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Berrien County

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

In Arbitration Proceedings
Arising Under Act 312, Michigan
Public Acts of 1969 as Amended

In the Matter of the Statutory Arbitration

-----between-----

COUNTY OF BERRIEN AND THE SHERIFF OF COUNTY OF BERRIEN

and

FRATERNAL ORDER OF POLICE AND ITS LODGE #96

January 1, 1977
to
December 31, 1979

AGREEMENT

FINDINGS, OPINIONS AND AWARDS

PANEL MEMBERS

THOMAS R. FETTE, Esq., Lodge #96 Delegate
JACK R. CLARY, Esq., Berrien County Delegate
NICHOLAS A. GEORGE, Impartial Chairman

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INTRODUCTION

This arbitration is pursuant to, and under the provisions of Act 312, Public Acts of 1969, as amended, providing compulsory binding arbitration for the determination of unresolved contractual issues, both economic and non-economic, in police and fire departments. By letter received June 18, 1977 from the Michigan Employment Relations Commission, (MERC), Nicholas A. George was named Impartial Chairman of a panel of arbitrators to resolve a dispute involving contract negotiations between the Berrien County Sheriff's Department and the Fraternal Order of Police and its Lodge #96. MERC's letter stated that the request for arbitration had been originated by the FOP through its attorney, John E. Dewane, Esq., by letter dated December 28, 1976. The FOP had designated Jon Nichols as its delegate on the panel, but he was later replaced by Thomas R. Fette, Esq.; the Employer had designated Jack R. Clary, Esq., who also served as its counsel.

On June 29, 1977 the Chairman received a letter from Mr. Clary stating that he and the attorney for the FOP, Mr. Dewane, had agreed on the dates of August 8, 9 and 10 for the hearing. The letter also stated, "With your approval I recommend that the Panel meet prior to the hearing for the purpose of determining: (1) the procedure to be followed at the hearing; (2) determination of economic and non-economic issues; and (3) when last best offer is to be submitted". Copies of this letter were sent to Mr. Robert Little, Personnel Director for the County; Mr. Jon Nichols, then a Panel Member; John Dewane, Esq., counsel for the FOP and Sheriff Forrest Jewell. The hearing was held at the Courthouse for Berrien County on the dates scheduled. The County was represented by

INTRODUCTION

its counsel and the FOP, likewise, by its counsel. All witnesses were sworn and a stenographic transcript of the hearing was made. Prior to the hearing the Panel, including Mr. Fette, who had replaced Mr. Nichols as the FOP delegate, met in executive session. The Employer challenged the authority of the Panel to pass on the matter of the organization of the Sheriff's Department, Issues C and D. The Chairman ruled that the Panel had authority to do so, and asked his fellow members to vote with him in the determination of whether the issue was economic or non-economic. The Employer delegate abstained from voting; the other two members of the Panel voted that the issue was non-economic. The matter of the arbitrability of this issue is discussed in the Opinion and Award under Issues C and D.

Three other substantive issues were decided by stipulation:

- (1) The term of the Agreement would be three years commencing from January 1, 1977 and terminating at mid-night December 31, 1979;
- (2) agreements reached during the negotiations and prior to the hearing would be included in the Award; and, (3) the wage issues would be weighed in total; that is, the Panel would select the total three-year wage offer of the party that more closely approached the standard established by the Panel.

Both Parties were ably represented and were well prepared. The hearing proceeded expeditiously and in an orderly manner. Exhibits were well organized, and in most cases pertinent. Both Parties filed excellent briefs that were most helpful to the Chairman.

IDENTIFICATION

County of Berrien Springs: County, Employer, Sheriff

Fraternal Order of Police: FOP, Association, Lodge, Union

John E. Dewane, Esq.: Attorney for FOP

Jack R. Clary, Esq.: Attorney (Counsel) for the County, County's Delegate/Panel

Thomas R. Fette, Esq.: FOP Delegate to Panel

Nicholas A. George: Chairman, Arbitration Panel, Arbitrator

Present Agreement: Expired Agreement

Transcript: T

The masculine pronoun, wherever used, includes the feminine pronoun, and the singular pronoun also includes the plural pronoun unless the context clearly indicates otherwise.

WITNESSES

For the Association

Robert Russell, Supervisor of Facility Inspections for the Michigan
Department of Corrections, Officer for Jail Services

Dr. Frank Hogle, Psychiatrist

Forrest Jewell, Sheriff of Berrien County

Fred Bennett, Deputy Sheriff Muskegon County

Ron Inmoos, Deputy Sheriff, Berrien County

Carl Hulander, Lieutenant, Michigan State Police

James Bale, Deputy Sheriff, Berrien County

John Karsen, Detective, Michigan State Police

Robert Little, Berrien County Personnel Director

For the Employer

Alan Sonnanstine, Consulting Actuary

ASSOCIATION'S EXHIBITS

<u>Exhibit No.</u>	<u>Subject</u>
1	Arbitration Issues
2	Letter to MERC November 24, 1976
3	Letter to County's Counsel December 9, 1976
4	Letter to MERC December 23, 1976
5	Letter to County Board December 28, 1976
6	C.P.I. 1977
7	C.P.I. 1972-76
8	Urban Family Budgets
9	Agreement - St. Joseph July 1, 1976
10	Agreement - Benton Township April 1, 1977
11	Agreement - Benton Harbor July 1, 1977
12	Agreement - Niles August 1, 1975-July 31, 1977
13	Niles Pay Scale
14	Salary Comparison: Public v. Police
15	Pay Scale Michigan State Police October 1, 1976
16	St. Joseph Retirement System
17	Benton Township Retirement Act
18	Niles Police & Firemen Retirement Plan
19	Benton Harbor Retirement Plan
20	Pension Survey
21	Disability Survey
22	Letter re Jail Inspection May 21, 1976 Security Section Manpower Study

ASSOCIATION'S EXHIBITS (Cont'd)

<u>Exhibit No.</u>	<u>Subject</u>
23A	Standards & Goals NAC on Criminal Justice
23B	Classification and Pay
23C	Health Insurance
23D	State Retirement Plan
23E	National Conference on Criminal Justice
23F	The Urban Police Function
23G	Criminal Justice Goals & Standards
24	Film on Stress
25	Administrative Code
26	Salary Schedule Muskegon County
27	Promotion/Departmental Organization
28	Uniform Maintenance Costs
29	Court Pay
30	Deputies' Maximum Annual Salaries
31	Rank by Population vs. Rank by Maximum Wage
32	Counties with Hospitalization, Prescription, Optical & Dental Plans
33	Counties with Clothing & Cleaning Allowance
34	Fire Fighters Union v. Mt. Clemens
35	Detroit Police Officers Association v. City of Detroit
36	Pontiac Police Association v. Pontiac
37	Management Rights
"	Definition of a Grievance
"	Grievance Settlement

ASSOCIATION'S EXHIBITS (Cont'd)

<u>Exhibit No.</u>	<u>Subject</u>
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"	Arbitrator's Powers
"	Grievance Forms
"	Investigation & Settlement
"	Time Limits
"	Lost Time
"	Sec. 27 - Promotion/Departmental Organization
"	Definition of Seniority
"	Temporary Transfers
"	Lay-Off & Recall
"	Recall
"	Waiver
38	Uniform Crime Report
39	Counties having Air Conditioned Cars
40	Facts About the Berrien County Area
41	Cost of Hospitalization Riders
42	Cost of Hospitalization Riders
43	Agreement - Kalamazoo County January 1, 1971

EMPLOYER'S EXHIBITS

I N D E X

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EMPLOYER'S EXHIBITS

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BACKGROUND*

Berrien County is located in southwestern Michigan with Lake Michigan forming its western boundary. It is bordered on the south by the State of Indiana. Berrien County is located between Chicago and Detroit and the major highway running between these two metropolitan areas (I-94) runs through Berrien County. In addition, another major interstate highway, I-196, also runs through Berrien County and terminates at I-94 just east of Benton Harbor.

Berrien County's current population is approximately 170,000. There are two principal concentrations of population: The Benton Harbor-St. Joseph area, including Benton Township, St. Joseph Township and Lincoln Township, with a population of approximately 75,000; and the Niles area, including Niles Township, with a population of approximately 40,000.

Included within the County are 39 municipalities, 22 townships, 8 cities and 9 villages. The Michigan State Police has two posts and one branch office within the County. In addition, there are 23 law enforcement agencies within the County.

Berrien County is heavily industrialized, with more than 315 industrial plants being located in the County. Among these are the corporate headquarters and a production facility operated by the Whirlpool Corporation, the corporate headquarters and several production

*A composite of information in the Briefs of the Parties.

BACKGROUND

facilities operated by Clark Equipment Company and production facilities operated by Auto Specialities, Bendix, Essex Wire, National Standard and many other large corporations.

According to Roger Petrie, County Coordinator, the County is directed by 13 elected Commissioners. Funds are fixed by a Tax Allocation Board. Only 5.425 mills from the statutory 15 mills are allocated by the Board for County operation. That amount has been fixed since 1973 and will continue at that level through 1979. The general fund budget of the County is approximately \$11,000,000; eighty percent (80%) is spent for personnel. The Sheriff's Department has the largest budget within the County.

COMPARABLES

The Association would have the Panel consider as "comparables" Muskegon County, Kent County, Kalamazoo County, and Calhoun County; it would also include the cities of Muskegon, Grand Rapids, Kalamazoo, Battle Creek, Elkhart, South Bend, Michigan City and Chicago, Illinois, which it says are "all closer to some portions of Berrien County than are portions of Branch County and Barry County. This point is made not in an attempt to establish that Berrien County is a community comparable to Chicago but merely to point out that proximity is an arbitrary standard which may bear little, if any, relationship to the comparison of various communities, particularly when no evidence has been presented

COMPARABLES

to support the County's contention that Berrien County employers draw from the labor market described by the County....If geographical proximity is truly a valid criterion, then the best possible comparison is with the major police agencies located within Berrien County itself, that is, the City of Benton Harbor, the City of St. Joseph, the City of Niles, Benton Township and Michigan State Police. After all, it is those communities with whom Berrien County actually competes for law enforcement employees."^{1/}

"In summary, many factors must be considered in order to arrive at a definition of a comparable county. Geographical proximity should be given little, if any, weight. More important are demographic, social, cultural and economic factors. In addition, an analysis of the training, skill and law enforcement problems handled by the departments to be compared must be considered. In considering all of these factors, it is the position of the Lodge that the comparable law enforcement departments would be the large law enforcement agencies operating within Berrien County, that is, the City of Benton Harbor, the City of St. Joseph, Benton Township, the City of Niles and the Michigan State Police, as well as some of the larger, urban, industrial counties such as Kalamazoo County, Kent County, Muskegon County, Jackson County and Calhoun County."^{1/}

The County has submitted as comparables Exhibit 8 entitled "Counties" showing the adjacent counties of Cass and Van Buren, and the nearby counties of Allegan, Barry, Kalamazoo, St. Joseph and Branch; Exhibit 11 showing a number of cities and townships within those counties and Exhibit 13 showing all the townships in Berrien County; it has also submitted its Exhibit 14 listing 20 law enforcement agencies, all within Berrien County.

COMPARABLES

In the Opinion and Award in the matter of THE CITY OF EAST DETROIT and THE EAST DETROIT POLICE OFFICERS ASSOCIATION, dated January 24, 1977, Chairman Mario Chiesa wrote:

It is often a difficult task for an arbitration panel to choose those communities which it considers comparable to the one involved in the litigation. The elements of comparability are so numerous that it is doubtful whether any one city is truly comparable with another. Geographic location is important and it is often stated that contiguous or at least closeby communities should be considered comparable because, inter alia, they are within the area in which the city acquires its labor. Yet, the mobility of our population dilutes this argument. Physical size, population, population density, number of officers and a multitude of other items are relevant to the question of comparability.

The Panel has determined that all the communities offered by the Parties have some elements of comparability with Berrien County, and in reaching its conclusions it will give consideration to each one, but those communities which possess the greatest number of comparable elements will carry the greatest weight. Those are the counties in the Employer's Exhibit 8 having a population greater than 50,000 and the cities of Niles, St. Joseph and Benton Harbor.

AGREED CHANGES

The Employer submitted, inter alia, its Exhibit 3 headed AGREED CHANGES TO BE INCLUDED IN AWARD and dated August 8, 1977. The Association did not submit a similar exhibit, but it did not challenge the Employer's exhibit.

The Panel assumes no responsibility for the language of Employer's Exhibit 3, but will order it included in the new Agreement, as per the request of the Parties.

AWARD

The 13 changes set forth in Employer's Exhibit 3 and identified as pages 4, 5 and 6 are represented as agreed-upon changes in the Parties' proposed January 1, 1977 Agreement, and they shall be included therein. They are the following three pages.

EXHIBIT NO. 3AGREED CHANGES TO BE INCLUDED IN AWARD

1. Modify Section 4 to read as follows:

- (a) Agency Shop. All employees in the bargaining unit, upon completion of their probationary period, shall either become and remain members in good standing of the F.O.P. and its Lodge No. 96, or pay a representation fee to the F.O.P. and its Lodge No. 96 in an amount equivalent to the dues uniformly required of membership, for the duration of this Agreement. This provision shall become effective for all non-probationary employees in the bargaining unit thirty (30) days following the date of this Agreement.
- (b) Payroll Deduction. Upon receipt of a voluntary written authorization for payroll deduction, the Employer shall deduct from the pay of such employee, the dues or representation fee in the amount certified by the F.O.P. to the Employer each January, provided such authorization is received prior to the first day of the payroll period during which deductions are to be made and provided that there is sufficient earnings for such deductions. Once each month the Employer shall forward by check to the designated representative of the F.O.P. or Lodge such sums deducted.
- (c) The F.O.P. and its Lodge No. 96 agrees to indemnify and hold the Employer harmless concerning any and all claims made against it concerning the deduction of dues or representation fees.

2. Modify Section 6 to read as follows:

Definition of Grievance. A grievance is defined as a dispute over the meaning and application of this Agreement which is raised by an aggrieved employee or by the Division during the term of this Agreement.

3. Modify Step 3 of Section 7 to read as follows:

Step 3. If the grievance is not satisfactorily settled in Step 2, the grievance may be appealed to the Sheriff within five (5) days following the Employer's answer in Step 2. The Sheriff and the County's Personnel Director shall meet with the collective bargaining committee of the Lodge to discuss the grievance. Each party may have non-employee representatives present if desired. The Employer shall give its decision within ten (10) days following said meeting.

4. Add the following new Section to Grievance and Arbitration Procedures.

Grievance Settlements. All grievance settlements shall be reduced to writing and signed by the authorized representatives of the parties. All settlements must be approved by the Sheriff and if the grievance concerns monetary or economic matters it must also be approved by the Board of Commissioners.

5. Delete from Section 9 Selection of Arbitrator the phrase "or from the Michigan Employment Relations Commission."
6. Add the following new Section to the Grievance and Arbitration Procedures:

Policy Grievance. A grievance which may be filed by the Lodge shall relate to the bargaining unit as a whole or as a matter of policy of the Lodge which may be initiated at Step 3 of the Grievance Procedure.

7. Modify Section 14 Lost Time to read as follows:

Any employee who is required to attend a joint Employer Lodge grievance meeting during his scheduled working hours shall suffer no loss of pay for his attendance.

8. Modify Section 16 by adding the following sentence to the end of the Section:

Classification and rank seniority shall be defined as the length of continuous service in a classification or rank commencing on the date of entry into that classification or rank.

9. Modify Section 24 Layoff by deleting everything after "work" in the tenth (10th) line and replace with the following:

An employee laid off from a classification or rank who has the greater seniority and possesses the necessary training and experience to perform the work required in a lower paid classification or rank, shall have the right to be assigned to such classification or rank by the Sheriff and shall receive the rate of pay of that rank or classification. The Employer shall give two (2) weeks advance notice of a layoff unless such notice is impracticable due to emergency or unusual circumstances.

10. Delete Section 26 Job Security in its entirety.
11. Modify Section 23(b) Loss of Seniority to read as follows:
 - (b) Is discharged for just cause;
12. Delete from Section 12 Grievance Investigation the phrase "at any time."

13. Modify Section 37(b) Holiday Eligibility to read as follows:

- (b) He worked his regularly scheduled number of hours on his last regularly scheduled work day immediately preceding the holiday, and his first regularly scheduled work day after the holiday.

ASSOCIATION'S LAST BEST OFFER ON ECONOMIC ISSUES

<u>ISSUE NUMBER *</u>	<u>SECTION</u>	<u>PAGE NUMBER</u>	<u>DESCRIPTION</u>
1	30	1	Maternity Leave
2	33	1	Bereavement Leave
3	33	1	Add to Members of Family
4	36	1	Holidays - Add Election Days
5	36	11	Add Three Personal Leave Days Per Year
6	49	1	Increase Life Insurance to \$20,000
7	51	1	Air Conditioned Cars
8-12	28	1 & 2	Overtime, Call-in Time & Court Time
13-14	31	2 & 3	Paid Sick Leave
15	32	3 & 4	Worker's Compensation Supplement
16	39	4	Vacation Benefits
17	41	4	Vacation Accumulation
18	43	4	Vacation Accumulation
19	44	5	Wages & Classifications
20	46	5	Longevity Pay
21	48	5	Hospitalization Insurance
22	48	5	Dental Insurance
23	48	5 & 6	Prescription Insurance
24	50	6	Pension Plan
25	50	6	Disability
26	53	6	Uniform Issuance
27	53	6	Uniform Allowances
28	53	7	Plainclothes
29	53	7	Uniform Laundry & Dry Cleaning

*Issue numbers shown here apply only to this exhibit.

ASSOCIATION'S LAST BEST OFFER ON ECONOMIC ISSUES

<u>ISSUE NUMBER</u>	<u>SECTION</u>	<u>PAGE NUMBER</u>	<u>DESCRIPTION</u>
30	53	7	Off-Duty Badges
31	53	7	ID Sets for Uniformed Personnel
32	53	7	Badges - Plainclothesmen
33	53	7	ID Sets for Plainclothesmen
34	55	7	Training Time
Appendix A			Salary Schedule

ASSOCIATION'S LAST BEST OFFER ON ECONOMIC ISSUES RECEIVED

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1. SECTION 30. Change so that maternity leave shall be considered as sick leave and so that the employee on maternity leave shall be treated the same as any other employee on sick leave.
2. SECTION 33. Increase the bereavement leave to five (5) days in cases where the funeral is held more than 200 miles from the employee's home.
3. SECTION 33. Add grandmother, grandfather and step-children to the definition of immediate family.
4. SECTION 36. In addition to the holidays listed in the current contract, add election days awarded to the Courthouse employees.
5. SECTION 36. Add three (3) personal leave days per year which must be requested one (1) week in advance and not present a hardship to the operations of the Department.
6. SECTION 49. Increase life insurance to \$20,000.00.
7. SECTION 51. All automobiles shall have factory installed airconditioning.
8. SECTION 28. OVERTIME, CALL IN TIME AND COURT TIME.
 - a. Overtime. An employee shall be paid overtime pay for all hours worked in excess of eight (8) hours per day or in excess of forty (40) hours per week. Overtime shall be paid at the rate of time and one-half (1 1/2) the employee's regular straight time hourly rate.
9. SECTION 28. OVERTIME, CALL IN TIME AND COURT TIME.
 - b. Call in pay. If an employee is called in to work

other than during his regularly scheduled working hours he shall be paid call-in pay for a minimum of two (2) hours or for the hours actually worked if this exceeds two (2) hours. This minimum shall not apply to call-in time immediately preceeding or following the employee's regularly scheduled working hours.

