LOCAL 214,  
Union

OPINION AND AWARD

Appearances

County of Muskegon

Union

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Chairman of Arbitration Panel: Kenneth P. Frankland

County's Delegate: James B. Delaney

Union's Delegate: Joseph Valenti

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EMPLOYMENT RELATIONS COMMISSION  
DETROIT OFFICE

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*Muskegon County*

## Introduction

This matter is before a panel of arbitrators appointed pursuant to the terms of Act 312, Public Acts of 1969, as amended for the purposes of hearing and deciding 10 unresolved issues. The Petition for Arbitration was initiated by the Teamsters Local 214 on September 26, 1989, by Fred W. Bennett, its Business Representative. On January 9, 1990, pursuant to the statute, Kenneth P. Frankland was appointed by the Michigan Employment Relations Commission to serve as Chairman of the arbitration panel. A prehearing conference was held on March 8, 1990. By letter dated March 9, 1990, the Chairman issued a summary of the prehearing conference. It was agreed that Mr. Delaney would be the County Delegate and Don Veldman would be the employer's advocate. It was also agreed Mr. Bennett would be both the employee delegate and the Union advocate.

The parties agreed to exchange a proposed list of comparable communities, and attempt to agree on comparables within three weeks of the hearing date. On March 30, 1990, the Employer submitted a list of proposed comparables:

Counties: Berrien, Calhoun, Ingham, Jackson, Kent, Monroe, Ottawa, Saginaw and Washtenaw;

Adjacent and Contiguous Municipalities: City of Muskegon, Muskegon Heights and City of Norton Shores;

Other Bargaining Units of the County of Muskegon: General Employees Unit, District Court Unit, Sheriff Deputies Unit,

Waste Water Unit, Brookhaven LPN Unit  
and Brookhaven General Employees  
Unit.

On April 1, 1990, the Union found the following proposed comparables unacceptable: City of Norton Shores, City of Muskegon Heights, Muskegon County Waste Water Unit, Brookhaven LPNs, Brookhaven General Unit and Muskegon County District Court. The Union agreed to the use of the Sheriff's Deputy Unit and the Muskegon County General Unit strictly as a comparable to show the history of bargaining.

At the April 23, 1990, hearing, the parties stipulated that the following counties were comparable: Berrien, Calhoun, Jackson, Monroe, Ottawa, and Saginaw. They also agreed the Muskegon County Deputy Sheriffs and the Muskegon County General Unit are comparable. The parties submitted testimony and exhibits in support of what they perceive to be comparable communities.

#### Comparables

The County maintained that the command units in the City of Norton Shores and the City of Muskegon Heights, and in the City of Muskegon are appropriate comparables, because they are command units adjacent communities within the same county.

The County also submitted the other county units as comparables, include a unit of District Court employees with Local 214, the waste water group, the Brookhaven LPN and the Brookhaven Service employees. The County stated that these units are

comparables because they are indicators of the county's negotiating status with the same employer.

The Union proposed the Sheriff Command Units of Bay County, Berrien County, Calhoun County, Jackson County, Kalamazoo County, Monroe County, Ottawa County and Saginaw County. The Union argued that there are three significant ways to choose the comparable units. The first factor is the bargaining history of the county of Muskegon in regards to the units represented by the Teamsters. The parties already stipulated to the General Employee Unit, but the Union noted that the District Court does not fall under the same type of negotiation processes as the others because the judges are the final word in that negotiation process. Also, the Teamsters settled a different type of contract for a different type of benefits in the District Court unit.

Additionally, the Union asserted that they must compare other command units with the Sheriff's command unit. The best and most complete comparability factors are with other units of the same kind. The Union also took into account budget size, county population, number of personnel in the unit, and state equalized value of the counties within the State of Michigan. The Union went 20 percent up and 20 percent down the counties that hit at least 3 of those criteria, and choose the six counties stipulated to, plus two additional counties: Bay and Kalamazoo. The Union challenged the inclusion of LPNs or local units, just because they

are in the area. The Union asserted using those units are like comparing apples to oranges.