10. SECTION 28. OVERTIME, CALL IN TIME AND COURT TIME.

Call in pay shall be the rate of time and one-half (1 1/2) the employee's regular straight time hourly rate.

11. SECTION 28. OVERTIME, CALL IN TIME AND COURT TIME.

d. Court time. An employee required to appear in court or before an administrative agency during off duty hours shall be paid for all time necessarily spent so doing, including travel time and lunch breaks incident thereto, at one and one-half (1 1/2) times the employee's regular straight-time hourly rate. All subpoena and witness fees shall be assigned to the employer and the employer shall provide transportation to and from the court or administrative agency.

12. SECTION 28. OVERTIME, CALL IN TIME AND COURT TIME.

The minimum pay for such appearances shall be for two (2) hours or for the hours actually spent if this exceeds two hours. This minimum shall not apply to court time immediately preceding or following the employee's regularly scheduled working hours.

13. SECTION 31. PAID SICK LEAVE

Sick leave shall be accumulated at the rate of one-half (1/2) day per pay period until there is a maximum accumulation of two hundred (200) days.

14. SECTION 31. PAID SICK LEAVE.

~~after ten (10) full years of continuous employment, The~~
employee's accumulated sick leave shall be paid to him
at retirement under the pension program at the rate of
one half day's pay for each accumulated sick leave day
at the employee's regular straight time rate at the
time of his retirement. ~~Such~~ Such payment shall not be
included in computing compensation for pension purposes.

* Employees shall furnish satisfactory evidence of illness
where illness shall exceed three (3) working days. The
Sheriff may, in his discretion, require such evidence
of illness of less than three (3) days. The submission
of a doctor's certificate or report from the employee's
treating physician shall be considered satisfactory
evidence for the purpose of this Section. Employees
shall be expected to report any absence before or at
the beginning of their normal working day to their
immediate supervisor.

15. SECTION 32. WORKMAN'S COMPENSATION SUPPLEMENT.

The employer shall provide workman's compensation
supplement as follows:

- a. The County shall supplement an employee's
workman's compensation benefits so that the
employee shall receive full pay for a period
of one (1) year after the commencement of his
disability.
- b. Thereafter, an employee shall be allowed to
use his accumulated sick leave to supplement

UNDERLINED
STIPULATED
TO BE
NON-ECONOMIC

his workman's compensation benefits so that the employee does not suffer a reduction in pay.

16. SECTION 39. VACATION BENEFITS.

After one (1) full year of continuous employment, employees shall be entitled to one (1) week vacation at their regular pay. Employees in continuous employment for a period of two (2) years and less than five (5) years shall be entitled to two (2) weeks vacation at their regular pay. Employees in continuous employment for a period of more than five (5) years and less than ten (10) years shall be entitled to three (3) weeks vacation at their regular pay. Employees in continuous employment for a period of more than ten (10) years shall be entitled to four (4) weeks vacation at their regular pay.

17. SECTION 41. VACATION ACCUMULATION.

Accumulated vacation shall be redeemable at the employee's regular rate of pay upon retirement under the Pension Plan. If retirement occurs before the employee's annual seniority anniversary date, the employee shall earn vacation time on a prorated basis and shall be paid at his regular pay for prorated vacation so earned since his last anniversary date.

18. SECTION 43. VACATION ACCUMULATION.

An employee may accumulate one (1) week of vacation per year to a maximum of six (6) weeks. Vacation time in excess of one (1) week per year must be taken or forfeited.

19. SECTION 44. WAGES AND CLASSIFICATIONS.

The schedule of classifications and wage rates set forth in Appendix A. attached hereto and made a part hereof, shall be the agreed upon classifications and wage rates effective January 1, 1977, through December 31, 1979.

20. SECTION 46. LONGEVITY PAY.

Longevity increases shall be at the rate of one-half (1/2) of one (1%) per cent of the previous years total wages, including any longevity pay during the previous year, commencing with the fifth (5th) through the sixteenth (16th) year of seniority.

21. SECTION 48. HOSPITALIZATION INSURANCE.

Employer shall maintain and pay the full costs of the premiums for hospitalization and medical insurance for employees and dependants. This insurance shall provide coverage equivalent to that currently provided to Courthouse Employees unless the benefit schedule is improved during the life of this Agreement, whereupon the Employees covered by this Agreement shall be given such improved benefits.

22. SECTION 48. DENTAL INSURANCE.

In addition, the Employees shall have a dental Rider, as contained in Union Exhibit 42, ¶3, the premiums for which for Employees and dependants shall be paid in full by the Employer.

23. SECTION 48. PRESCRIPTION INSURANCE.

In addition, the Employees shall have a prescription Rider as contained in Union exhibit 42, ¶1, the premiums

for which for Employees and dependants shall be paid in full by the Employer.

24. SECTION 50. PENSION PLAN.

The Employer shall upgrade the pension plan for employees of the Lodge so that as of January 1, 1979, the pension plan for employees of the Lodge provides for voluntary retirement at age 55 with 25 years of service or voluntary retirement at age 60 with 10 years of service with benefits to be paid at the rate of 2% of the Employee's FAC for each year of service, employee to contribute an additional 1% of ^{HRS} salary.

25. SECTION 50. DISABILITY.

The Pension Plan shall also provide, as of January 1, 1978, a disability benefit as provided by MCLA 48.12(b)(5) - non duty disability pension after 10 years of service at 2% of FAC for each year of service and duty disability without a minimum service requirement at 2% of FAC for each year of service. With regard to the duty disability only, the period from the end of the disabled employee's period of service to the earliest date he would have but for his disability become eligible for normal retirement, ^{shall} be used as service for the sole purpose of computing the amount of disability pension.

26. SECTION 53. UNIFORM ISSUANCE.

All regularly employed full time officers of the Sheriff's Department shall receive, upon being hired, at no expense to the employee, a full issue of uniforms in accordance with Employer's Exhibit 19.

27. SECTION 53. UNIFORM ALLOWANCES.

Thereafter, the employer shall budget not less than \$350.00 per year per uniformed officer for the repair and replacement of uniforms.

28. SECTION 53. PLAINCLOTHES ALLOWANCES.

Plainclothes personnel shall receive a clothing allowance of \$400.00 per year per person payable during the first pay period in January.

29. SECTION 53. UNIFORM ALLOWANCES.

Dry cleaning and laundry of uniforms will be provided by the employer with a drop off and pick up station at the Sheriff's Department.

30. SECTION 53. UNIFORM ALLOWANCES.

All regular full time ^{UNIFORMED} employees of the Sheriff's Department shall be provided, at the expense of the employer, with off duty wallet badges.

31. SECTION 53. UNIFORM ALLOWANCES.

All regular full time ^{UNIFORMED} employees of the Sheriff's Department shall be provided, at the expense of the employer with ID sets.

32. SECTION 53. UNIFORM ALLOWANCES.

All regular full time plainclothes employees of the Sheriff's Department shall be provided, at the expense of the employer, with badges.

33. SECTION 53. UNIFORM ALLOWANCES.

All regular full time plainclothes employees of the Sheriff's Department shall be provided, at the expense of the employees, with ID sets.

34. TRAINING TIME. Retain Section 55.

APPENDIX A - SALARY SCHEDULE - JANUARY 1, 1977 - DECEMBER 31, 1977

	FIRST YEAR	SECOND YEAR	THIRD YEAR	FOURTH YEAR
CHIEF DEPUTY	\$15,488.00	\$16,043.00	\$16,637.00	\$17,305.00
CAPTAIN	\$15,082.	\$15,637.	\$16,230.	\$16,895.
LIEUTENANT, (INCLUDING DETECTIVE LIEUTENANT, MARINE LIEUTENANT) DIRECTOR OF EMERGENCY PREPAREDNESS, ADMINISTRATIVE ASSISTANT and RECORDS SUPERVISOR	\$14,638.	\$15,201.	\$15,785.	\$16,453.
SERGEANT (INCLUDING MATRON SERGEANT & DETECTIVE SERGEANT)	\$13,785.	\$14,342.	\$14,895.	\$15,488.
JAIL REHABILITATION DIRECTOR	\$13,043.	\$13,561.	\$14,080.	\$14,600
PATROLMEN, GUARDS (INCLUDING MATRONS), DISPATCHER & JAIL NURSE	\$12,339.	\$12,784.	\$13,264.	\$13,747.

APPENDIX A - SALARY SCHEDULE JANUARY 1, 1978 - DECEMBER 31, 1978

	FIRST YEAR	SECOND YEAR	THIRD YEAR	FOURTH YEAR
CHIEF DEPUTY	\$16,495.	\$17,086.	\$17,718.	\$18,430.
CAPTAIN	\$16,062.	\$16,653.	\$17,285.	\$17,993.
LIEUTENANT, (INCLUDING DETECTIVE LIEUTENANT, MARINE LIEUTENANT) DIRECTOR OF EMERGENCY PREPAREDNESS, ADMINISTRATIVE ASSISTANT and RECORDS SUPERVISOR	\$15,589.	\$16,189.	\$16,811	\$17,522.
SERGEANT (INCLUDING MATRON SERGEANT & DETECTIVE SERGEANT)	\$14,681.	\$15,274.	\$15,863.	\$16,495.
JAIL REHABILITATION DIRECTOR	\$13,841.	\$14,442.	\$14,995.	\$15,549.
PATROLMEN, GUARDS, (INCLUDING MATRONS), DISPATCHER & JAIL NURSE	\$13,141.	\$13,615.	\$14,126	\$14,641.

APPENDIX A - SALARY SCHEDULE - JANUARY 1, 1979 - DECEMBER 31, 1979

	FIRST YEAR	SECOND YEAR	THIRD YEAR	FOURTH YEAR	
CHIEF DEPUTY	\$17,319.	\$17,940.	\$18,604.	\$19,351.	
CAPTAIN	\$16,865.	\$17,486.	\$18,149.	\$18,893.	
LIEUTENANT, (INCLUDING DETECTIVE LIEUTENANT, MARINE LIEUTENANT) DIRECTOR OF EMERGENCY PREPAREDNESS, ADMINISTRATIVE ASSISTANT and RECORDS SUPERVISOR	\$16,369.	\$16,999.	\$17,652.	\$18,399.	
SERGEANT (INCLUDING MATRON SERGEANT & DETECTIVE SERGEANT)	\$15,415.	\$16,038.	\$16,656.	\$17,319.	
JAIL REHABILITATION DIRECTOR	\$14,585.	\$15,165.	\$15,745.	\$16,326.	
PATROLMEN, GUARDS, (INCLUD- ING MATRONS), DISPATCHER & JAIL NURSE	\$13,798.	\$14,296.	\$14,832.	\$15,373.	

ASSOCIATION'S POSITION

ON

NON-ECONOMIC ISSUES

MANAGEMENT RIGHTS

SECTION 5. MANAGEMENT RIGHTS.

The Lodge recognizes the responsibilities of the Employer to operate and manage its affairs in accordance with its powers and authority as provided by Statutes or Law and in accordance with its obligations to its employees. The Lodge recognizes that the employer retains the right to:

- A. Manage its affairs efficiently and economically, including the determination, subject to the provisions of this Agreement, of the quantity and quality of services to be rendered;
- B. Hire and assign employees;
- C. Accomplish reductions in work force where justified by lack of work or lack of funds by means of lay-off based on inverse order of seniority;
- D. Permit County employees not included in the Bargaining Unit to perform Bargaining Unit functions in emergency situations when, in the opinion of the employer and the Division, this is necessary for the conduct of County services;
- E. Discharge and discipline employees for just cause;
- F. Adopt, revise and enforce reasonable rules and regulations within the Berrien County Sheriff's Department Policy Procedure and Manual insofar as said rules and regulations are not inconsistent with the terms of this agreement;
- G. Transfer and promote employees from one classification or unit within the Department to another in accordance with the terms of this Agreement;
- H. Select employees for promotion to supervisory or other positions within the Department in accordance with the provisions of this Agreement.

The Employer and the Lodge met and negotiated for the purpose of collective bargaining in respect to the rates of pay, wages, hours of employment and other conditions of employment pursuant to statute. The rights of the Employer not specifically reserved herein, shall be subject to the continuing duty of the Employer and the Lodge to meet and confer in good faith and bargain over those matters not previously bargained for.

✓
The employer is exercising its management functions, shall not discriminate against any employee because of his or her membership in the Lodge.

The interpretation and application of this section, as well as all other sections of this Agreement, shall be subject to the grievance procedure.

GRIEVANCE AND ARBITRATION PROCEDURES

Section 6. Definition of Grievance. A grievance is defined as a dispute over the meaning and application of this Agreement which is raised by an aggrieved employee or by the Division during the term of this Agreement.

Section 7. All grievances shall be processed in accordance with the following procedures:

Step 1. Within five (5) working days from the event which caused the grievance, an employee shall discuss the grievance orally with his immediate supervisor. If the aggrieved employee so requests, the supervisor shall arrange a convenient time for a meeting with the employee and one (1) representative from the collective bargaining committee. The supervisor shall give his reply to the grievance within one (1) working day after such meeting.

Step 2. If the dispute is not settled in Step 1, it may be processed under this Step 2, by written notice to the Undersheriff within three (3) working days following the reply in Step 1. A Step 2 meeting shall be held within five (5) working days after the receipt of such grievance. The Employer shall be represented by the Undersheriff and/or other designated management personnel. The Lodge shall be represented by the members of the committee, and either party may request the presence of the grievant(s). The Undersheriff shall reply to the grievance within five (5) working days.

following the meeting in Step 2.

Step 3. If the grievance is not satisfactorily settled in Step 2, the grievance may be appealed to the Sheriff within five (5) days following the Employer's answer in Step 2. The Sheriff and County's Personnel Director shall meet with the collective bargaining committee of the Lodge to discuss the grievance. Each party may have non-employee representatives present if desired. The Employer shall give his decision in writing within ten (10) days following said meeting.

Section 8. Grievance Settlements. All grievance settlements shall be reduced to writing and signed by the authorized representatives of the parties. All settlements must be approved by the Sheriff and if the Grievance concerns monetary or economic matters it must be also approved by the Board of Commissioners.

Section 9. Arbitration Request. If the grievance is not satisfactorily settled in Step 3, the Lodge may within thirty (30) days following receipt of the Sheriff's answer in Step 3, demand arbitration on the grievance by submitting its demand to the Sheriff in writing.

Section 10. -- Selection of Arbitrator. Upon receipt of a demand for arbitration, the parties shall obtain a panel of arbitrators from the Federal Mediation and Conciliation Service. One (1) arbitrator shall be selected by the parties alternately striking a name from the panel, and the name remaining shall serve as the arbitrator. The fees and expenses for the arbitrator shall be borne equally by the

parties.

REMAN

Section 11. Arbitrator's Powers. The arbitrator shall be limited to the interpretation and application of this Agreement as written and he shall have no authority to add to, subtract from or modify this Agreement in any respect. In discipline, suspension and discharge cases, the arbitrator may order that the disciplinary action, suspension or discharge be rescinded or modified and that a suspended or discharged employee be reinstated with full, partial or no payment of back wages and fringe benefits. In such cases, the arbitrator may order payment of back wages and fringe benefits only retroactive to the date of filing of the grievance. Within the limitations of this Agreement, the arbitrator shall have the authority to award the remedies which the arbitrator considers appropriate to the circumstances. The decision of the arbitrator shall be final and binding on the employee, Lodge and Employer.

Co-objects

Section 12. Grievance Form. All grievances shall be filed promptly, and in order to be processed beyond Step 1, shall be reduced to writing on a form provided by the Department. The written grievance form, which shall be signed by the aggrieved employee, shall include at least the date the grievance arose, the specific facts involved, the Section of the collective bargaining agreement allegedly violated and the relief sought.

Section 13. Investigation and Settlement Under the Grievance and Arbitration Procedures. A grievance may be presented at any time in accordance with the grievance procedure. The

investigation, discussion, settlement and arbitration of a grievance shall be done outside of working hours unless it is necessary to investigate, discuss, settle or arbitrate a particular grievance during working hours, and, in such event, Lodge members shall not suffer a loss of wages or fringe benefits for the time necessarily lost from regularly scheduled working hours while participating in the grievance and arbitration procedures. No employee shall leave his work station for the purpose of presenting or processing a grievance without first obtaining permission of his immediate supervisor.

Section 14. Time Limits. If any steps or action provided for in the grievance and arbitration procedure are not taken or appeals herein provided for are not taken or filed or notice not given within the time limit specified, then the grievance shall be deemed final and settled on the basis of the Employer's last reply. If the reply is not timely given at any stage of the above procedure, then the grievance may be appealed to the next step in the grievance procedure as specified. Any of the time limits set forth herein may be extended by written agreement of the parties.

Section 15. Lost Time. Any employee who is required to attend a joint Employer Lodge grievance meeting during his scheduled working hours shall suffer no loss of pay for his attendance.

SECTION 18. Departmental Organization and Promotion.

- 1 a. The law enforcement personnel of the Berrien County Sheriff's Department shall be divided into five sections: the Administrative Section, the Special Skills Section, the Patrol Section, the Dispatch Section, and the Jail Section.
- b. The Administrative Section shall consist of the following classifications: The Chief Deputy, the Executive Assistant, the Jail Captain, the Captain of Operations and the Director of Emergency Preparedness. Appointment to those classifications shall be solely at the discretion of the Sheriff and shall not be subject to the promotion procedure contained herein. Removal from these classifications shall be solely at the discretion of the Sheriff provided, however, that any employee who had been transferred to the Administrative Section from another classification within the Department shall, upon removal, be transferred back to the last permanent classification which the employee held.
- c. The Special Skills Section shall include employees with specialized training or skills not ordinarily necessary for a law enforcement officer and shall consist of the following existing classifications: Records and ID Specialists, the Marine Lieutenant, Polygraph Examiners, the Rehabilitation Director and the Jail Nurse. The Sheriff shall have the right at his sole discretion to create additional classifications requiring such special skills within this Section or to abolish existing classifications within this Section. Appointment to these

classifications shall be solely at the discretion of the Sheriff and shall not be subject to the promotion procedure contained herein. Removal from these classifications shall be solely at the discretion of the Sheriff, provided, however, that any employee who had been transferred to the Special Skills Section from another classification within the Department shall, upon removal, be transferred back to the last permanent classification which the employee held.

d. The Patrol Section shall include the enforcement personnel such as road patrol personnel and detectives and shall consist of the following classifications: Patrolmen, Patrol Sergeants, Detective Sergeants, Patrol Lieutenants and Detective Lieutenants.

e. The Dispatch Section shall include all dispatch personnel and shall consist of the following classifications: Dispatcher Patrolmen, Dispatcher Sergeants (if such a classification should be created by the Sheriff) and Dispatcher Lieutenants.

f. The Jail Section shall include all jail personnel and shall consist of the following classifications: Guards, Matrons, Jail Sergeants, Matron Sergeants.

g. The minimum eligibility requirements for taking the examination for promotion to the established classifications within the Department are as follows:

Patrol Sergeant or Detective Sergeant: three years experience in the Patrol Section.

Patrol Lieutenant: two years experience as Patrol Sergeant or Detective Sergeant.

Detective Lieutenant: two years experience as Detective Sergeant.

Dispatcher Sergeant: two years experience as a Dispatcher Patrolman.

Dispatcher Lieutenant: two years experience as Dispatcher Sergeant.

Jail Sergeant (including Matron Sergeant): two years experience as a Guard or Matron.

Notwithstanding the above eligibility requirements, in the event that the number of employees eligible to take the examination for promotion to a particular classification in accordance with the above provisions is less than three, the names of other employees may be added to the eligibility list in order to provide three candidates eligible to take the examination for promotion to an established classification, provided, however, that the additional employees shall be determined in accordance with Section G except that the experience minimums shall be reduced in increments of six months until such time as there are three candidates eligible to take the examination for promotion to an established classification.

h. Promotion to the classifications of Sergeants and Lieutenant shall be based upon the following considerations:

1. Competitive examination - employees eligible to take the examination for promotion who apply for a promotion shall take a written examination designed to fairly and fully test the comparative merit and fitness of the persons examined to discharge the duties of the classification sought by them. The passing score for all examinations shall be established prior to the examination being given. Only those applicants who pass the written examination shall be eligible to continue to compete for the promotion. The written examination shall constitute up to a maximum of 25 points on the applicant's total final score, with said points to be proportional to the score achieved on the examination (for example, a perfect examination score would be awarded the full

25 points; and 80% examination score would be awarded 20 points; etc.)

2. Seniority - each applicant for promotion shall receive one point on the applicant's total final score for each two years of departmental seniority.
3. Job performance - an evaluation of the applicant's job performance by the Sheriff or his designee shall be conducted and a rating shall be given with a maximum of up to 40 points on the applicant's total final score.
4. Education - an applicant shall be given up to a maximum of 5 points towards the applicant's total final score for formal education relevant to the classifications sought at an accredited institution.
5. Impartial oral interview - an oral examining board shall be appointed by the Sheriff and shall consist of not less than three law enforcement officers who are not employees of the County of a rank equal to or greater than that for which application for promotion is made. The ability of applicants who are eligible for promotion to perform the duties of the job classification for which they have made application shall be compared through consideration of the following criteria:
 - (a) Discipline and commendations.
 - (b) Participation in Departmental Training Programs.
 - (c) Physical fitness.
 - (d) Other relevant matters in the oral examining board's discretion.

The average score obtained by an applicant before the oral examining board shall constitute up to a maximum of 25 points towards the applicant's total final score.

The minimum total final score for eligibility for promotion shall be established by the Sheriff prior to the commencement of the promotion procedures set forth herein. Those applicants achieving at least the minimum total final score required for eligibility for promotion shall be considered eligible applicants.

The total final score of each applicant shall be determined and posted by blind code number. The Sheriff shall make the promotion from among those eligible applicants who are in the top three in total final score. The eligibility list shall remain in effect

for a period of one year from the day of posting or until such time as less than three names appear on the list.

If, upon completion of the promotional procedure, an eligibility list contains less than three eligible applicants, the Sheriff may appoint from the list or conduct a new examination as herein provided.

SENIORITYSection 16. Definition of Seniority.

- or* (A) Departmental Seniority shall be defined as the length of the employee's continuous service with the Department dating from the employee's last date of hire by the Department.
- or* (B) Classification and rank seniority shall be defined as the length of continuous service in a classification or rank commencing on the date of entry into that classification or rank.
- as objects*
AT 4/1/10
Turn to 818
or (C) Employees appointed by the Sheriff from outside the Department to classifications within the Administrative Section shall not accrue any seniority except classification seniority in those classifications to which the employee is appointed within the Administrative Section. Such seniority shall be exercisable only within classifications which such an employee has held in the Administrative Section. Such seniority shall not be exercisable in the classifications outside of the Administrative Section.
- or* (D) All seniority shall become effective upon the completion of the probation procedure.

See Sec 18
or that?

ADDITIONAL DEMANDS FOR CHANGES IN THE CURRENT CONTRACT

SECTION 20. Limit of six months on temporary transfers, except for agreement by Employer and Employee and provisions to contrary.

SECTION 24. LAYOFF AND RECALL.

a. Layoffs shall be defined as a reduction in work force necessary because of lack of funds or lack of work.

b. In the event that layoffs become necessary, the first employees to be laidoff from the Department shall be those employees who are on probation, provided, however, that the remaining employees have the necessary training and experience to perform the required work. If additional layoffs are necessary, employees in the affected job classifications or ranks shall be laidoff on the basis of inverse order of classification or rank seniority within the classifications or ranks affected, that is, the employee with the least classification or rank seniority shall be laid off first from that classification or rank, provided, however, that the senior employees have the necessary training and experience to perform the required work. An employee laid off from a classification or rank who has the greater seniority and possesses the necessary training and experience to perform the work required in a lower paid classification or rank, shall have the right to be assigned to such classification or rank by the Sheriff and shall receive the rate of pay of that rank or classification. The Employer shall give two weeks advance notice of a layoff unless such notice is impracticable due to emergency or unusual circumstances.

SECTION 25. RECALL.

An employee shall have recall rights to his job for a period of twenty-four (24) consecutive months after a layoff. In the event that the work force is increased, recall to work shall be in order of classification or rank seniority, that is, the employee with the most classification or rank seniority in the classifications or ranks affected shall be recalled first provided, however, that the senior employees have the necessary training and experience to perform the required work.

SECTION 59. WAIVER.

This Agreement contains the entire terms and conditions of employment agreed upon between the employer and the Lodge except that the parties agree that past practices unchanged by this Agreement shall remain in effect for the duration of this contract.

EMPLOYER'S LAST BEST OFFER

<u>ISSUE NUMBER*</u>	<u>PAGE NUMBER</u>	<u>SUBJECT</u>
1	1	Duration of Agreement
2	1	Wages
3	2	Paid Pregnancy Leaves
4	4	Bereavement Leave Days
5	4	Bereavement -- Leave Immediate Family
6	4	Holidays
7	4	Personal Leave Days
8	5	Life Insurance
9	5	Air Conditioned Vehicles
10	5	Overtime
11	5	Call-in Pay
12	5	Call-in Rate
13	5	Court Rate
14	5	Court Time Minimum
15	6	Sick Leave Accumulation
16	6	Sick Leave Pay-off
17	6	Worker's Compensation Supplement
18	6	Vacation Benefits
19	6	Vacation Pay Upon Termination
20	6	Vacation Accumulation
21	7	Longevity
22	7	Hospital and Medical Insurance
23	7	Dental Insurance
24	7	Retirement Pension

EMPLOYER'S LAST BEST OFFER

<u>ISSUE NUMBER*</u>	<u>PAGE NUMBER</u>	<u>SUBJECT</u>
25	7	Retirement Pension
26	7	Disability
27	7	Uniforms
28	7	Uniform Allowance & Budget
29	8	Plain Clothes
30	8	Uniform Laundry & Dry Cleaning
31-33	8	Badges and ID Sets
34	8	Training Time

*Issue numbers shown here apply only to this exhibit.

Berrien County
8-10-77

EMPLOYER'S LAST BEST OFFER

Economic Issues

RECEIVED

AUG 10 1977

1. Duration of Agreement

Three Years - Effective
Terminating midnight

N. A. GEORGE
11/77 and

12/31/79

2. WAGES

[INCLUDES \$365.00 Gun Allowance]

ON THE FIRST PAY PERIOD ON OR AFTER
THE DATE INDICATED, ESTABLISH RATE
AT THE Beginning 4 YR STEP AS
follows:

(A)

CLASSIFICATION

11/1/77

After 3 years

Annual Salary

Amount
of
INCREASE

Patrolman
Turn Key
Uniform Dispatcher
Nurse

12,740.⁰⁰

(\$725.⁰⁰)

(B)

7/1/77

Patrolman
Turn Key
un. form Dispatcher
Nurse

13,465.⁰⁰

(\$725.⁰⁰)

TOTAL \$1450.⁰⁰

3 year
total
including
allowance
41,875
1095
42900

- 2 -

1/1/78

Amount. Pinc

(C) PATROLMAN,
TURNKEY
un. form DISPATCHER
NURSE

\$ 14,065.

(\$600.)

7/1/78

(D) PATROLMAN,
TURNKEY
un. form DISPATCHER
NURSE

\$ 14,665.

(\$600.)

TOTAL \$ 1200.-

1/1/79

e) PATROLMAN,
TURNKEY
un. form DISPATCHER
NURSE

\$ 15,190.

\$ 525.-

7/1/79

f) PATROLMAN,
TURNKEY
un. form DISPATCHER
NURSE

\$ 15,715.

\$ 525.-

TOTAL \$ 1050.-

(G.) The following Classifications at the After 3 yr STEP will Receive the listed amounts over or under the Patrolman Rates.

Illustration
of
11/1/77
Rate

- 1) Marine officer - \$700.⁰⁰ over (\$13,440.)
- 2) Sergeant and Det. Sgt. - \$1200.⁰⁰ over (\$13,940.)
- 3) Lt. and Det. Lt. \$2000.⁰⁰ over (\$14,740.)
- 4) Captain \$2600.⁰⁰ over (\$15,340.)
- 5) Chief Deputy \$3000.⁰⁰ over (\$15,740.)
- 6) Chief Matron 150.⁰⁰ over (\$12,890.)
- 7) Clerk-Matron \$1200.⁰⁰ under (\$11,540.)

NOTE: 1977 Cost of Wage
Increase: $1450 \times 74 = \$107,300$
Matrons Adjustment 9,386
TOTAL \$116,686.⁰⁰

1978 Cost of Wage
Increase: $1200 \times 74 = \$88,800.$

1979 Cost of Wage
Increase: $1050 \times 74 = \$77,700.$

(H) MAINTAIN SAME dollar spread as current Contract provides between START, 1 yr, 2 yr and 3 yr ~~WAGE~~ STEPS. INCREASES 1st PAY PERIOD AFTER ANNIVERSARY DATE of Employee -

-4-

- PAID
3. Sick Leave for Pregnancy
 maintain Current Contract.
 Paid Sick Leave may not be used
 for Maternity Leave.
 4. Bereavement Leave DAYS
 maintain current contract - 3 days.
 5. Bereavement leave - immediate family definition
 maintain current contract -
 "mother, father, Sisters, brothers, father-in-law,
 mother-in-law, spouse, ~~and~~ children,
 relative residing in employee's household.
 6. Holidays
 maintain current contract - 12 days -
 7. Personal leave DAYS
 Effective ~~to~~ ^{JAN} 1/1/79 An employee
 may take one (1) Personal Leave day
 per year. Such Personal Leave day will
 be subtracted from Accumulated Sick
 leave. Personal leave day is to be
 arranged in-advance with designated
 Sheriff's representative.

8. Life Insurance

Effective 1/1/78 increase to \$15,000. Term

9. Air Conditioned Vehicles

No mandatory purchase. A/C
at the discretion of the Board
of Commissioners.

10. Overtime

Maintain current Contract § 28

11. Call in Pay

- Adopt upon issuance of this Award -

"An employee called in for
duty on his Scheduled day
off shall be guaranteed a
minimum of two (2) hours
pay or work at the overtime
(1½) rate."

12. Call in Rate

See #11 Above

13. Court Rate

See #11 above

14. Court Time min

See #11 above. Employee to
Receive mileage but witness fees go to Co.

15. Sick Lv Accumulation
maintain Current Contract
(140 working days)
16. Sick Leave Payoff
maintain Current Contract
and Uniform County Policy
17. WORKMAN Comp Supplement
maintain Sec. 32 of Contract
(1) Co Supplements Employee's W.C.
to Full Pay for 6 months
After Sick Lv exhausted
(2) Employee may use Sk Lv to
Supplement W.C.
18. VACATION Benefits
maintain Current Schedule (§39)
19. VACATION Pay upon termination
maintain Current Contract (§41)
20. VACATION Accumulation
Convert to Computer Accumulation
Like rest of the County so
That maximum accumulation would
be 20 days - [Accumulation by
Pay Period]

21. Longevity
maintain present schedule
- 5% to 6% after 16 yrs -
22. Hosp. & med ins
commencing 1st full month following
Award - increase Room to
85⁰⁰ Like remainder of County employees
23. Dental ins
No
24. Prescription ins
No
- 25) Retirement Pension
maintain current Pension
- 26) Disability
maintain current disability
- 27) Unifers
maintain current Program
- 28) Uniform Allowance & Budget
maintain current Budget System.
effective 1/1/78 - increase to
\$300.⁰⁰
Cost - \$3700.⁰⁰ more than current

29. Plain Cloths

Maintain Present \$300⁰⁰ per yr.
 Payment made in Jan. each year.
 if employee terminates before year end
 employee must Re-PAY Pro rata Amt.
 (Current Policy)

30. Laundry & Dry Cleaning

Maintain Present System

31-33 (ID Sets - ~~B~~ Wallet Badges etc.)
 Employee CAN purchase AT
 Cost.

34. TRAINING Time

AS Proposed by Employer
 50 hrs - ART XIX, §3
 Kalmuzoo Contract -

LAST BEST OFFERS CROSS INDEX

<u>Issue Number</u>	<u>Employer's Page Number</u>	<u>Subject</u>	<u>Association's Page Number</u>
1	2	Paid Maternity Leave	1
2	4	Bereavement Days, Number of	1
3	4	Definition of Immediate Family	1
4	4	Holidays	1
5	4	Personal Leave Days	1
6	5	Life Insurance	1
7	5	Air Conditioned Cars	1
8	5	Overtime Premium Pay	1
9	5	Call-in Pay Guarantee	1
10	5	Call-in Pay Rate	2
11	5	Court Appearance Guarantee	2
12	5	Court Appearance Rate	2
13	6	Sick Leave Accumulation	2
14	6	Sick Leave Pay-out at Retirement	3
15	6	Worker's Compensation Supplement	3
16	6	Vacation Benefits	4
17	6	Vacation Pay Upon Termination	4
18	6	Vacation Accumulation	4
19	1, 2, 3	Wages and Classifications	5, 8, 9, 10
20	7	Longevity Pay	5
21	7	Hospital Insurance	5
22	7	Dental Insurance	5

LAST BEST OFFERS (Cont'd)

<u>Issue Number</u>	<u>Employer's Page Number</u>	<u>Subject</u>	<u>Association's Page Number</u>
23	7	Prescription Insurance	5
24	7	Retirement Pensions	6
25	7	Disability Benefits	6
26	7	Uniforms for New Employees	6
27	7	Uniform Maintenance Allowance	6-7
28	7	Plainclothes Officers Allowance	7
29	8	Uniform Laundry and Dry Cleaning	7
30-33	8	Badges and I.D. Sets	7
34	8	Training Time	7

ISSUE NUMBER 1 -- PAID MATERNITY LEAVE

ECONOMIC

PRESENT AGREEMENT:

Section 30. Maternity Leave. (p. 15) provides for maternity leave without pay.

ASSOCIATION'S LAST BEST OFFER:

Change so that maternity leave shall be considered as sick leave and so that the employee on maternity leave shall be treated the same as any other employee on sick leave.

EMPLOYER'S LAST BEST OFFER:

Maintain current contract. Paid sick leave may not be used for maternity leave.

PANEL'S OPINION:

The Panel believes that the County's 'present Maternity Leave Policy is not in violation of any state or federal law.

It is surprising that while the Association considered this matter worthy of inclusion in its list of unresolved issues, it did not deem it worthy of discussion. The Association's statement that its proposal

PAID MATERNITY LEAVE

more nearly complies with the applicable statutory factors on the basis of the collective bargaining agreements for comparable law enforcement departments is not sufficiently persuasive for the Panel to order a change.

AWARD

The Association's request for a change in the Maternity Leave provision is denied.

ISSUE NUMBER 2 -- BEREAVEMENT LEAVE

ECONOMIC

PRESENT AGREEMENT:

Section 33, Bereavement Leave (p. 18), provides that in cases of death in the employee's immediate family, the employee shall be granted a leave of absence to attend the funeral, with pay....not to exceed three days.

ASSOCIATION'S LAST BEST OFFER:

Increase the bereavement leave to five days in cases where the funeral is held more than 200 miles from the employee's home.

EMPLOYER'S LAST BEST OFFER:

Maintain current contract -- 3 days.

BEREAVEMENT LEAVE

PANEL'S OPINION:

The Panel is in complete agreement with the Employer's position as set forth in his Brief (p. 14). The vast majority of employers provide three-day bereavement (funeral) leave).

AWARD

The Association's request for increased Bereavement Leave is denied.

ISSUE NUMBER 3 -- DEFINITION OF IMMEDIATE FAMILY

ECONOMIC

PRESENT AGREEMENT:

Section 33, Bereavement Leave (p. 18), defines an employee's immediate family as mother, father, sisters, brothers, father-in-law, mother-in-law, husband, wife, children, or relative residing in the employee's home.

ASSOCIATION'S LAST BEST OFFER:

Add grandmother, grandfather and stepchildren to the definition of immediate family.

BEREAVEMENT LEAVE

EMPLOYER'S LAST BEST OFFER:

Maintain language of current contract.

PANEL'S OPINION:

The Panel is of the opinion that the present language is quite broad since it includes "relative residing in the employee's household". The Chairman interprets this to include both grandparents and stepchildren living in the home of the employee, and if this is correct, the language is adequate. A grandparent or a stepchild actually living in the same home with him is a "close relative".

AWARD

If the Parties agree with the Chairman that the present clause includes grandparents and stepchildren residing in the employee's household, the Association's proposal is denied, otherwise, it is granted.

ISSUE NUMBER 4 -- ADDITIONAL PAID HOLIDAYS

ECONOMIC

PRESENT AGREEMENT:

Section 36, Holidays (p. 19), lists 12 days or dates recognized as holidays.

ADDITIONAL PAID HOLIDAYS

ASSOCIATION'S LAST BEST OFFER:

In addition to the holidays listed in the current contract, add election days awarded to the Court-house employees.

EMPLOYER'S LAST BEST OFFER:

Maintain current contract -- 12 days.

PANEL'S OPINION:

A study of the Employer's Exhibit 11, a comparable of seven nearby counties and cities within those counties persuades the Panel that the holiday provision set forth in Section 36 of the present Agreement is adequate. The Employer's last best offer more nearly meets the criteria of Section 9 of the Act.

AWARD

The Associations request for additional holidays is denied.

ISSUE NUMBER 5 -- PAID PERSONAL LEAVE DAYS

ECONOMIC

PRESENT AGREEMENT:

Section 36, Holidays (p. 19), does not provide for any personal leave days.