The County maintained that Muskegon County is unique because it has much higher unemployment figures than the surrounding communities. The County admitted it proposed Brookhaven 1199, Brookhaven AFSCME, and the LPNs and Waste Water plant because it had a common employer. It proposed Norton Shores Command Units because it is from the same county. Counties should be compared with similar governmental structures. The Boards of Commissioners have slightly different statutory authority than do City Officials. The taxing authorities are different, the ability to levy up to 20 mills is considerable for cities, whereas the County constitutional limit is much smaller. Cities tend to be small geographic areas with higher population densities. Counties have conversely larger areas and generally are less dense. This means that sheriffs patrols are actually out on the roads, and do more traveling than might City Officers. Further, the rurality versus urbanity is of significance and as a result of urban versus rural the socio-economic structures are generally dissimilar. For all of the foregoing reasons, this panel opts not to include the City of Norton Shores, Muskegon and Muskegon Heights.

As to internal comparables, the parties agreed to the deputies and general employees. We see no need to go further. All the other employees do not perform law enforcement functions and thus are not considered comparable. The only similarity is the Employer

- the County. That is not a sufficient nexus and bargaining for those units does not involve the Constitutional office of sheriff and whatever prerogatives that implies.

As to the externals, the panel finds that Bay and Kalamazoo should also be included. The Union rationale, although not perfect or precise, does use the usual components of population, SEV, size, budget and personnel. The County really did not oppose in any appreciable way these counties, but rather emphasized the cities and other intentional units as better or more appropriate. Since the parties agreed to the other 6, these 2 do not create too many and are within an acceptable range of deviations so they can be accepted.

#### Stipulations

At the beginning of the hearing, the parties stipulated and the panel agreed that the time limits under the Act were waived. The parties submitted a 5 page list dated April 13, 1990, of specific items agreed to that will be incorporated as part of the panel's award.

The parties stipulated to the jurisdiction of the panel.

They also agreed to the submission of 4 joint exhibits.

The parties further agreed that the remaining issues to be arbitrated are as follows:

1. Wages
  - A. 1989 Bonus
  - B. Salary Increases
2. Longevity
3. Health Insurance

4. Optical Insurance
5. Dental Insurance
6. Retirement Plan
7. Duration of Contract

Non-economic

1. Overtime
2. Job Assignments
3. Hours of work/work schedules

This opinion will discuss the last offer on an issue-by-issue basis with the panel opinion and majority vote on each issue.

I. WAGES

A. 1989 Bonus

County's Last Offer:

The Employer will pay \$1,000 lump sum for calendar year 1989.

Union's Last Offer:

The Employer should pay \$1,200 for all command officers in 1989.

B. Wages

County's Last Offer:

a. For the 1989 - a lump sum ratification payment in the amount of \$1,000 to eligible full-time bargaining unit employees employed on the date of the award.

The lump sum ratification payment referred to above is not cumulative and is not included in the base rate.

b. Effective the first full pay period following January 1, 1990, 4 percent.

c. Effective the first full pay period following January 1, 1991, 4 percent.

d. Effective the first full pay period following January 1, 1992, 4 percent.

Union's Last Offer:

Effective the first full pay period following January 1, 1990, four percent (4%).

Effective the first full pay period following January 1, 1991, four percent (4%).

Effective the first full pay period following January 1, 1992, four percent (4%).

Such adjustment should be on all ranks, on all steps.

The Union stated that it sent Freedom of Information requests to the 8 comparable counties within 20 percent of Muskegon by population, budget, SEV and number of personnel. After receiving the requested data, the Union compiled Exhibit 13, showing the Union's Comparability Comparison for wages.

The Union presented the testimony of David A. Harkin, who is a lieutenant in the Muskegon County Sheriff's Department, security division. He has been with the Sheriff's Department for over 15 years, first as a deputy, then as a sergeant, and now as a lieutenant. He is familiar with the duties of the road patrol sergeant and lieutenant, and commented that the lieutenant has similar duties, with more responsibility than the sergeant. Command officers take calls when the calls are backed up or if



there is an emergency. There is no mandatory retirement age in the Sheriff's Department, and the oldest command officer is 61 years old.

Lieutenant Harkin said he has negotiated several contracts. He said there has been, for at least the last 15 years, a 10 to 15 percent ratio between the deputies' and sergeants' salaries, and lieutenants are about 10 percent above the sergeants' salaries. The deputies received a 4 percent increase in 1990, and received a \$1,000 bonus in 1989. Similar wages and bonuses would keep the command unit even with the men they supervise. Since the parties have historically kept these units parallel, we believe it is appropriate to do so here also.

Since the parties agreed to a 4 percent increase per year in 1990, 1991 and 1992, the panel finds that salary increase to be appropriate, especially in light of the deputy sheriff's contract terms. The panel further adopts the Union's proposal of \$1,200.00 bonuses for 1989. It frankly is startling and ironic that the offers are but \$200 apart after all the turmoil.