PAID PERSONAL LEAVE DAYS

ASSOCIATION'S LAST BEST OFFER:

Add three personal leave days per year which must be requested one week in advance and not present a hardship to the operation of the Department.

EMPLOYER'S LAST BEST OFFER:

Effective January 1, 1979, an employee may take one personal leave day per year. Such personal leave day will be subtracted from Accumulated Sick Leave. ~~Personal leave day is to be arranged in advance with designated Sheriff's representative.~~

PANEL'S OPINION:

Only about 30% of the counties in the State provide any personal leave days. None of the seven counties in Employer's Exhibit 11 provides personal leave days. While there has been a slight increase in the frequency of this fringe benefit in the past year, it is clearly not one "whose time has come". The Panel believes that the Employer's proposal is more in line with the criteria of Section 9 of the Act than the Association's.

AWARD

The Panel orders the Employer's proposal for one personal leave day.

ISSUE NUMBER 6 -- INCREASED LIFE INSURANCE

ECONOMIC

PRESENT AGREEMENT:

Section 49, Life Insurance (p. 23), provides that effective January 1, 1976 the Employer shall provide term life insurance in the amount of \$14,000. The Employer pays the full cost.

ASSOCIATION'S LAST BEST OFFER:

Increase life insurance to \$20,000.

EMPLOYER'S LAST BEST OFFER:

Effective January 1, 1978 increase to \$15,000 term.

PANEL'S OPINION:

The Employer is already providing a generous life insurance benefit. The Michigan State Police Department pays 75% of the cost of a policy providing an amount of life insurance equal to the employee's salary, rounded off to the nearest \$1,000. The Association's Exhibits 9, 10, 11 and 12 reveal that the cities of St. Joseph, Benton Harbor and Niles, and Benton Township each provide \$10,000 life insurance entirely paid for by the employer. The Employer's proposal is more in line with the life insurance provided by other employers to employees performing similar services.

INCREASED LIFE INSURANCE

AWARD

The Panel orders the Employer's last best offer on life insurance.

ISSUE NUMBER 7 -- AIR CONDITIONED CARS

ECONOMIC

PRESENT AGREEMENT:

There is no language describing the Department's squad cars in the present Agreement.

ASSOCIATION'S LAST BEST OFFER:

All automobiles shall have factory installed air conditioning.

EMPLOYER'S LAST BEST OFFER:

No mandatory purchase. Air conditioning at the discretion of the Board of Commissioners.

PANEL'S OPINION:

Five of the seven counties shown on the Employer's comparable, Employer's Exhibit 11, provide air conditioned cars. Likewise, 70% of

AIR CONDITIONED CARS

of the cities shown on the comparable provide air conditioned cars. This information is from the POAM 1977-78 Wage and Fringe Benefit Survey (p. 27). The Association's proposal is more in line with the practice of similar employers in the area.

AWARD

The Panel orders the Association's last best offer in respect to air conditioned cars as present cars are replaced.

ISSUES NUMBER 8 TO 12 -- OVERTIME, CALL-IN TIME & COURT TIME

ECONOMIC

PRESENT AGREEMENT:

Section 28, Overtime (p. 14), provides that the overtime policy in effect at the execution of the Agreement was to be continued. However, overtime pay for hours worked in excess of the regularly scheduled workweek were to be at time and one-half the employee's regular straight time hourly rate.

ASSOCIATIONS'S LAST BEST OFFER:

(8a) Overtime. An employee shall be paid overtime pay for all hours worked in excess of eight (8) hours per day or in excess of forty (40) hours per week. Overtime shall be paid at the rate of time and one-half ($1\frac{1}{2}$) the employee's regular straight time hourly rate.

OVERTIME, CALL-IN TIME & COURT TIME

(9b) Call-in Pay. If an employee is called in to work other than during his regularly scheduled working hours he shall be paid call-in pay for a minimum of two (2) hours or for the hours actually worked if this exceeds two (2) hours. This minimum shall not apply to call-in time immediately preceding or following the employee's regularly scheduled working hours.

(10) Call-in pay shall be the rate of time and one-half ($1\frac{1}{2}$) the employee's regular straight time hourly rate.

(11d) Court time. An employee required to appear in court or before an administrative agency during off duty hours shall be paid for all time necessarily spent so doing, including travel time and lunch breaks incident thereto, at one and one-half ($1\frac{1}{2}$) times the employee's regular straight time hourly rate. All subpoena and witness fees shall be assigned to the Employer and the Employer shall provide transportation to and from the court or administrative agency.

(12) The minimum pay for such appearances shall be for two (2) hours or for the hours actually spent if this exceeds two hours. This minimum shall not apply to court time immediately preceding or following the employee's regularly scheduled working hours.

EMPLOYER'S LAST BEST OFFER:

(8) Overtime -- Maintain current contract Section 28.

(9) Call-in Pay -- Adopt upon issuance of this Award "An employee called in for duty on his scheduled day off shall be guaranteed a minimum of two hours pay or work at the overtime ($1\frac{1}{2}$) rate."

(10) Call-in Rate. See #9 above.

(11) Court Rate. See #9 above.

(12) Court Time Minimum. See #9 above. Employee to receive mileage but witness fees to County.

OVERTIME, CALL-IN TIME & COURT TIME

PANEL'S OPINION:

Although the above have been submitted as five separate issues they are so much akin to one another they will be discussed as one. The Panel recognizes that in making its Award it must rule on each issue separately. (The issue numbers in the Employer's proposals have been changed (-2) to correspond with the numbers on the Association's proposals.)

The Association is seeking overtime pay at the rate of time and one-half the employee's regular rate for all time worked in excess of eight hours in one day or forty hours in one week. It also seeks a guaranteed minimum of two hours for call-in pay and court appearances outside regular working hours unless those hours immediately precede or follow the employee's regularly established shift.

The Employer has offered two concessions: (a) A guarantee of two hours pay at overtime rate ($1\frac{1}{2}$) for "an employee called in for duty on his scheduled day off;" and (2) the same guarantee to an employee required to appear in court, with the witness fee the employee receives to go to the Employer.

This is certainly an improvement over the present language. However, there is still a wide gap in the positions of the respective Parties: the Employer's proposal is to pay minimum overtime only if the employee is "called in for duty on his day off". While the Arbitrator is unaware of the "Overtime pay policy currently in effect", Section 28 provides for overtime pay for "hours worked in excess of the regularly scheduled work week."

OVERTIME, CALL-IN TIME & COURT TIME

As stated in the County's Brief, both proposals provide for premium pay for work beyond forty hours in one week. To the Chairman this means the employee must actually work the forty hours before he is entitled to overtime. No matter what the reason might be, nor how far beyond his control his absence may have been, he must first make up those hours at straight time before he is entitled to overtime. The Employer states this encourages attendance but the Chairman believes that if the Department experiences an undue amount of absenteeism, this becomes a disciplinary problem and should be dealt with as such.

As stated in the Employer's Brief, the variables in the other proposals are minor and do not merit argument.

AWARD

The Panel orders the deletion of the present language in Section 28 and the substitution therefor of the following:

Section 28, Overtime, Call-in Time and Court Time.

(a) Overtime. An employee shall be paid overtime pay for all hours worked in excess of eight (8) hours per day or in excess of forty (40) hours per week. Overtime shall be paid at the rate of time and one-half ($1\frac{1}{2}$) the employee's regular straight time hourly rate.

(b) Call-in Time. If an employee is called in to work other than during his regularly scheduled working hours he shall be paid call-in pay for a minimum of two (2) hours or for the hours actually worked if this exceeds two (2) hours. This minimum shall not apply to call-in time immediately preceding or following the employee's regularly scheduled working hours.

OVERTIME, CALL-IN TIME & COURT TIME

(c) Court Time. An employee required to appear in court or before an administrative agency during off duty hours shall be paid for all time necessarily spent so doing, including travel time and lunch breaks incident thereto, at one and one-half ($1\frac{1}{2}$) times the employee's regular straight time hourly rate. All subpoena and witness fees shall be assigned to the Employer and the Employer shall provide transportation to and from the court or administrative agency.

The minimum pay for such appearances shall be for two (2) hours or for the hours actually spent if this exceeds two hours. This minimum shall not apply to court time immediately preceding or following the employee's regularly scheduled working hours.

(d) Overtime, Call-in Time and Court Time Rate. Call-in pay shall be at the rate of time and one-half ($1\frac{1}{2}$) the employee's regular straight time hourly rate.

ISSUE NUMBER 13 -- SICK LEAVE ACCUMULATION

ECONOMIC

PRESENT AGREEMENT:

Section 31, Paid Sick Leave (p. 17), provides no sick leave accumulation for the first six months of employment. During the following two years, sick leave is accumulated at the rate of ten days per year. Thereafter, sick leave is allowed at the rate of one-half day per pay period to a maximum accumulation of 140 working days. However, unused and accumulated sick leave is not paid for upon termination. The paragraph also provides for evidence of illness, and for termination after three days of unreported absence.

SICK LEAVE ACCUMULATION

ASSOCIATION'S LAST BEST OFFER:

Sick leave shall be accumulated at the rate of one-half day per pay period until there is a maximum accumulation of 200 days.

EMPLOYER'S LAST BEST OFFER:

Maintain current contract (140 working days).

PANEL'S OPINION:

The weight of the evidence persuades the Panel that 140 days maximum accumulation is in line with the practices within the Employer's comparables. Kalamazoo County does accumulate up to 200 days, but Branch County stops at 36, and Cass County does not go beyond 26.

AWARD

The Association's proposal for the accumulation of a maximum of 200 sick leave days is denied.

ISSUE NUMBER 14 -- SICK LEAVE PAY-OUT

ECONOMIC

PRESENT AGREEMENT:

Section 31, Paid Sick Leave (p. 17), provides that accumulated sick leave shall not be paid upon termination.

SICK LEAVE PAY-OUT

ASSOCIATION'S LAST BEST OFFER:

The Association is asking that accumulated sick leave shall be paid at the time of an employee's retirement at the rate of one-half day's pay for each full day of accumulated sick leave. Payment shall be at the employee's regular straight time rate at the time of his retirement.

EMPLOYER'S LAST BEST OFFER:

Maintain current contract and uniform County policy.

PANEL'S OPINION:

The practice of redeeming accumulated sick leave at the time of an employee's retirement or death is becoming more prevalent. According to the 1977-78 Wage and Fringe Benefit Survey of POAM, 59 of 83 counties in the State redeem accumulated sick leave at the time of an employee's retirement at the rate of 50% or more and ten counties redeem it at 100%. Closer to home, of the seven counties within the Employer's comparable only three provide for such redemption. The Panel notes, that, according to the Employer, no County employees are paid for accumulated sick leave at the time of retirement. The Panel is persuaded that it would be contrary to the provisions of Section 9 of the Act to provide this benefit only to the employees of the Sheriff's Department.

SICK LEAVE PAY-OUT

AWARD

The Association's request for paid accumulated sick leave at the time of retirement is denied.

ISSUE NUMBER 15 -- WORKER'S COMPENSATION SUPPLEMENT

ECONOMIC

PRESENT AGREEMENT:

Section 32, Workman's Compensation Supplement (p. 18), provides that an employee may use his accumulated sick leave to supplement his Worker's Compensation benefits so that he does not suffer a reduction in pay and upon exhaustion of an employee's accumulated sick leave, the County shall supplement the employee's compensation benefits so that he will receive full pay for a period of six months after his sick leave has been exhausted.

ASSOCIATION'S LAST BEST OFFER:

The Employer shall provide workman's compensation supplement as follows:

- a. The County shall supplement an employee's workman's compensation benefits so that the employee shall receive full pay for a period of one (1) year after the commencement of his disability.
- b. Thereafter, an employee shall be allowed to use his accumulated sick leave to supplement his workman's compensation benefits so that the employee does not suffer a reduction in pay.

WORKER'S COMPENSATION SUPPLEMENT

EMPLOYER'S LAST BEST OFFER:

Maintain Section 32 of prior Agreement: (1) County supplements employee's Workman's Compensation to full pay for six months after sick leave is exhausted and (2) employee may use sick leave to supplement Worker's Compensation.

PANEL'S OPINION:

The significant change sought by the Association is an increase in the County's supplement from six months to 12 months. The Association would also have the County's supplement paid prior to the employee drawing on his sick leave accumulation.

The question is: "To what extent is the Employer responsible for continuing a disabled employee's income at 100%?" In passing the Workmen's Compensation Act, the State Legislature deliberately distinguished between a disabled employee's normal income and his requirements during a period of disability.

The present Agreement permits a disabled employee to draw upon his sick leave accumulation and this is altogether proper because after all, he has been prudent in allowing his sick leave to accumulate. After the exhaustion of such accumulated sick leave the County bears the burden of maintaining the disabled employee at 100% of base salary for a period of six months. The Association is seeking to relieve the employee of all the risks and perils of life on earth, and have someone else provide for every unforeseen vicissitude that may come upon him, and at full pay. The Panel is persuaded the present Agreement makes adequate provision for a disabled employee's income.

WORKER'S COMPENSATION SUPPLEMENT

AWARD

The Association's request is denied.

ISSUE NUMBER 16 -- VACATION BENEFITS

ECONOMIC

PRESENT AGREEMENT:

Section 39, Vacation Benefits (p. 20), provides for one week of vacation after one year of employment, two weeks of vacation after two years of employment, three weeks of vacation after five years, and four weeks of vacation after fifteen years of continuous service.

ASSOCIATION'S LAST BEST OFFER:

The Association is asking that the requirement for four weeks of vacation be reduced from fifteen years of service to ten.

EMPLOYER'S LAST BEST OFFER:

Maintain current schedule (Section 39).

PANEL'S OPINION:

The only question on this issue is whether an employee is entitled to a four-week (20 days) vacation at the completion of his tenth year of

VACATION BENEFITS

of continuous service, as the Association is seeking, or not until the fifteenth year as the Agreement now provides. The Panel feels that comparisons should be made only within the Employer's comparables and should be limited to police units in the comparables and other Berrien County employees. Allegan County provides a maximum three-week vacation after five years of service; Branch County provides 21 days after eleven years; Cass County has four weeks after twelve years; Kalamazoo County has 19 days after fifteen years, and Van Buren police personnel are entitled to 15 days after three years and 16 days after four years. Among Berrien County cities and townships Benton Harbor provides four weeks after ten years (just as the Association is asking). Niles has four weeks after 15 years and five weeks after 30 years. While Berrien County does not lead all the rest, it is certainly in the upper half. The Panel believes that any improvement in the vacation pay program should wait until a later date.

AWARD

The Association's proposal for increased vacation benefits is denied.

ISSUE NUMBER 17 -- VACATION PAY UPON RETIREMENT

ECONOMIC

PRESENT AGREEMENT:

Section 41, Vacation Pay Upon Termination (p. 21),
provides no vacation payment will be due or made

VACATION PAY UPON RETIREMENT

if prior to eligibility for vacation an employee quits voluntarily or is discharged for cause before his annual seniority anniversary date.

ASSOCIATION'S LAST BEST OFFER:

Accumulated vacation shall be redeemable at the employee's regular rate of pay upon retirement under the Pension Plan. If retirement occurs before the employee's annual seniority anniversary date, the employee shall earn vacation time on a prorated basis and shall be paid at his regular pay for prorated vacation so earned since his last anniversary date.

EMPLOYER'S LAST BEST OFFER:

Maintain current contract (Section 41).

PANEL'S OPINION:

The present clause denies an employee who may be separated from the Department, either by his own voluntary action or for cause before his seniority anniversary date, his accumulated vacation pay. It is silent as to payment upon death or retirement. The Association is asking that all accumulated vacation be redeemable at the employee's regular rate of pay upon retirement and that such payment include prorated vacation pay for the period between the employee's previous vacation period and the date of his retirement.

VACATION PAY UPON RETIREMENT

The County contends that vacation is for the purpose of refreshing employees. The Chairman agrees with this principle; but here we are not discussing "banking", but rather "redeeming" something that belongs to the employee. Arbitrators have generally held that a vacation credit is something due the employee -- something he has earned, and that the employee has a vested right to his vacation credit once he has qualified for his first vacation. The Chairman feels very strongly that it is a gross injustice to deny a retiring employee his prorata vacation for the last year of his employment. Vacation pay is not a gratuity bestowed upon the employee through the generosity of the Employer, but an earned credit which should not be denied the employee any more than his previous week's pay.

AWARD

The Panel orders the inclusion of the Association's last best offer in the new Agreement.

ISSUE NUMBER 18 -- VACATION ACCUMULATION

ECONOMIC

PRESENT AGREEMENT:

Article 43, Vacation Accumulation (p. 22), provides that vacations are not cumulative. However, an employee is permitted to "bank" one week of his annual vacation each year to a maximum of four weeks. The vacation time in the "bank" may then be redeemed for cash upon his retirement or in the event of his death prior to retirement.

ASSOCIATION'S LAST BEST OFFER:

An employee may accumulate one week of vacation per year to a maximum of six weeks. Vacation time in excess of one week must be taken or forfeited.

EMPLOYER'S LAST BEST OFFER:

Convert to computer accumulation like rest of County so that maximum accumulation would be 20 days. (Accumulation by pay period).

PANEL'S OPINION:

First, let us take up the Association's last best offer to increase the number of weeks of paid vacation that any employee may defer.

VACATION ACCUMULATION

The Chairman sees no reason for the Employer to permit an employee to bank a week's vacation that may currently be worth, say, \$300 to be redeemed 20 years hence, at a possible price of \$600 or more. Then, too, the Chairman believes that "banking" -- and this is "banking" until death or retirement -- defeats the basic purpose of vacations -- to provide the employee an opportunity for rest and relaxation to "refresh himself"; an opportunity to relieve the monotony of a fixed pattern of life; an opportunity to be with his family and perhaps to travel with them. We are drifting far afield from these objectives when we permit "banking" of vacations. The maximum is now four weeks and the Association is seeking six weeks; if this were granted, the next request might be for eight weeks, and so on. Certainly, an employee can make better use of his vacation time during his working years than he can at the time of his retirement or after death.

When the Association negotiated longer vacations it was not so that the employee might accumulate a "retirement bonus"; it was to give him a longer vacation period. The employee should also bear in mind that whatever vacation he "banks" now can be collected only at the time of his death or his retirement. If he quits or is terminated, he forfeits what he has "banked".

The Chairman is not certain of the meaning of the Employer's last best offer, but he assumes that the present four-week maximum would be changed to a 20 day maximum and that record keeping would be by computer.

VACATION ACCUMULATION

AWARD

The Association's request is denied and the Panel orders the language of Section 43 changed to reflect the Employer's proposal.

ISSUE NUMBER 19 -- WAGES AND CLASSIFICATIONS

ECONOMIC

PRESENT AGREEMENT:

See Appendix A (p. 28) of expired Agreement.

ASSOCIATION'S LAST BEST OFFER:

See Appendix A (pp. 8, 9, and 10) of Association's last best offer.

EMPLOYER'S LAST BEST OFFER"

See pp. 1, 2 and 3 of Employer's last best offer.

PANEL'S OPINION:

The matter of wages in this arbitration is so involved, and so important -- and so complicated -- that the Chairman has chosen to

WAGES AND CLASSIFICATION

include, in toto, the sections dealing with this question from each Party's Brief in this Opinion and Award. They follow the Award and Exhibits of this issue.

The Chairman finds the figures and costs quoted by each Party somewhat confusing. While analyzing the figures, and before reaching a conclusion on this issue, the Chairman had decided to recommend that the misnamed "gun allowance" be abolished and the amount thereof (\$365) be factored into the base rates of each classification, as later suggested by the County. Throughout the consideration of this issue, it will be assumed that this will be done and all figures that appear in this discussion henceforth will be on that basis, unless otherwise specified.*

The Employer's last best offer has a number of misleading and meretricious calculations, and some of these errors are carried forward into the Brief, although total costs have been recalculated. Unless one reads very carefully, he might easily come to some inaccurate conclusions. This placed an additional burden on the Chairman and required that he be meticulous in his analysis. In summing up the Employer's proposal, his Brief states that it "would bring the top deputy from \$12,015 (\$11,650 plus \$365 gun allowance) to \$15,715 by July 1, 1979. True enough! Then, the Brief goes on to say, "This \$3,700 raise amounts to a 30.7% increase over the term of the Agreement." While it is true that the rate for this classification would be increased by \$3,700, unfortunately, the employee would have received only \$2,775, or 23%.

*Panel's Exhibits 1, 2, 3 and 4 all shown following this Award.

WAGES AND CLASSIFICATION

That's a difference of almost \$1,000 and is due to the Employer's proposal for a series of semi-annual increases rather than annual increases. Similarly on p. 41 of the Employer's Brief, in the second paragraph, the statement that the Employer's 1977 proposal is \$13,465 is misleading because this proposal is for the last half of 1977. It would be just as accurate (and equally misleading) to use \$12,740, the Employer's proposal for the first half of the year. The actual figure for the entire year averages out to \$13,102.50 (rounded out to \$13,103), which is the figure the Chairman will use. The Brief states that the Employer's proposal provides for a \$1,200 raise in 1978 received "in two \$600 jumps". Here, the reader is put on his guard, but the next sentence says, "The net effect is to increase the salary 8.9%." While it is true that at December 31, 1978 the rate would be \$1,200 greater than it would have been on December 31, 1977, the fact remains that the County would have paid the patrolman only \$900 more, or 6.9%. Likewise, the increase that would be paid to the patrolman in the final year of the Agreement would be 5.5%, not 7.1%, over the previous year. This sort of fallacious, imprecise and misleading calculations and conclusions unfortunately cast doubt on the accuracy of all other calculations. The Employer's annual costs for his proposed salary increases as stated on p. 3 of his last best offer are also overstated, but these figures have been materially lowered in the Employer's Brief. Inasmuch as the revised figures in the Employer's Brief are so close to the estimates shown on pp. 11 and 12 of the Association's Brief, the Chairman assumes they are accurate.

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In his Brief, the Employer has also factored in the additional FICA cost that would accrue as a result of the respective Parties' proposals. While this is a legitimate consideration since it does impact on the County's total costs, it is inconclusive; if the Employer is attempting to show total payroll costs, he should have included the increased costs of vacation pay, holiday pay, sick leave pay, overtime penalty pay, worker's compensation insurance costs, pension costs, and any other cost that is calculated on earnings. The Chairman finds the FICA costs interesting as a reminder of additional payroll-related expenditures, but of little value in weighing the respective offers of the Parties.

The Employer's last best offer proposes to change the differential between a three-year-plus employee who is a patrolman and those in the other classifications. Two classifications would receive upward adjustments on January 1, 1977; the clerk-matrons would receive a one-time increase of \$1,250, and the chief matron would receive a one-time increase of \$1,532; they would also receive the general increase of \$725. Thereafter, they would receive only the general increases. However, the "plus" annual differentials between grades would be reduced by \$10 for lieutenants up to \$275 for sergeants (Panel Exhibit 3). There was no discussion on this matter, and the Chairman is puzzled by the County's proposal to reduce the differentials and thus compress the grades. Many competent labor relations practitioners have long criticized "cents across the board" increases because they narrow the percentage differential between the pay grades. Here, the Employer is not only proposing a flat dollar increase six times within three years, but he also proposes to reduce the existing differential between the

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patrolman and the sergeant by \$275 per year. The Employer need not have any reason or logic for this, but, frankly, it is quite baffling to the Chairman.

In the Association's Brief, on p. 11, there is a schedule of the Employer's proposed increases for the year 1977. These amounts are slightly different than those arrived at by the Chairman. For example, the sergeant's differential is being reduced from \$1,475 to \$1,200, a difference of \$275. Since the sergeants will receive the same general increase as the patrolmen during 1977 (\$1,088) reduced by \$275 (being subtracted from the present base), they will receive for the year 1977 -- \$1,088 less \$275 (grade difference of \$1,200 vs. \$1,475) a net of \$813 -- not \$950 as shown in the Association's Brief. Furthermore, this Brief shows the detectives receiving an increase of only \$544. Try as he will, the Chairman can find no mention in the Employer's last best offer of a proposal to reduce the differential of the detectives or any mention of them whatsoever. The marine officer also seems to have gotten lost. He does find that while detectives were receiving \$14,309, they would receive \$15,033 starting January 1, 1977 while detective sergeants would receive \$13,940. The expired Agreement does not show a salary rate for detective sergeants -- just plain "sergeants". The Employer's last best offer (p. 3) shows the same proposed rate for "sergeants" and for "detective sergeants". The Association shows him as a Marine Lieutenant, while the Employer has him at \$1,300 less than a lieutenant. The Chairman feels that he must have missed something, somewhere. Nor can the Chairman find any reference to the Lodge's

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statement (Brief p. 11) that the "full amount of the more substantial increase for the chief matron and matron would not go into effect until the middle of the year."

The County's last best offer (p. 3) states, "The following classifications at the after 3 year step will receive the listed amounts over or under the patrolman rates"; under "Illustration of 1/1/77 Rate", we find: "(6) Chief Matron \$150 over (\$12,890)" and "(7) Clerk-Matron \$1,200 under (\$11,540)" and not a word about deferring these changes "until the middle of the year". The only thing that would be deferred is the second \$725 increase, and this applies to all of the employees in the bargaining unit.

At the bottom of p. 15 of its Brief, the Lodge states, "....the Panel will note that by the last half of the third year of the contract, the top patrolman's salary, including gun allowance, as contained in the Lodge's last best offer would be \$13,738 as opposed to \$13,715 contained in the last best offer of the County." While the difference remains the same, the correct figures are \$15,738 and \$15,715.

We now go to the comparables. We dwelt on this subject before (p. 13), and it is not unreasonable for an advocate to use the statistics that best serve the purpose of his client; this is what he should do. It then becomes the duty of the Panel to determine which set of comparables more closely approaches the criteria of Section 9 of Act 312. Item (ii) of the Act sets forth one criterion -- "....public employment in comparable communities". To the Chairman this means other counties as like

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Berrien County as can be found, as well as other police units within this County. At the same time, it would be myopic to ignore statistics relating to private employers; in fact, Act 312 requires the Panel to consider such data. However, the Act also requires that the Panel consider more than just wage rates themselves -- alone. It must consider "stability of employment, and all other benefits received."

Employer's Exhibit 9 shows that Berrien County paid its deputies \$12,265 in 1976; this includes a base rate of \$11,650 plus \$365 gun allowance, plus \$250 clothing allowance. Since no clothing allowance is shown for any of the other seven counties in the list, the Panel will reduce the Berrien County figure to \$12,015. This does not change the rank of Berrien County -- it remains fourth on a list of eight. Kalamazoo, at the top, has \$13,328, Van Buren has \$13,045 and Allegan has \$12,286. At the bottom of the list we find Branch County with \$10,338 -- a difference of almost \$3,000 between top and bottom. This is an excellent example of the differences within comparables. The Exhibit indicates that Cass and St. Joseph Counties are in negotiation. The Panel believes there is little likelihood that either of these will negotiate a rate in excess of that proposed by the Employer. Kalamazoo County increased its rate by \$1,200; Berrien County has proposed an increase of \$1,088 (the actual amount to be paid the patrolmen) so Berrien would drop behind Kalamazoo another \$112. Still, it would be granting an increase greater than those negotiated in every county with the exception of Kalamazoo, mentioned above, and Branch County which would still be \$590 behind Berrien, if the Employer's proposal is adopted.

WAGES AND CLASSIFICATION

With respect to the cities within the County, the Panel will consider Niles (\$12,811), St. Joseph (\$13,736) and Benton Harbor (\$12,971). Since the cities are on a fiscal year, the Panel will compare the cities' salaries as of June 30, 1977 with the average of the County's 1976 actual and 1977 proposal. Averaging \$12,015 and \$13,102.50, we arrive at \$12,559. This is less than any of the three cities mentioned above. The average of the three cities according to the County's Exhibit is calculated to be \$13,173 against the County's \$12,559. According to the Lodge's Brief, St. Joseph has paid \$13,737 and Benton Harbor has paid \$13,349, both since July 1, 1976. Niles has paid \$12,811 since August 1976; all three of these are currently in negotiations, and the Panel feels it can assume that each will increase its salary schedules by at least 6%. That would raise St. Joseph to \$14,561; Benton Harbor to \$14,150 and Niles to \$13,580; the increases might well be more. Averaging the assumed higher rates with the present actuals, we arrive at \$14,149, \$13,750 and \$13,196. The County proposes to pay its deputies at the top rate \$13,103 for calendar 1977. The Panel will not consider longevity pay in connection with wages; to do so would require that we do likewise with respect to every other fringe benefit. Nor will the Panel consider the wage rates for welders, crane operators and other employees in the private sector since the Association presented no evidence to enable the Panel to determine the job classifications in private industry that compare most closely with those in the Sheriff's Department. Furthermore, such comparison would require the Panel to scrutinize and compare other considerations such as job security, working conditions and fringe benefits.

WAGES AND CLASSIFICATION

The County's comparable (Employer's Exhibit 8) lists eight counties whose population varies from 35,000 to 220,000. Kalamazoo is the largest county and Berrien County is second. The Panel will consider only those counties with a minimum population of 50,000. This would include Kalamazoo, Van Buren, and Allegan. Referring to Employer's Exhibit 9, we extract the following wage rates for the calendar year 1977:

Kalamazoo	\$14,527
Van Buren	13,870
Allegan	12,900

The Panel will also consider the three cities previously analyzed, — and use the average 1977 wage rates shown above:

Benton Harbor	\$14,150
Niles	13,580
St. Joseph	14,561

The above six units will pay their patrolmen an average of \$13,931 for calendar 1977. Assuming a 6% increase for each of the next two years, we arrive at \$14,767 for 1978 and \$15,653 for 1979, or a total of \$44,351 for the three-year life of the Agreement. The Panel has already agreed that the Panel would select the total three-year wage offer of one of the two Parties. (Employer's Brief p. 2). The Panel has now arrived at part of the Standard for Comparison, and that is \$44,351 for patrolmen having three years of service. The Employer proposes to pay \$13,102.50 for 1977, \$14,365 for 1978 and \$15,452.50 for 1979, a total of \$42,920; or \$1,431 per employee less than the Panel's "standard" for the three-year life of the Agreement. The Panel must now turn to the matter of classification differentials.

WAGES AND CLASSIFICATION

The Association is asking that matrons should be paid as much as patrolmen, an increase of \$2,450. In the Panel's opinion, the testimony in behalf of this large an increase was not persuasive. Both the Chairman and the Employer are convinced that an adjustment is in order, however. The Employer has proposed an increase of \$1,250. The Chairman believes an adjustment of \$1,850 is in order. The Association is asking an adjustment of \$2,857 for the chief matron, while the County has proposed \$1,532. The Chairman would recommend \$2,200 if he had the authority to do so. However, the provisions of the Act prevent him from doing so. The Panel must accept one or the other of the two proposals in its entirety.

The Association also wishes to widen the existing spread between each of the other classifications.....while the Employer proposes to narrow the present differences between classifications. The Panel must therefore determine a fair and equitable differential between each of the classifications to use as a standard.

Other than the testimony concerning the Clerk-Matron and Chief Matron classifications, there was no discussion concerning the wage rates for the other classifications. In fact, the Chairman was unaware of any proposed changes of this nature until he reviewed the Parties' last best offers following the hearing. There is quite a gap between the two proposals. The Panel recognizes that the correct differential must lie somewhere between the two extremes of the Parties and will arbitrarily use the average of the two proposals in establishing its "standard". (Panel's Exhibit 4). The "standard" differential

WAGES AND CLASSIFICATION

(using the Patrolman's salary as a base) for each classification multiplied by the number of incumbents in each classification totals \$53,458 per year or \$160,374 for the life of the Agreement (Panel's Exhibit 4). This amount represents the total difference between the rate paid Patrolmen -- whatever the rate may be -- and the rate paid employees in other classifications, including all employees in the bargaining unit.

We have already established the standard base wage for a Patrolman for three years at \$44,351. Since there are 74 employees in the unit, \$3,281,974 is required to provide these wages; in addition, we must provide for the differential. The Panel has set a standard for this equal to \$160,374 for the three years. The Standard Base and the Standard Differential total \$3,442,348.

The Employer proposes to pay each member of the bargaining unit (a total of 74) \$42,920 plus or minus the new differentials (Panel's Exhibit 4) for the three-year period of the Agreement. The Employer bases his costs on a total of 74 employees, thus $\$42,920 \times 74$ equals \$3,176,080. In addition, it would pay a net differential of \$42,350 each year, for a three-year total of \$127,050. Thus, adding \$127,050 to \$3,176,080 we arrive at a total of \$3,303,130, or \$139,218 less than our standard.

The Association is requesting a base pay of \$44,856 for each member of the bargaining unit for the three-year period, exclusive of the differentials for the higher grades. Based on 74 employees, this equals \$3,319,344; adding the cost of the grade differentials of \$193,683 (Panel Exhibit 5), we have a total of \$3,513,027 or \$70,679 more than the standard.

WAGES AND CLASSIFICATION

It is obvious that the Association's proposal, while in excess of the Panel's Standard for Comparison, is much closer to the standard than the County's: \$70,679 vs. \$139,218. There is a total difference of \$209,897 between the two proposals for the three-year period, or about \$70,000 per year, and while it may not seem like a great deal, it is almost \$1,000 per employee.

It is interesting to note that while the Association's proposal will cost the County considerably more (\$209,897) than the Employer's proposal, most of this difference will be a one-time cost.—At the expiration of the Agreement the rate of pay for Patrolmen will be \$23 more per year under the Association's schedule than it would have been if the Employer's proposal had been mandated.

While the Chairman believes that the "total three-year wage" concept is a sound one, and is convinced that the total award is entirely as specified in Sections 8 and 9 of Act 312, he is not completely in accord with every aspect of the Award and some questions remain in his mind:

- (a) What's become of the "detective" classification?
- (b) Why are there 25 individuals in the command classifications and only 49 "soldiers"? "Chiefs vs. Indians"!
- (c) How can the Association justify classifying a Clerk-Matron in the same group with a patrol officer, or the chief matron with a patrol sergeant? What effect will this have on the patrol personnel?
- (d) Why did the Employer propose to reduce the sergeant's differential by \$275?

WAGES AND CLASSIFICATION

- (e) Why did the Employer propose reducing the dollar spread between the patrolmen and the command officers, when he should have been increasing it if he wished to maintain the percentage spread?
- (f) Why is there such a great difference in the Employer's estimated wage increase cost over the three-year period: \$283,186 in his last best offer compared to \$205,306 in his Brief?
- (g) Why does the Employer propose to depart from the percentage increase between steps from first to fourth year of service in favor of a flat dollar amount? The Panel's Exhibit 1 shows that the spread was a constant 11.4% during the three years of the prior Agreement; under the County's proposal the spread would drop to 10.7% in 1977, 9.5% in 1978 and 8.8% in 1979. The impact on the total payroll is minimal, and since the Panel was confident that this factor would have no effect on its decision, and since neither Party mentioned it in its Brief, the Panel made no effort to compute the amount involved.

AWARD

The Panel orders the Association's three-page wage proposal submitted as its last best offer August 10, 1977 incorporated in the new Agreement.

All the rates, grades and classifications contained therein shall be effective as of the date shown at the top of each schedule.

WAGES

Considerable evidence was introduced by both parties on this issue. Essentially, the Union would have the Panel look to cities or larger metropolitan counties while the Employer suggests that the Sheriff Departments of surrounding counties be used. (Employer's Exhibit No. 9) There is little turnover in the Sheriff Department, and when new positions are open, it is the surrounding geographical area that provides the labor market.

The 1977 average deputy rate for all of the surrounding counties, including Kalamazoo, which is much larger, is \$13,282. The Employer's proposal of \$13,465 exceeds the average. The Union would pay \$13,747 plus \$365 gun allowance, or \$14,112 -- \$830 higher than the average deputy rate of the surrounding counties.

Comparing cities raises another problem. Counties are on a calendar year and cities are on a fiscal year, beginning July 1. Thus, most county contracts are based on a calendar year, and most city contracts are based on a July 1 fiscal year. City contracts would then fall into two calendar years. With this difference in mind, the Panel can examine the average rate of law enforcement departments in Berrien County (Employer's Exhibit No. 12) The Employer's proposal for 1977 (\$13,465) exceeds the average law enforcement rate in the 76-77 and the 77-78 years.

The second year of the Employer's proposal provides for a \$1,200 raise received in two \$600 jumps. The net effect is to increase the salary 8.9%. Currently, the cost of living index is running below 6%. (Employer's Exhibit Nos. 33,34) An increase of \$1,050 is offered for the last year, which is a 7.1% increase over the second year. Based upon all of the evidence submitted, the Employer believes that its proposal is the most relevant to the employment situation in Berrien County. The Employer's proposal would bring the top deputy from \$11,650 (\$12,015 including the gun allowance) to \$15,715 by July 1, 1979. This \$3,700 raise amounts to a 30.7% increase over the term of the Agreement.

A major consideration is the financial impact this package will have on the Employer. Mr. Petrie testified that as of August 1, 1977, only \$99,948.95 was left in the contingency account. No increases were put into the County budget, and thus, fund balances and the contingency account would have to be used. The same situation applied for the 1978 year where \$824,200 was budgeted in the contingency account. This compares with the \$637,600 contingency budget for 1977. Therefore, the total cost of the wage proposals must be examined.