Award:

The Union's Last Best Offer is adopted.

Delaney: Concurs \_\_\_\_\_

Dissents   X  

Valenti: Concurs   X  

Dissents \_\_\_\_\_

## II. LONGEVITY

County's Last Offer:

Compensation for continuous service with the County shall be provided on the basis of the following schedule:

Years of Continuous Service as of <u>July 1 Each Year</u>	Amount of Payment		
	<u>July</u>	<u>December</u>	<u>Total</u>
5-9	\$ 60.00	\$ 60.00	\$120.00
10-14	120.00	120.00	240.00
15-19	180.00	180.00	360.00
20-24	240.00	240.00	480.00
25	300.00	300.00	600.00

Longevity payments shall be paid where applicable in July and December. Employees must be in pay status as of July 1, and December 1, in order to be eligible for longevity payments. If an employee is not in pay status at the required dates, he/she will be paid a pro-rata payment based on hours worked during the period.

An employee on leave of absence without pay during the period who retires under MERS during the period or who dies during the period, will be paid a pro-rata payment based on hours worked during the period. An employee who separates from County service during the period for any other reason, shall receive no payment.

Union's Last Offer:

Effective January 1, 1991:

5 years - 9 years	\$200.00
10 years - 14 years	400.00
15 years - 19 years	600.00
20 years - 24 years	800.00
25 years and over	1,000.00

The Union argued that longevity in the comparable counties is higher than the Sheriff's command's longevity. The Union submitted exhibit number 17 in support of its position.

The Employer noted that none of the negotiated settlements in the other Muskegon County Units changed the longevity schedule.

They said the comparables proposed by the Union do not support an increase of 66 percent, from \$600.00 to \$1,000.00 proposed by the Union.

The Union pointed out that the command unit is historically older and had more seniority than the deputies. It is irrelevant that the longevity sections have remained the same during the documented period. The command unit also has more stress, and have been on the job more than the deputies.

The panel, after review of the comparable contracts, finds for the employer on this issue. None of the other county units, including the deputies, received a new longevity schedule. The Union did not show sufficient reason for the change. If the panel follows the Unions item of parallelism with the deputies, then we will do so consistently. No change in the longevity schedule is awarded.

Award:

The County's Last Best Offer is adopted.

Delaney: Concurs	<u>X</u>	Dissents	<u>      </u>
Valenti: Concurs	<u>      </u>	Dissents	<u>X</u>

**III. HOSPITALIZATION**

County's Last Offer:

The Employer shall provide each permanent employee and his/her dependents hospitalization and surgical insurance coverage equivalent to the Michigan Blue Cross and Blue Shield plan identified as semi-private hospital, 365 days' coverage, Blue Shield MF-1 and ML Rider, including two dollars (\$2.00) co-pay prescription rider.

The Employer agrees to provide as an option, when available in Muskegon County, H.M.O.

coverage which will not exceed the cost of the group hospitalization and medical insurance as provided above.

Effective January 1, 1990, each employee enrolled in an Employer provided Medical Insurance plan shall pay a ten dollar (\$10.00) per month premium co-payment through regular payroll deduction, which deduction is hereby authorized by this Agreement.

**Union's Last Offer:**

Union proposes that the following change be placed in effect the first full calendar month following the award:

(1) Employees will begin paying \$10.00 per month (payroll deduction) toward their hospitalization insurance premium.

(2) Employer shall offer an HMO option to all members of the bargaining unit.

The County noted that the general employee's unit contract and the deputy employee contracts have the same provision as proposed by the County. Medical costs are escalating, and this proposal will help control those costs.

The Union asserted that in the two contracts cited above both considered paying for the insurance and taking a bonus as one item. The general employees and the deputies both gave up a year's wage - taking a wage freeze and a bonus instead - to pay for their insurance, in order to get a 4 year contract with the increase in pension.

The panel adopts the Union's Last Best Offer, so that employees will not owe \$10.00 per month retroactive to January 1, 1990. The \$10.00 per month premium shall commence the first full calendar month following the award.

**Award:**

The Union's Last Best Offer is adopted.

Delaney: Concurs	_____	Dissents	<u>X</u>
Valenti: Concurs	<u>X</u>	Dissents	_____

**IV. DENTAL INSURANCE**

County's Last Offer:

Effective January 1, 1990, increase premium dollars to \$27.00 per month. Effective January 1, 1991, increase premium dollars to \$28.00 per month. Effective January 1, 1992, increase premium dollars to \$29.00 per month.