	<u>Employer</u>	<u>Union</u>
1977 Wages:	\$ 82,118.50	\$176,698.00
FICA:	4,803.93	10,336.83
	<u>86,922.43</u>	<u>187,034.83</u>

	<u>Employer</u>	<u>Union</u>
1978 Wages:	\$ 65,700.00	\$ 68,961.00
FICA:	3,843.45	4,034.22
	<u>69,543.45</u>	<u>72,995.22</u>
1979 Wages:	57,487.50	56,682.00
FICA:	3,363.02	3,315.00
	<u>60,850.52</u>	<u>59,997.90</u>
TOTALS:	<u>\$217,316.40</u>	<u>\$320,027.95</u>

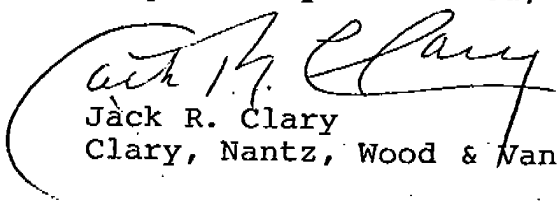
Conclusion

An obvious strategy of the Union is to place a great number of economic issues on the table hoping that the Panel will be reluctant to say "no" to all, and therefore, some will meet with success. The Chairman has long experience in the field of labor negotiations and understands this stratagem. Of all of the economic issues placed on the table at the beginning of negotiations by the Union, only its request for automobiles with power locks and drip rails was withdrawn. Essentially, the Panel received the Union's "shopping list" and the Employer trusts that the Panel will treat it as such.

The Employer's economic package is a generous and fair one. Major wage increases of over 30% were offered; an additional holiday in the form of a personal day, increased hospitalization and life insurance, and clothing allowance round out a good improvement for Sheriff Department employees. All

of which is higher than other County employees received (6%) and yet, this proposal maintains financial integrity for the taxpayers of Berrien County.

Respectfully submitted,



Jack R. Clary

Clary, Nantz, Wood & Van Orden

October 3, 1977

ISSUE NUMBER 20 -- LONGEVITY PAY

ECONOMIC

PRESENT AGREEMENT:

Section 46, Longevity Scale (p. 23) provides that longevity increases will be at the rate of one-half ($\frac{1}{2}$) of 1% of the previous year (sic) commencing with the fifth (5th) through the sixteenth (16th) year of seniority per Appendix "A", "A-1".

ASSOCIATION'S LAST BEST OFFER:

Longevity increases shall be at the rate of one-half ($\frac{1}{2}$) of one percent (1%) of the previous year's total wages, including any longevity pay during the previous year, commencing with the fifth (5th) through the sixteenth (16th) year of seniority.

EMPLOYER'S LAST BEST OFFER:

Maintain present scale .5% to 6% after 16 years.

PANEL'S OPINION:

The Association's proposal is much clearer than the language of the present provision. The current Agreement provides "....one-half ($\frac{1}{2}$) of one percent (1%) per year of the previous year...." One-half of one percent of what? Does this refer to base salary rate? Does it mean

LONGEVITY PAY

$\frac{1}{2}\%$ of gross earnings in dollars added to the current year's base rate? Does it refer to $\frac{1}{2}\%$ of sick leave accumulation? We are told that each year (through the 5th to the 16th years inclusive) something will be increased by $\frac{1}{2}\%$.

The analyses of Table "A-1" in the expired Agreement indicates that each year $\frac{1}{2}\%$ is added to the employee's base rate of pay for the previous year so that the $\frac{1}{2}\%$ annual increase applies only to the base rate of pay, compounded each year. The Association is asking that instead of applying the $\frac{1}{2}\%$ only to the base rate, as in the past, it now be applied to all earnings for the previous year and then added to the previous year's base to determine the base rate for the new year. In effect, under the Association's proposal, the annual longevity increase could be substantially greater than $\frac{1}{2}\%$.

The Employer's last best offer states "Maintain present schedule .5% to 6%." Because of compounding, the 16th year rates shown in the previous Agreement are slightly higher than 106% of the fourth year rates -- \$13.00 to \$22.00.

Within the Employer's comparable, three counties provide no longevity pay while a fourth pays 5% after ten years of continuous service. The remaining three have complicated longevity formulae. It should be noted that the Association is not actually seeking a higher percentage, but a broader base for the application of the present percentage. The Panel is persuaded that the proper base for the application of the percentage is the employee's base salary rate. Further, all other earnings are similarly increased as is the base rate.

LONGEVITY PAY

AWARD

According to the Employer's Brief this issue has been resolved. The Brief states that the Association's last best offer is exactly as is now provided in Section 46 of the expired Agreement. Since the Association makes no mention of it in its Brief, the Chairman will assume that the matter has been resolved.

ISSUE NUMBER 21 -- HOSPITALIZATION INSURANCE

ECONOMIC

PRESENT AGREEMENT:

Section 48, Hospitalization Insurance (p. 23), provides that the Employer shall maintain the hospitalization and sickness and accident benefits in effect at the signing of the Agreement. The Employer pays the full cost for the employee and those of his dependents who are not otherwise covered.

ASSOCIATION'S LAST BEST OFFER:

Section 48, Hospitalization Insurance

Employer shall maintain and pay the full costs of the premiums for hospitalization and medical insurance for employees and dependents. This insurance shall provide coverage equivalent to that currently provided to Courthouse Employees unless the benefit schedule is improved during the life of this Agreement, whereupon the Employees covered by this Agreement shall be given such improved benefits.

HOSPITALIZATION INSURANCE

EMPLOYER'S LAST BEST OFFER:

Commencing first full month following award -- increase Room to \$85.00 like remainder of County employees.

PANEL'S OPINION:

Apparently the Sheriff's employees now have lesser benefits than other County employees. The Employer is offering to correct this disparity. The Association additionally asks that the benefits be kept on a par with those of other County employees. This does not seem unreasonable to the Panel.

The Employer's objections to the "me, too" language are understandable, and the Chairman has already made known his feeling concerning "cradle to the grave" security. However, the Association has a very valid reason for wanting to protect itself against astronomical health care costs. It has just gone through a period during which its hospitalization coverage has been materially lower than that provided other County employees, and is unwilling to find itself back in that situation within a short time. It has agreed to a three-year contract without a re-opener, and the Chairman believes it should have this protection. While it is true that this arrangement might tend to subject the Employer to "whipsawing", the Chairman is convinced that the Employer is capable of holding to his position. Furthermore, experience demonstrates that with or without a "most favored nation" clause fringe benefits afforded to one unit very soon find themselves spreading to every other unit.

HOSPITALIZATION INSURANCE

The Employer says that granting the Association's request would be allowing it to have "the best of both worlds". The Chairman would remind the Employer that uniformity of coverage to all employees and the resultant cost thereof was the concern that most influenced the Panel in denying the Association's request for changes in the Pension Plan. Furthermore, in his last best offer the Employer includes the words "....like remainder of County employees."

AWARD

The Panel orders the Association's last best offer on hospitalization Insurance.

ISSUE NUMBER 22 -- DENTAL INSURANCE

ECONOMIC

PRESENT AGREEMENT:

There is no provision for dental insurance coverage in the present Agreement.

ASSOCIATION'S LAST BEST OFFER:

Section 48, Dental Insurance.

In addition, the Employees shall have a dental Rider, as contained in Union Exhibit 42, Par. 3, the premiums for which for Employees and dependents shall be paid in full by the Employer.

DENTAL INSURANCE

EMPLOYER'S LAST BEST OFFER:

No dental insurance.

PANEL'S OPINION:

Since none of the adjoining counties or the cities or townships in the area provides this benefit, the Panel believes the Association's request is premature.

AWARD

The Association's request for dental insurance is denied.

ISSUE NUMBER 23 -- PRESCRIPTION INSURANCE

ECONOMIC

PRESENT AGREEMENT:

There is no provision for prescription insurance in the present Agreement.

ASSOCIATION'S LAST BEST OFFER:

Section 48, Prescription Insurance.

In addition, the Employees shall have a prescription Rider as contained in Union Exhibit 42, Par. 1, the premiums for which for employees and dependents shall be paid in full by the Employer.

PRESCRIPTION INSURANCE

EMPLOYER'S LAST BEST OFFER:

No prescription insurance.

PANEL'S OPINION:

None of the surrounding counties provides this benefit. The Association's Brief mentions but three counties in the State that do provide it. The Association's statement that many industrial plants in Berrien County do provide this benefit is not persuasive.

AWARD

The Association's request for prescription insurance is denied.

ISSUE NUMBER 24 -- RETIREMENT PENSION BENEFITS

ECONOMIC

PRESENT AGREEMENT:

Section 50, Pension Plan (p. 24) provides "The employees in this bargaining unit shall participate in and receive the benefits of the Berrien County Retirement Fund as prescribed by the County." The formula is one and one-half percent ($1\frac{1}{2}\%$) times credited service times average service salary in the last five years.

RETIREMENT PENSION BENEFITS

ASSOCIATION'S LAST BEST OFFER:

The Association's last best offer is to increase the pension benefits from one and one-half percent ($1\frac{1}{2}\%$) to two percent (2%), and reduce retirement age from 65 to 55.

EMPLOYER'S LAST BEST OFFER:

Retain current pension plan.

PANEL'S OPINION:

The testimony of the Association's witness, Dr. Frank Hogle, was unpersuasive. While Dr. Hogle seems to be an expert on the subject of stress as it pertains to employees, and particularly key personnel, in a psychiatric hospital, and especially such a hospital whose residents have a record of violence and/or crime, he indicated a very limited knowledge of stressful situations in a county jail or in the life of a sheriff's deputy.

His employment history includes service at the State Hospital in Logansport, Norway's Foundation Hospital in Indianapolis, a private psychiatric hospital in Lafayette, five mental county hospital clinics in Warsaw, Beatty State Hospital in Westville where he was director of a security division that dealt with the criminally insane, and lately as a private practitioner in forensic psychiatry. That is, indeed, an

RETIREMENT PENSION BENEFITS

impressive record, and certainly qualifies him to discuss the stress and strain upon an individual whose entire day is spent supervising or policing the mentally deranged. But that is not the work of a sheriff's deputy. A city bus driver, maneuvering his huge vehicle in the Chicago Loop during rush hour traffic also suffers stress, as does a coal miner, an actor or an air traffic controller. When asked if he was familiar with the duties performed by road police personnel, Dr. Hogle replied, "In general, yes" (T I p. 110). The Chairman believes this is true of most adults. One need not be an "expert" to be "generally familiar" with these duties. The witness also said that custody people had been a "little more" his expertise. He testified that he considered it stressful that jail personnel may "well not know what the weather is doing outside"; this is also true of millions of factory workers.

Dr. Hogle was asked if he had had an opportunity to perform clinical studies in the Berrien County jail. He replied in the negative, saying that he had spent about one hour there. When asked if he had spent any time riding in cruisers, going on road patrols with any of the deputy sheriffs, he said he had not (T I p. 121).

Dr. Hogle also conceded that retirement at age 55 had been suggested to him by the Association and that this coincided with his judgment (T I p. 125-6). The witness stated that as a citizen and taxpayer he was also concerned with the costs to the community.

In all his testimony, 35 pages in Transcript Volume I, Dr. Hogle did not refer to a single case involving stress in the life of a

RETIREMENT PENSION BENEFITS

peace officer or jail guard. In response to the question, "Would it be fair to say that stress to some extent is a common factor in all humans?", Dr. Hogle replied in the affirmative.

In answer to the question, "Do you have any opinion as to whether the employee with twenty-five years of service should have the option of voluntary retirement with normal pension benefits", the witness replied, "No, I don't think I would have an opinion. I think that matter is more for administrative decision, rather than my own psychiatric expertise" (T I p. 115). He also stated, "I do not believe an individualgoing into police work at age twenty or twenty-one or whatever, should necessarily have, at the end of fifteen or twenty years, the opportunity to retire with full pension benefits. I think some kind of scale somewhere ought to enter in" (T I p. 115). The witness also pointed out that he had to take into account the fact that he is a taxpayer in his community and that "I've got to balance these things up" (T I p. 127).

Later, when he was asked, "What type of retirement age would you recommend for voluntary retirement?", he replied, "I think an individual should have the privilege of considering retirement perhaps at somewhat less than full retirement, I don't know about that, but at some-- around fifty-five, give or take....there could be -- certainly -- individual differences in this particular thing." He added, "....and maybe depending also probably even more upon whatever their pre-existing personality structure happens to be....such retirement should be able to come about either through the request of the individual or perhaps through the request of the employing agency....I do not think that it should necessarily be a hard and fast fifty-five retirement" (T I pp. 113-114).

RETIREMENT PENSION BENEFITS

The testimony of Mr. Robert Russell, Supervisor of Facility Inspections, Michigan Department of Corrections, was interesting, but hardly persuasive. In essence, he testified that conditions in the Berrien County Jail were as good or better than those in most other jails. In response to the question, "So, then, Berrien County isn't any different than anywhere else; by and large they are all inadequate, basically?", he replied, "basically, yes, sir" (T I p. 86).

Mr. Alan Sonnanstine of Gabriel, Roeder, Smith and Company, consulting actuaries to the County, testified that in making their calculations, the actuaries did not assume a shorter life expectancy for law enforcement personnel than for the general population (T I p. 196).

If there is no unusual stress factor among the Sheriff's personnel, there is no reason to treat these employees any differently than other County employees. In fact, there was testimony that only two counties in the State, Wayne and Genessee, have special pension provisions for the sheriff's employees. At this point the cost becomes tremendous, and more than the taxpayers should be asked to bear. In the Chairman's opinion, it is grossly unfair to require the citizens of this county to provide its employees with an additional ten years of leisure at 50% of their average final salary. This is not early retirement because of physical disability--the erosion of one's faculties--this is merely providing an opportunity for a new career.

The Association's Brief points out that the cities of Niles, St. Joseph and Benton Harbor provide for early retirement. The Brief also mentions Muskegon County; Mr. Alan Sonnanstine, the actuary for Berrien

RETIREMENT PENSION BENEFITS

County, contradicted this in his testimony, saying that as recently as 1976, the retirement age for Muskegon County Sheriff's personnel was 60 (T I p. 199). The 1977-78 Wage and Fringe Benefit Survey of POAM indicates that the retirement age for Muskegon Sheriff's employees is 60. It also indicates that one-half of the reported counties in the State do not permit optional retirement with full benefits at age 55.

The burden on the average taxpayer is rapidly approaching the breaking point, and he has begun to rebel. He is willing to be taxed for the services he requires, but the Chairman does not believe he will long remain silent if he is forced to pay for pensions which will permit public employees to have a second career.

AWARD

The Panel denies the Association's request for changes in the pension plan.

ISSUE NUMBER 25 -- DISABILITY BENEFITS

ECONOMIC

PRESENT AGREEMENT:

Disability benefit ($1\frac{1}{2}\%$ of average monthly earnings multiplied by years of service) after ten years of service.

DISABILITY BENEFITS

ASSOCIATION'S LAST BEST OFFER:

Increase formula to 2%; no minimum qualification period for duty-disability benefit. For duty-disability benefit, the period from the end of the disabled employee's period of service to the earliest date he would have, but for his disability, become eligible for normal retirement shall be used as service for the sole purpose of computing the amount of disability pension.

EMPLOYER'S LAST BEST OFFER:

Retain current pension plan.

PANEL'S OPINION:

The present disability provision was adopted in 1976 and is a part of the improved pension plan put into effect at that time. It is an integral part of that plan. The Panel has already denied the Association's request to increase the Employer's contribution to the plan from $1\frac{1}{2}\%$ to 2%, and it is not persuaded that it should give further consideration to the Association's request.

AWARD

The Association's proposed change in the disability provision is denied.

ISSUE NUMBER 26 -- UNIFORMS FOR NEW EMPLOYEES

ECONOMIC

PRESENT AGREEMENT:

Section 53, Uniform Allowance (p. 24), provides "All regular (sic) employed full time officers of the Department shall receive an annual uniform allowance in accordance with the following schedule:

Uniformed Personnel	\$250 per year
Plainclothes Personnel	\$300 per year"

ASSOCIATION'S LAST BEST OFFER:

Section 53. Uniform Issuance

"All regularly employed full time officers of the Sheriff's Department shall receive, upon being hired, at no expense to the employee, a full issue of uniforms in accordance with the Employer's Exhibit 19."

EMPLOYER'S LAST BEST OFFER:

Maintain current program.

PANEL'S OPINION:

The Chairman does not believe that the present language of Section 53 is intended to cover the issuance of uniforms and accouterments to newly hired deputies. It is quoted above only because the Association's

UNIFORMS FOR NEW EMPLOYEES

last best offer makes reference to it, and because any additional language covering this issue would probably become a part of Section 53.

There seems to be some contradiction -- or at least confusion -- as to just exactly what the "current program" referred to by the Employer actually is (T II pp. 91-95).

In his Brief, the Employer states that "the only dispute is when an employee is to receive a full complement of clothing and equipment furnished by the Employer." In the Employer's Exhibit 19 the value of the items furnished a new employee is shown as \$696.20. Yet the Employer did not challenge the Association's witness when he testified (T II p. 94) that the quartermaster is allowed \$250 per man per year and this amount is to cover the cost of outfitting new employees as well as those requiring replacement items. There was also uncontradicted testimony that a new employee may never be issued all of the items in Employer's Exhibit 19, and that he often is required to pay for some items. There was no evidence that the delay in providing these items to a new employee was due to the Employer's desire to determine if a new employee would survive his probationary period of one year, but was due to the fact that many items were unavailable. This current practice may well prevent the loss of clothing and equipment to those employees who do not complete their probationary period, but it may also deprive them of such essential items as a parka, trousers, duty holster, handcuffs and shoes. The Employer's Brief is not very persuasive on this point. The Association is justified in asking that Employer's Exhibit 19 be made a reality.

UNIFORMS FOR NEW EMPLOYEES

Employer's Exhibit 19 lists the following items and the value of each:

UNIFORMS AND EQUIPMENT FURNISHED
TO EMPLOYEES

<u>ITEM</u>	<u>COST</u>
Parka	\$ 55.50
Light Jacket	12.50
Car Coat	43.95
Rain Coat	53.95
Trousers (3)	131.85
Long Sleeve Shirts (3)	53.85
Short Sleeve Shirts (3)	50.85
Felt Hat	28.90
Straw Hat	18.90
Ties (2)	3.90
Collar Brass (2)	11.90
Belt (Sam Browne)	18.95
Holster (duty)	22.50
Gloves	13.95
Cartridge Case	8.00
Handcuff Case	8.95
Fatigue Trousers (2)	20.00
Fatigue Shirts (2)	20.00
Fatigue Cap	--
Boots	16.95
Garrison Belt	10.00
Belt Keeper (4)	3.80
Name Plate	2.95
Tie Bar	3.25
Shoes	27.95
Whistle	1.95
Whistle Chain	2.95
Handcuffs	16.95
Hat Badge	12.55
Shirt Badge	<u>18.50</u>
Total Cost	\$696.20

Inasmuch as the Employer has submitted this Exhibit 19 as a list of the items this Department is actually providing new employees, the Association is asking that the Department continue to provide these items even if it has not consistently done so in the past.

UNIFORMS FOR NEW EMPLOYEES

AWARD

Section 53 shall be expanded to provide the Association's proposal shown in the Association's last best offer as Issue 26.