Union's Last Offer:

Same as County's Last Offer.

The parties agreed at the hearing that if the panel sets a 4 year contract, the caps for the third and fourth years would be \$28.00 and \$29.00 respectively.

The panel adopts the dental plan agreed to by the parties.

**Award:**

The dental plan agreed to by the parties is adopted.

Delaney: Concurs	<u>X</u>	Dissents	_____
Valenti: Concurs	<u>X</u>	Dissents	_____

**V. OPTICAL INSURANCE**

County's Last Offer:

No optical plan for the term of the Agreement.

Union's Last Offer:

The Employer shall contribute \$18.00 per month toward an optical plan that will be mutually agreed upon by both parties to be placed into effect by 7/1/90.

The Union explained that in the past, the Union had an optical plan. When they changed dental insurance plans because it had been a Teamster joint optical and dental plan, then the optical plan was not continued. The Union proposed the optical plan to be reinstated. They introduced Exhibit 18 in support of its proposal for \$18.00 a month.

The County stated that none of the other County units have an optical plan. The Union negotiated out of the command contract an optical in 1987.

The Union counted that the optical plan was dropped so the unit could receive a substantially better dental plan. Because they did not receive a substantially better dental plan, they want the optical plan put back in.

The panel adopts the Employer's Last Best Offer. No other unit has an optical plan. The Union knowingly bargained away the optical plan in 1987 in return for an increased dental benefit.

Award:

The County's Last Best Offer is adopted.

Delaney: Concurs X

Dissents       

Valenti: Concurs       

Dissents X

**VI. RETIREMENT**

County's Last Offer:

Effective for the calendar years 1989 and 1990 to continue the Benefit program B-1 with Benefit Program F55 (25).

Effective January 1, 1991, the Employer offers Benefit Program C-2 with Benefit Program F55 (25).

Union's Last Offer:

Effective 1/1/91: The M.E.R.S. benefit known as B-3 shall be placed in effect, with the Employer continuing to fund the full pension cost.

The Union proposed the same contract the deputies received which was a 4 year contract with the pension benefit coming payable or changing in the 3rd year of the contract. They submitted exhibit 19 in support of their position.

The County asserted that its program was comparable to the rate of 2 percent of average compensation in other counties. It noted the C-2 rate goes down to 1.7 percent at age 65. The Employer cited cost concerns, and said it would like to stay with the current contract for two years, and look at the issue again in 1991.

The Union's witness, Mr. Bennett, said he negotiated both the general employee unit contract and the Sheriff's deputy contract. They took trade offs in the contract to get the pension plan. He said it was even more important to the command officers than to the deputies to have a retirement plan, given the stresses and dangers of the job, plus the age of the command officers. The County gave the general employees unit and the deputy sheriffs a 4 year contract with a pension plan. The only Teamster unit not receiving a pension plan was the District Court employees, who received a major increase in wages in a two year contract in lieu of a pension plan.

Lieutenant Harken also testified on the Union's behalf. He said he can carry out all the functions of the County deputies. He has transported prisoners, worked in the booking office, and gone to court with prisoners, in addition to his supervisory duties. If there is a danger or problem in the cell unit, both the sergeants and the lieutenants would respond.

The panel found the Union's argument to be most persuasive on this issue, as the Union showed a long history of contract increases parallel with the deputy's contract. The panel was less persuaded by the County's contention that the average compensation in other counties was only 2 percent. There is no need to look to the other counties' contracts since there is such a long history of parallel benefits with the deputies.

Award:

The Union's Last Best Offer is adopted.

Delaney: Concurs _____	Dissents <u>  X  </u>
Valenti: Concurs <u>  X  </u>	Dissents _____

VII. DURATION OF CONTRACT

County's Last Offer:

Contract from the date of the award through December 31, 1991.

Union's Last Offer:

4 Year Contract.

The County maintained that it wanted to review the pension plan proposal and cost in 2 years, so it proposed a two year



contract with no change to the pension plan at this time. The County acknowledged there would be no cost in year one of the Union's proposal, and they did not know the cost in the latter years. The County hoped to receive credit for a contribution it might have to make in the future. The County said it did not know whether there was any credit given when it accepted the Union's proposal for the deputy unit. The county also did not receive any credit from the Union for the GEU or the sheriff's deputy contract.

The Union noted that the deputies' and command officers' contracts were almost always for the same duration. Even if the contracts were slightly out of sync, the Employer usually moved them back in to line so they expired at the same time. In view of the agreement on wages through 1992 and the final offer of the County includes a 4th year, the panel adopts the 4 year duration. Although the County argued otherwise, it seems to have abandoned that position with its final offers.