ISSUE NUMBER 27 -- UNIFORM MAINTENANCE ALLOWANCE

ECONOMIC

PRESENT AGREEMENT:

Section 53, Uniform Allowance (p. 24), provides "All regular employed full time officers of the Department shall receive an annual uniform allowance in accordance with the following schedule:

Uniformed Personnel	\$250 per year
Plainclothes Personnel	\$300 per year"

ASSOCIATION'S LAST BEST OFFER:

"(Hereafter) the Employer shall budget not less than \$350 per year per uniformed officer for the repair and replacement of uniforms."

EMPLOYER'S LAST BEST OFFER:

Maintain Current Budget System, effective 1/1/78 increase to \$300. Cost - \$3,700 more than current.

UNIFORM MAINTENANCE ALLOWANCE

PANEL'S OPINION:

If \$250 per year was a proper uniform allowance for the uniformed personnel in 1974, what is proper for 1978 and 1979? Assuming a 6% annually compounded increase for each of the years from 1974 to 1978 we arrive at a figure of \$316. So, for 1978 and 1979, \$632 would be required. The Association is asking for \$700, while the Employer proposes \$600. The Panel believes that the Employer's proposal more closely meets the requirements of Act 312.

AWARD

The Panel orders that Section 53 of the new Agreement provide an annual uniform allowance of \$300 effective January 1, 1978.

ISSUE NUMBER 28 --- PLAINCLOTHES OFFICERS ALLOWANCE

ECONOMIC

PRESENT AGREEMENT:

Section 53, Uniform Allowance (p. 24), provides that all regular employed full time officers of the Department shall receive an annual uniform allowance in accordance with the following schedule:

Uniformed Personnel	\$250 per year
Plainclothes Personnel	\$300 per year

PLAINCLOTHES OFFICERS ALLOWANCE

ASSOCIATION'S LAST BEST OFFER:

"Plainclothes personnel shall receive a clothing allowance of \$400 per year per person payable during the first pay period in January."

EMPLOYER'S LAST BEST OFFER:

Maintain present \$300 per year. Payment made in January each year. If employee terminates before year-end employee must re-pay pro rata amount.
(Current Policy)

PANEL'S OPINION:

Using the formula applied in Issue Number 27, plainclothes personnel would be entitled to an increase but the Chairman believes there is more to be considered. Why is the County required to provide a clothing allowance for plainclothes employees? Is the work such that ordinary street clothes are inadequate? Does a plainclothes police officer wear different clothes on duty than he does off duty? Yet, there must be some justification for the clothing allowance because it is so prevalent.

Following the determination of Issue Number 27, wherein the uniformed personnel will receive an increase in their clothing allowance, the two groups -- uniformed and plainclothes -- will receive the same allowance. This seems a much better relationship than having the plainclothes personnel receive \$100 more per year than their uniformed co-workers. As for the requirement that a terminating plainclothes employee re-pay a pro-

PLAINCLOTHES OFFICERS ALLOWANCE

rata share of the allowance as presently provided, this does not seem unfair unless the clothing is suddenly useless. There was no testimony to this effect.

AWARD

The Association's request for an increase in the annual clothing allowance for plainclothes personnel is denied.

ISSUE NUMBER 29 -- UNIFORM LAUNDRY AND DRY CLEANING

ECONOMIC

PRESENT AGREEMENT:

There is no provision for the laundering and dry cleaning of uniforms in the expired Agreement.

ASSOCIATION'S LAST BEST OFFER:

Dry cleaning and laundering of uniforms will be provided by the Employer with a drop-off and pick-up station at the Sheriff's Department.

EMPLOYER'S LAST BEST OFFER:

Maintain present system.

PLAINCLOTHES OFFICERS ALLOWANCE

PANEL'S OPINION:

The Employer points out that the Association's proposal, as set forth in its last best offer, does not provide a "ceiling" on the amount to be spent annually for the dry cleaning and laundering of uniforms. This flaw also concerned the Chairman when he read the proposal for the first time. However, the County had no way of knowing that the Association had cleared up this point in its Brief.

On p. 34 of its Brief the Association states, "According to a survey conducted by Sergeant Bale, the cost of such a program to the County would be approximately \$158 per uniformed officer." This Award is being made in accordance with that statement. Counsel for the Association is an honorable man and will surely recognize this statement as a commitment on the part of the Association. The language of the clause should contain this "cap".

The Chairman believes the Association's request for a cleaning allowance has merit, but, at the same time, it cannot be open-ended.

AWARD

The new Agreement shall contain the Association's request for a uniform cleaning and laundering allowance as set forth in the Association's Brief.

ISSUE NUMBER 30 -- OFF-DUTY WALLET BADGES

ECONOMIC

PRESENT AGREEMENT:

The present Agreement makes no provision for wallet badges.

ASSOCIATION'S LAST BEST OFFER:

"All regular full time uniformed employees of the Sheriff's Department shall be provided, at the expense of the Employer, with off-duty wallet badges."

EMPLOYER'S LAST BEST OFFER:

Employee can purchase at cost.

PANEL'S OPINION:

The Panel is not persuaded that uniformed deputies require off-duty wallet badges.

AWARD

The Association's request is denied.

ISSUE NUMBER 31 -- IDENTIFICATION SETS FOR
UNIFORMED PERSONNEL

ECONOMIC

PRESENT AGREEMENT:

The present Agreement makes no provision for identification sets.

ASSOCIATION'S LAST BEST OFFER:

"All regular full time uniformed employees of the Sheriff's Department shall be provided at the expense of the Employer with ID sets."

EMPLOYER'S LAST BEST OFFER:

Employee can purchase at cost.

PANEL'S OPINION:

The Association did not pursue this matter at the hearing, and no need for this item is apparent.

AWARD

The Association's request is denied.

ISSUE NUMBER 32 -- BADGES FOR PLAINCLOTHES EMPLOYEES

ECONOMIC

PRESENT AGREEMENT:

There is no provision for badges in the present Agreement.

ASSOCIATION'S LAST BEST OFFER:

"All regular full time plainclothes employees of the Sheriff's Department shall be provided, at the expense of the Employer, with badges."

EMPLOYER'S LAST BEST OFFER:

Employee can purchase at cost.

PANEL'S OPINION:

The Association's language implies that plainclothes employees (and the Chairman assumes that this includes detectives) are not now supplied with badges. This is difficult to understand. Does a detective not need a badge to identify himself in the line of duty? Because there was no testimony to this effect, the Chairman believes he is mistaken.

BADGES FOR PLAINCLOTHES EMPLOYEES

AWARD

The Association's request is denied.

ISSUE NUMBER 33 -- IDENTIFICATION SETS FOR
PLAINCLOTHES EMPLOYEES

ECONOMIC

PRESENT AGREEMENT:

There is no provision for identification sets in
the present Agreement.

ASSOCIATION'S LAST BEST OFFER:

"All regular full time plainclothes employees
of the Sheriff's Department shall be provided,
at the expense of the employees (sic) with ID
sets."

EMPLOYER'S LAST BEST OFFER:

Employee can purchase at cost.

PANEL'S OPINION:

There is no difference in the position of the two Parties. The
Arbitrator suspects that there is a typographical error in the Association's

IDENTIFICATION SETS FOR PLAINCLOTHES EMPLOYEES

last best offer. If he is mistaken, the employees may buy the ID sets; the Employer has said so.

AWARD

There will be no Award on this issue.

ISSUE NUMBER 34 -- TRAINING TIME

ECONOMIC

PRESENT AGREEMENT:

Section 55, Training and Schooling (p. 25), states:

The Employer recognizes the advantages of training for the employees of the Sheriff's Department. Employees who are assigned for schooling and training by the Sheriff will be paid at their straight time rate. This pay will not be considered as overtime pay.

ASSOCIATION'S LAST BEST OFFER:

Retain Section 55.

EMPLOYER'S LAST BEST OFFER:

As proposed by Employer, 50 hours -- Article XIX, Par. 3 Kalamazoo Contract. The Agreement between the County of Kalamazoo and Kalamazoo Lodge No. 98 of the Fraternal Order of Police, Article XIX, Section 3, page 17, provides:

TRAINING TIME

"Each deputy shall be required to participate in sixty (60) hours of in-service training per year without pay, except when previously excused because of illness, subpoena and continued on-duty requirements. If such in-service training is not completed in accordance with this requirement, officers failing to complete such training shall not receive consideration for merit increases. All in-service training shall be subject to the following:

(a) If a single session extends over two (2) hours, the period in excess of two (2) hours up to four (4) hours will be credited in an amount equal to double the time spent.

(b) A maximum of four (4) hours of in-service training may be conducted at any one time.

A minimum of four (4) days notice shall be given for all in-service training.

(d) All in-service training shall be contiguous with the shift to which an employee is assigned.

(e) An employee shall not be required to come in for in-service training during an off-duty day but if an employee does attend during an off-duty day, he shall be credited with double the time spent.

A minimum of three (3) firearm sessions (once every four (4) months) shall be scheduled and included as part of the in-service training, which session shall include both side arm and heavy weapon training."

PANEL'S OPINION:

The pertinent clause in the present Agreement provides that employees who are required to attend schooling and training sessions shall

TRAINING TIME

be paid at their straight time rates for all time spent in such sessions. The Employer proposes to discontinue these payments and to require deputies to participate in 50 hours of training per year without pay. There is no reward proposed for this time which the deputies are being asked to contribute; instead the Employer proposes a penalty if the employee fails to complete the training -- the withholding of merit increases.

The Employer presented no evidence that the proposed provision is prevalent in numerous Sheriffs' departments or among other departments in the County.

The Panel is not persuaded that the Employer's last best offer meets the criteria of Section 9 of Act 312.

AWARD

The Employer's last best offer for Training Time is denied.

ISSUE A -- MANAGEMENT RIGHTS

NON-ECONOMIC

PRESENT AGREEMENT:

Section 5. Rights (p. 4). Inter alia, the expired Agreement provides that "It is expressly understood that the Sheriff of Berrien County and the County Board of Commissioners....hereby retain and reserve all of their inherent and customary rights."

MANAGEMENT RIGHTS

ASSOCIATION'S PROPOSAL:

Section 5. Management Rights.

The Lodge recognizes the responsibilities of the Employer to operate and manage its affairs in accordance with its powers and authority as provided by Statutes or Law and in accordance with its obligations to its employees. The Lodge recognizes that the Employer retains the right to:

- A. Manage its affairs efficiently and economically, including the determination, subject to the provisions of this Agreement, of the quantity and quality of services to be rendered;
- B. Hire and assign employees;
- C. Accomplish reductions in work force where justified by lack of work or lack of funds by means of lay-off based on inverse order of seniority;
- D. Permit County employees not included in the Bargaining Unit to perform Bargaining Unit functions in emergency situations when, in the opinion of the Employer and the Division, this is necessary for the conduct of County services;
- E. Discharge and discipline employees for just cause;
- F. Adopt, revise and enforce reasonable rules and regulations within the Berrien County Sheriff's Department Policy Procedure and Manual insofar as said rules and regulations are not inconsistent with the terms of this Agreement;
- G. Transfer and promote employees from one classification or unit within the Department to another in accordance with the terms of this Agreement;
- H. Select employees for promotion to supervisory or other positions within the Department in accordance with the provisions of this Agreement.

MANAGEMENT RIGHTS

The Employer and the Lodge met and negotiated for the purpose of collective bargaining in respect to the rates of pay, wages, hours of employment and other conditions of employment pursuant to statute. The rights of the Employer not specifically reserved herein, shall be subject to the continuing duty of the Employer and the Lodge to meet and confer in good faith and bargain over those matters not previously bargained for.

The Employer in exercising its management functions, shall not discriminate against any employee because of his or her membership in the Lodge.

The interpretation and application of this section, as well as all other sections of this Agreement, shall be subject to the grievance procedure.

EMPLOYER'S PROPOSAL:

Retain the language of the expired Agreement.

PANEL'S OPINION:

The Association asserts that its proposed language would limit the right of the Employer to conduct his affairs "arbitrarily and capriciously." The Employer would be required to "justify" any lay-offs by proving a lack of funds or lack of work. In addition, the Association would require the County to bargain on any matters the Association may bring up if those matters had not been previously bargained on.

The Employer contends that the Association's proposed language would preclude the Sheriff from ever laying off anyone. Once an employee joined the Department, he would be assured that he would never be laid off. As long as there is a single crime to solve there would be no

MANAGEMENT RIGHTS

"lack of work". As long as taxpayers paid their taxes there would be no "lack of funds". There might not be enough funds for all of the County's needs, but the Association could argue that as long as there were any funds, they should go to the Sheriff's Department.

The Chairman finds this a most unusual proposal, coming from a law enforcement agency. It is tantamount to a guaranteed annual wage. Taxpayers do not seem to be in a mood for a step in this direction. In fact, this could well have been considered an economic issue, because it could certainly effect the Departmental Budget.

It has long been an established labor relations concept that the determination of the number of employees that may be required at any given time is the sole and unrestricted responsibility of the Employer. The employee representative may bargain about how a lay-off is to be carried out, but not over how many are to be laid off. Again, this is asking for a guaranteed annual wage in different words.

The Association also asks that it be empowered to demand that the Employer bargain on any matter not already bargained on. This could well lead to constant turmoil and never-ending chaos. It is surprising that the FOP leadership would want to place itself and its bargaining representatives in such an untenable position. The Parties have been bargaining for almost a year, and one would think that both Parties are now ready to execute an agreement and get on with other business. As to insuring against "arbitrary and capricious" conduct on the part of the County, there was not a shred of evidence to justify this concern.

MANAGEMENT RIGHTS

The resolution of this issue presents no problem to the Chairman. He is not about to intrude on management rights. The Employer is free to bargain away his rights, or to limit them as he sees fit, in the process of collective bargaining; he requires no assistance from arbitrators or legislators to do so.

AWARD

The Association's request for a change in the language of Section 5 of the expired Agreement is denied.

ISSUE B -- ARBITRATOR'S POWERS

NON-ECONOMIC

PRESENT AGREEMENT:

Section 10. Arbitrator's Powers (p. 7), inter alia, limits the arbitrator's power "to determining whether or not an employee has been suspended, demoted or discharged for cause", and if the penalty is appropriate. He has no authority to pass on any other grievance.

ASSOCIATION'S PROPOSAL:

The Association's Exhibit 37 provides:

"Section 11. Arbitrator's Powers (p. 15). The arbitrator shall be limited to the interpretation and application of this Agreement as written and he shall have no authority to add to, subtract from or modify this Agreement in any respect. In discipline, suspension and discharge cases, the arbitrator may order that the disciplinary

ARBITRATOR'S POWERS

action, suspension or discharge be rescinded or modified and that a suspended or discharged employee be reinstated with full, partial or no payment of back wages and fringe benefits. In such cases, the arbitrator may order payment of back wages and fringe benefits only retroactive to the date of filing of the grievance. Within the limitations of this Agreement, the arbitrator shall have the authority to award the remedies which the arbitrator considers appropriate to the circumstances. The decision of the arbitrator shall be final and binding on the employee, Lodge and Employer."*

EMPLOYER'S PROPOSAL:

Employer's Exhibit 4, p. 7, provides:

"I. Arbitrator's Jurisdiction (Section 10)

The arbitrator's powers shall be limited to the application and interpretation of this Agreement as written, and he shall at all times be governed wholly by the terms of this Agreement. He shall have no power or authority to amend, alter or modify this Agreement in any respect. The arbitrator shall have no authority to hear or determine any disputes involving the exercise of any of the Employer's reserved and inherent rights not specifically limited by the express terms of this Agreement. It is the intent of the parties that arbitration shall be used during the life of this Agreement to resolve grievances which arise concerning the express provisions of this Agreement which reflect the only concessions which the Employer has yielded. If the issue of arbitrability is raised, that question must first be decided before the arbitrator shall be permitted to decide the merits of the grievance. Any award of the arbitrator shall not be retroactive prior to the time that the grievance was first submitted in Section 7. The arbitrator's decision shall be final and binding upon the Lodge, employees

*Underscoring supplied.

ARBITRATOR'S POWERS

and the Employer, provided however, either party reserves its lawful remedies if the arbitrator or decision thereof exceeds his jurisdiction or is the result of fraud or other improper means.

PANEL'S OPINION:

The Chairman is in accord with the Employer's proposal with the exception of the sentence underlined above:

If the issue of arbitrability is raised, that question must first be decided before the arbitrator shall be permitted to decide the merits of the grievance.

The Arbitrator interprets the words "to decide the merits of the grievance" to mean that he may not hear the grievance itself until after he has ruled on the arbitrability of the grievance.

It is proper and essential that the arbitrator be limited to resolving a grievance in accordance with the specific provisions of the Agreement rather than on the basis of what the arbitrator believes these provisions should have been or in conformity with his personal concept of fairness and equity. The only question for the arbitrator to decide is whether or not the Employer violated a specific provision of the Parties' Agreement, and if the Employer did do so, what the remedy should be. This Arbitrator is in agreement with the principle of the residual rights of the Employer.

However, the Arbitrator cannot support the Employer's non-arbitrability provision because such a provision runs counter to the very purpose of the grievance procedure and its final step -- arbitration. The

ARBITRATOR'S POWERS

Parties have called upon the arbitrator because they themselves were unable to agree upon a resolution of the grievance. Admittedly, there are grievances that should not be arbitrable for any of several reasons. However, it serves no good purpose to choke-off the arbitration process, and to pressure the arbitrator to render an instant decision on arbitrability, and to return another day in the event he determines that the grievance is arbitrable. If the Employer believes the grievance is not arbitrable, let him raise this question at the outset in the processing of the grievance and again at the start of the hearing. It may be that the arbitrator will be willing to render an immediate decision on arbitrability as sought by the Employer, but he should not be compelled to do so. It usually will require little additional time to hear the grievance, and if the arbitrator finds that the grievance, in fact, is not arbitrable, he can conclude his function at that point.

AWARD

The following language shall replace Section 11 of the present agreement:

The Arbitrator's powers shall be limited to the application and interpretation of this Agreement as written, and he shall at all times be governed wholly by the terms of this Agreement. He shall have no power or authority to amend, alter or modify this Agreement in any respect. The Arbitrator shall have no power to hear any disputes involving the exercise of any of the Employer's reserved and inherent rights not specifically limited by the express terms of this Agreement. It is the intent of the Parties that arbitration shall be used during the life of this Agreement to resolve grievances which arise concerning the express provisions of this Agreement which reflect the only concessions which the Employer has yielded.

ARBITRATOR'S POWERS

In discipline, suspension and discharge cases, the Arbitrator may order that the disciplinary action, suspension or discharge be rescinded or modified and that a suspended or discharged employee be reinstated with full, partial or no payment of back wages and fringe benefits. In such cases, the Arbitrator may order payment of back wages and fringe benefits retroactive only to the date of filing of the grievance. Within the limitations of this Agreement, the Arbitrator shall have the authority to award the remedies which the Arbitrator considers appropriate to the circumstances and which are not contrary to any provision of this Agreement. However, the Arbitrator shall make no award retroactive prior to the time that the grievance was first submitted in Section 7.

The Arbitrator's decision shall be final and binding upon the Lodge, employees and the Employer, provided however, either party reserves its lawful remedies if the Arbitrator or decision thereof exceeds his jurisdiction or is the result of fraud or other improper means.