#### NON-ECONOMIC ISSUES

##### I. OVERTIME POSTING

County's Last Offer:

No change from existing contract.

Union's Last Offer:

Effective upon contract signing, the members of the unit shall be allowed to bid, on an equal basis with the members of the Deputy Unit, for all outside overtime assignments.

The Union argued that command officers should be allowed to bid, with all other officers in the sheriff's department, for

overtime assignments. In these extra assignments, the command personnel function as deputies. Currently, they are denied overtime assignments assigned only to deputies. These assignments include ball games, dances, parades, picnics, and anything else where someone else wants to hire extra security under the Sheriff Department's posting procedure.

Robert Carter testified that in the Deputy contract there is a section regarding posting of extra curricular assignments. These assignments are overtime for personnel, and are currently on a first come, first serve basis with no relationship to seniority. When the calls come in, they do not differentiate between ranks. Command officers now can only sign up if no deputy has signed up.

Undersheriff Carter said that working these assignments is good for the officers and good for the entities who hire them. There is little cost to the County unless an officer gets hurt, but that is figured into the salary paid for the officer's services. He said the cost to the recipient of the service is one and one half times the officer's salary and that if a command officer's rate is quoted, it is possible the department would lose a job because it was too costly. Normally, the party proposing a change in the contract must show a compelling need for the panel to impose that which cannot be bargained.

The panel did not find the Union carried the burden of proving a need for the change in the present practice. The Union's proposal substantially affects the overtime available to the

deputies, and the panel believed such a change should be negotiated between the parties and the evidence presented was not so compelling as to mandate a change.

Award:

The County's Last Best Offer is adopted.

Delaney:	Concurs	<u>X</u>	Dissents	<u>          </u>
Valenti:	Concurs	<u>          </u>	Dissents	<u>X</u>

**II. JOB ASSIGNMENTS**

The Union withdrew this proposal from consideration at the time of the hearing.

**III. SHIFT BID BY SENIORITY/HOURS OF WORK**

County's Last Offer:

No change from the existing contract.

Union's Last Offer:

Officers shall be allowed to bid their shifts by seniority within their respective areas (Patrol - Security) each 12 months.

The Union requested that, as in the deputies' contract, in December each year the sergeants and lieutenants bid for their shifts in strict seniority. Court services and detective work would be excluded. There are presently 3 shifts in the jail around the clock. The Union offered Exhibit 20 in support of its position.

The Union noted that 71 percent of the comparable counties have shift bid by seniority. The GEU unit has no shifts, so it is not applicable for that comparable. Mr. Bennett testified that the

frequency of calls was the only difference between the first, second and third shifts outside. Inside the jail, the difference between the shifts was minimal. The supervisors should be able to exercise their seniority rights, just as the deputies can.

Lieutenant Harken explained that there is a lieutenant on each of the 3 shifts, one sergeant on a swing shift position and one on a permanent shift. On the road patrol, there are 3 lieutenants, with one assigned to each shift, one on permanent second and one on swing shift.

Undersheriff Robert Carter testified he has been undersheriff since 1982, and prior to that he was in charge of the jail, a lieutenant in charge of records, and a sergeant in charge of road patrol. He agreed with Lieutenant Harken's description of the number of sergeants and lieutenants and their job assignments. He said the sheriff currently makes job assignments, based on the positions he feels they are best suited for. He agreed that the Union proposal did not call for people to go outside their certifications.

In the present system, the sheriff can prevent all the high seniority officers from gravitating to one shift. Under the seniority bid proposal, the sheriff loses scheduling flexibility.

The panel determined that the Union did not carry its burden of proving a need for the proposed change in the present contract language. The undersheriff testified that a shift bid system would reduce the sheriff's abilities. Further the most senior officers

may cluster on the most desirable shifts, leaving a disproportionate amount of less senior officers on the less popular shifts. Given the few members in the unit, shift bidding would mean permanent positions until retirement of a more senior person allowed any flexibility.

The Union's concern about political reasons for job placement is outweighed by the sheriff's need for flexibility at the command level.

Award:

The County's Last Best Offer is adopted.

Delaney:	Concurs	<u>X</u>	Dissents	<u>      </u>
Valenti:	Concurs	<u>      </u>	Dissents	<u>X</u>

Respectfully submitted,

DATED:

July 6, 1990

By:

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