ISSUES C & D -- DEPARTMENTAL ORGANIZATION & PROMOTION

NON-ECONOMIC

PRESENT AGREEMENT:

Section 18. Promotions (p. 10) of the present Agreement provides only for promotions, and is silent on the organization of the Department. It sets forth five qualifications for promotion, and the final decision on all promotions rests with the Sheriff. Promotions to the ranks of Detective, Captain and Chief Deputy are at the sole discretion of the Sheriff and are not necessarily based on the five qualifications mentioned in Section 18.

DEPARTMENTAL ORGANIZATION & PROMOTION

ASSOCIATION'S PROPOSAL:

Section 18. Departmental Organization and Promotion
(pp. 17-21).

"a. The law enforcement personnel of the Berrien County Sheriff's Department shall be divided into five sections: The Administrative Section, the Special Skills Section, the Patrol Section, the Dispatch Section, and the Jail Section."

The proposal then goes on to list the classifications in each section in Paragraphs b through f. The remainder of the Association's proposal is identical with the Employer's proposal.

EMPLOYER'S PROPOSAL:

Employer's Exhibit 4, page 7, provides for promotions to the ranks of Patrol Sergeant, Dispatcher Sergeant or Detective Sergeant; and Patrol Lieutenant, Detective Lieutenant and Dispatcher Lieutenant.

The proposal expands significantly on the five qualifications. The Employer's proposal is identical to the Association's proposal except for the Association's Paragraphs a through f, which are not included in the Employer's proposal.

PANEL'S OPINION:

Counsel for the Employer has challenged the Panel's authority to pass on the Association's proposal. The Employer has specific reference to Paragraph a which reads as follows:

DEPARTMENTAL ORGANIZATION & PROMOTION

The law enforcement personnel of Berrien County Sheriff's Department shall^{1/} be divided into five sections: The Administrative Section, the Special Skills Section, the Patrol Section, the Dispatch Section, and the Jail Section.

The authority of the Chairman is not what he may wish it to be nor what the respective advocates or Panel Members may perceive it to be; in this instance it is what Act 312 says it is. In the preamble, this act is described as:

AN ACT to provide for compulsory arbitration of labor disputes in municipal police and fire departments; to define such public departments; to provide for the selection of members of arbitration panels; to prescribe the procedures and authority thereof;^{1/} and to provide for the enforcement and review of awards thereof.

Act 312 further provides:

Sec. 1. It is the public policy of this state that in public police and fire departments, where the right of employees to strike is by law prohibited, it is requisite to the high morale of such employees and the efficient operation of such departments to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes, and to that end the provisions of this act....shall be liberally construed.^{1/}

Sec. 5. Within 5 days thereafter, or within such further additional periods to which they may agree, the delegates shall designate an impartial, competent and reputable person to act as an arbitrator, hereafter called the arbitrator or chairman of the panel of arbitration, and with them to constitute an arbitration panel to further consider and order a settlement of all matters....^{1/}

^{1/}Underscoring supplied.

DEPARTMENTAL ORGANIZATION & PROMOTIONS

Section 7 provides, inter alia, that the panel may require the production of such material and documents as may be required for a "just determination of the issues in dispute...."^{1/}

Section 8 provides that "....The determination of the arbitration panel as to the issues in dispute (and as to which of these issues are economic) shall be conclusive....The arbitration panel....shall make written findings of fact and promulgate a written opinion and order upon the issues presented to it....The findings, opinions and order as to all other issues...."^{1/}

In substance, the Act provides "a binding procedure for the resolution of disputes", that the Panel is to further consider and "order a settlement of all matters", that the Panel may require the production of all material it deems relevant to a "just determination of the issues in dispute", that the Panel shall determine "the issues in dispute", and its determination as to which issues are economic and which issues are non-economic shall be conclusive. Only in Section 12 is there any indication that there may possibly be a situation in which the Panel has limited or no jurisdiction.

However, the language of the Act in no way circumscribes the Panel's authority. On the contrary, the Act provides that it "shall be liberally interpreted" and grants the Panel authority to hear "disputes" and "issues" and to issue findings with no limitations. The Arbitrator has met this challenge to his jurisdiction, inter alia, on the matter of duration, residency, and management rights, and his decisions that all these matters are within the purview of the Panel have not been overruled.

^{1/}Underscoring supplied.

DEPARTMENTAL ORGANIZATION & PROMOTIONS

In short, the only limitation on the Panel's awards is explicitly set forth in Section 10 and deals with a unit's fiscal year, the date of the initiation of arbitration, and the Panel's authority to order retroactivity.

This Arbitrator believes that any matter that is properly a matter for collective bargaining is also a matter for the Panel's consideration. There is evidence that the question of departmental organization was discussed by the Parties, and the Employer has submitted its proposed language for Section 18.

In executive session, the Employer Delegate abstained from voting on the question of the economic or non-economic classification of this issue. The Chairman had previously pointed out that the Panel would experience great difficulty in applying the Act's basis for findings as set forth in Sections 8 and 9 if the proposed language were to be considered an economic issue, as the Employer Delegate had argued.

The Employer Delegate who was also the Employer Advocate, stated that he understood the provisions of Act 312, and that he was not about to allow the "Arbitrator to fiddle with the language". Under the circumstances, the Chairman found it difficult to recognize when Mr. Clary was acting as a member of the Panel, and when he was discharging the responsibilities of Management Advocate.

The Chairman was not in disagreement with the Employer's philosophy with respect to management responsibilities, and he fully appreciated his Delegate's concern. Unfortunately, whether the Association meant to or not, the language of its proposal ran head-on into the County's right

DEPARTMENTAL ORGANIZATION & PROMOTION

and its responsibility to organize the County's police function. The Chairman does not believe that the Association really intended to do this, yet the Association did not disclaim it when the Employer made the charge. The American College Dictionary defines "shall", inter alia, as: 2 (used generally in the second or third persons to indicate promise or determination): "You shall do it....Used with the second or third persons, SHALL implies authority, command, threat, promise, determination, or inevitability". In the light of this definition the clause can only mean that "come Hell or high water", the law enforcement personnel of the Berrien County Sheriff's Department shall be, is, and will be divided into five sections, for there is no provision for changing this during the life of the three-year agreement. This Arbitrator is not about to order the inclusion of this clause in the Parties' Agreement.

So it becomes obvious that the Employer Delegate did not need to resort to subterfuge to prevent the Arbitrator from weighing the merits of the respective proposals. Arbitration -- not non-arbitrability -- leads to the resolution of the question; otherwise, the issue remains buried, but it remains, nevertheless. The cornerstone of arbitration is the faith and confidence of both Parties in the integrity and competence of the Arbitrator. If there be any who lack those qualities, they should be eliminated, but the process should not be hamstrung with restrictions on the Arbitrator's authority except by mutual consent of the parties.

The Arbitrator finds the language of Section 18 a through f inclusive definite, specific and unambiguous. It would require the County to permanently divide its police operations into five sections and to

DEPARTMENTAL ORGANIZATION & PROMOTION

classify all of its enforcement personnel into one of those sections for the duration of the Agreement, irrespective of changing needs or conditions. Perhaps, as noted above, this is not what the Association really meant, but the Arbitrator must accept the language for what it is and not what he thinks the Association meant it to be.

AWARD

The new Agreement shall contain the language of the Employer's proposal for Section 18, Promotions.

ISSUE E -- SENIORITY DEFINITION

NON-ECONOMIC

PRESENT AGREEMENT:

Section 16. Definition of Seniority (p. 10)
defines seniority as the length of the employee's continuous service with the Department.

ASSOCIATION'S PROPOSAL:

Limit the exercise of seniority acquired by employees who have been appointed by the Sheriff from the outside to positions within the Administrative and Special Skills Sections.

SENIORITY DEFINITION

EMPLOYER'S PROPOSAL:

There should be no change.

PANEL'S OPINION:

The Association seeks to prevent employees in the Administrative and Special Skills sections from bumping into the ranks of the Road Section, Patrol Section or Dispatch Section. The Association says it is seeking to encourage "promotion from within" and does not want to recognize the seniority of these specialists unless they have previously served in the "ranks" and progressed through promotions.

The Employer contends that the current procedure is re-assignment based on seniority and necessary skill and experience. "Since all employees are within the bargaining unit, all employees should be subject to the same job protection scheme in the event that reductions should occur."

Normally, unions seek to represent as many employees as possible within a given establishment. Since the earliest days of industrial unions, seniority has been the sine qua non, and the most sacred kind of seniority has been plant-wide and even company-wide seniority. Skill and experience are often difficult to determine -- but seniority is a page out of the calendar -- no one can argue about that. Whether the objective is transfer, promotion, choice of vacation period -- or even a particular work-bench or machine -- the "guy with the most seniority gets first choice". Here, the Association seeks to disfranchise certain

SENIORITY DEFINITION

of its members. As long as these employees are dues-paying members of the Association they are entitled to all the rights afforded other members.

AWARD

The Association's request is denied.

ISSUE F -- TEMPORARY TRANSFERS

NON-ECONOMIC

PRESENT AGREEMENT:

Section 20. Temporary Transfers (p. 11)

"The Sheriff reserves the right to make, but shall not be obligated to do so, temporary transfers or assignments of employees from their regular job to another job, and will return the employee to his regular job as promptly as efficient operations will permit. Employees transferred under this Section will be paid their regular rate or the rate of the job to which he is transferred, whichever is higher. This Section shall not apply if the transfer is for less than one (1) full week."

ASSOCIATION'S PROPOSAL:

Limit of six months on temporary transfers, except for agreement by Employer and Employee and provisions to contrary (sic).

TEMPORARY TRANSFERS

EMPLOYER'S PROPOSAL:

The Sheriff reserves the sole right to temporarily or permanently transfer an employee from one classification or section to another within the Department.

PANEL'S OPINION:

The Employer's proposed language is unilateral and gives the employee no consideration irrespective of his personal situation or his years of service. It will cause misunderstandings and resentment. There must be some limit to the Sheriff's absolute power to move his employees wherever he wishes and for as long as he sees fit for any reason or for no reason. Admittedly, this was once the norm, but that day is long past. This is not meant as a reflection on the present Sheriff, but the very language is repugnant to the Chairman.

Furthermore, the language of the expired Agreement assuring the employee that he would receive the higher of his own job rate or the rate of the job to which he was transferred has been eliminated in the County's proposal. (Thus, this might have been an economic issue).

At the same time, the Arbitrator feels that the Association's limit of six months is too short, even with the proviso for mutual consent.

AWARD

The Panel orders the addition of the sentence, "Temporary transfer shall be for a period not to exceed one year" following the language of Section 20 in the expired Agreement.

ISSUE G -- TEMPORARY EMPLOYEES

NON-ECONOMIC

PRESENT AGREEMENT:

Section 22. Temporary Employees (p. 12), provides that employees hired to work on a temporary basis shall not accumulate seniority.

ASSOCIATION'S PROPOSAL:

Delete this section.

EMPLOYER'S PROPOSAL:

(As set forth in Employer's Exhibit 4, Par. 4, p. 10).

"(a) A temporary employee hired to work full or part time to fill in for regular personnel or leave of absence or for a special purpose for a known period of time not to exceed six (6) months, shall be excluded from the bargaining unit and this Agreement shall not be applicable to them.

(b) A temporary employee hired for a temporary position which is funded in whole or in part by State or Federal programs shall be included in the bargaining unit but shall not accumulate seniority while temporarily employed. If such program is curtailed or eliminated, the temporary employee may be reduced from the Department notwithstanding any other provision of this Agreement to the contrary. If such temporary employee is retained or hired as a regular employee funded by the County's budget, all time worked in the temporary position shall be credited for purposes of seniority and benefits.

TEMPORARY EMPLOYEES

(c) If an employee from the bargaining unit is transferred to a law enforcement program which is funded in whole or part by State or Federal grants, such employee shall have all rights established by this contract and shall not be considered a temporary employee."

PANEL'S OPINION:

In his Brief, the Employer says he does not want temporary employees "co-mingled" with permanent employees for the purpose of seniority application. The Brief points out that an employee hired for a temporary period or under a special program may not have the same qualifications as those hired to fill permanent positions. If this be so, the Panel believes the Department should change its hiring practice.

The Association, in its Brief, states these employees "should fit in somewhere within the departmental organization and should accumulate seniority in the position in which they work". It points out that employees hired under a special program may work in the Department for several years, and under the County's proposal they could be terminated when the program is concluded, even though there are less senior employees working in the same job classification.

It is interesting to note how the Parties have reversed their positions. When they were discussing Seniority -- Issue E -- the Association was arguing in a different vein; there, it was "the intent of the Lodge to limit the seniority acquired by people appointed from outside the Department....to positions within the Administrative and

TEMPORARY EMPLOYEES

Special Skills Sections". The Association argued strongly that these employees should not be permitted to bump into the ranks of the Road Section, Patrol Section or Dispatch Section, irrespective of their seniority or ability.

On p. 11 of its Brief, on the issue of Seniority Definition, the Employer argued, "Since all employees are within the bargaining unit, all employees should be subject to the same job protection scheme in the event that reductions should occur."

Furthermore, since no new employee has any seniority during his first year of service, most of those new hires who are truly temporary employees will have been terminated before the year's probation has passed. The Panel is persuaded that on this issue, the Association's position is just as sound as the Employer's was on Issue E.

AWARD

The Panel orders the deletion of Section 22 of the expired Agreement.

ISSUES H-I -- LAY-OFF AND RECALL

NON-ECONOMIC

PRESENT AGREEMENT:

Section 24. Layoffs (p. 13), provides for layoffs on the basis of seniority in the classifications and ranks affected, provided the senior employee is able to perform the job.

LAY-OFF AND RECALL

Section 25, Recall (p. 14), provides that the employees shall be recalled in the inverse order of their lay-off, and shall have such recall rights for only twelve months following lay-off.

ASSOCIATION'S PROPOSAL:

The Association asks that an employee have recall rights for a period of 24 months. It also wants lay-offs limited to "lack of funds or lack of work".

EMPLOYER'S PROPOSAL:

No evidence was presented on this issue.

PANEL'S OPINION:

As stated in the Employer's Brief (p. 12), the limiting of lay-offs to lack of funds or lack of work has already been discussed under Management Rights.

As to duration of recall rights, it would seem that the employees who are laid off would be those with the least seniority, and in all likelihood they would have found employment elsewhere within the 12 month period. The Chairman believes, however, that a longer period is in order for laid off employees having greater seniority and he will propose such a clause.

LAY-OFF AND RECALL

AWARD

The Panel orders Section 25. Recall, amended to read:

"In the event that the work force is increased, recall to work shall be in the inverse order of lay-off from work. An employee shall have recall rights to his classification or job for a period equal to his length of seniority or 24 consecutive months, whichever is shorter".

ISSUE J -- WAIVER

NON-ECONOMIC

PRESENT AGREEMENT:

Section 59. Waiver (p. 26 of the expired Agreement provides that this is the entire agreement and whatever may have been in the prior agreements or the practice heretofore is no longer in effect; and that neither party may be required to negotiate on any matter during the life of the Agreement..

ASSOCIATION'S PROPOSAL:

Section 59. Waiver.

"This Agreement contains the entire terms and conditions of employment agreed upon between the employer and the Lodge except that the parties agree that past practices unchanged by this Agreement shall remain in effect for the duration of this contract.

WAIVER

EMPLOYER'S PROPOSAL:

Retain Section 59 as in the present Agreement.

PANEL'S OPINION:

The proposed language would perpetuate past practices, unless otherwise provided in the new Agreement, and it does not contain the provision relieving the Parties of further collective bargaining during the life of the Agreement.

Certainly, during almost a year of collective bargaining the Parties have had every opportunity to discuss any and all terms affecting their relationship. If any important new matters or changed conditions arise, they still may be discussed -- the present language does not preclude that -- and if they come to an Agreement they may amend their contract -- but neither party is required to bargain on any issue during the term of the Agreement.

As for past practices, the adoption of the Association's proposal could well open up a Pandora's Box or a can of worms, depending on one's viewpoint. Neither of the negotiators is a neophyte at collective bargaining; they are both accomplished practitioners, and if there is a past practice that should be continued, it should have been negotiated. Nor is this the Association's first agreement with the Employer. The bargaining committee is well aware of any past practices sufficiently important to have been spelled out. The Panel is not persuaded by the Association's argument and is convinced that the Waiver clause should be in line with the Management Rights clause.

WAIVER

AWARD

The proposed Agreement shall retain the language of Section 59 of the expired Agreement.

ISSUE K -- REPORTING OF ILLNESS

NON-ECONOMIC

PRESENT AGREEMENT:

Section 31. Paid Sick Leave (p. 17), provides that the employee shall furnish satisfactory evidence of illness and that a report from an employee's physician shall be considered satisfactory evidence. It further requires that all sick leave be reported on the day of absence and the day of return by the Department head to the Personnel Department. An unreported absence of three days duration may be considered a voluntary termination of employment.

ASSOCIATION'S PROPOSAL:

The Association's proposal is substantially the same as the present language except for the deletion of the provision for automatic termination in the event of a three-day unreported absence.

EMPLOYER'S PROPOSAL:

Employer has not submitted a position on this issue.

REPORTING OF ILLNESS

PANEL'S OPINION:

The Panel finds little, if any, significant difference, other than the provision for a three-day unreported absence, between the existing language and that proposed by the Association and since there was no evidence of any problems or difficulties with the existing language the Panel is inclined to leave well enough alone.

AWARD

The Association's request for a change in the last 14 lines of Section 31 is denied.

PANEL EXHIBIT NUMBER 1

ANNUAL STEP INCREASES

Patrolman Turnkey Dispatcher (Not Including Gun Allowance)

1974-76 AGREEMENT

	1st Year Base	Increase %	2nd Year Base	Increase %	3rd Year Base	Increase %	4th Year Base	Total %
1974	\$ 9,351	3.6	\$ 9,688	3.6	\$10,052	3.6	\$10,418	\$1,067 11.4
1975	9,912	3.6	10,269	3.6	10,655	3.6	11,043	1,131 11.4
1976	10,457	3.6	10,834	3.6	11,241	3.6	11,650	1,193 11.4

ASSOCIATION'S PROPOSAL

1977	\$12,339	3.6	\$12,784	3.8	\$13,264	3.6	\$13,747	\$1,408 11.4
1978	13,141	3.6	13,615	3.8	14,126	3.6	14,641	1,500 11.4
1979	13,798	3.6	14,296	3.8	14,832	3.6	15,373	1,575 11.4

EMPLOYER'S PROPOSAL

1977a	\$11,182	3.4	\$11,559	3.5	\$11,966	3.4	\$12,375	\$1,193 10.7
1977b								
1978a	12,507	3.0	12,884	3.2	13,291	3.1	13,700	1,193 9.5
1978b								
1979a	13,632	2.8	14,009	2.9	14,416	2.8	14,825	1,193 8.8
1979b								

b/ Semi-annual base increases not shown.

PANEL'S EXHIBIT NUMBER 2

ANALYSIS OF PARTIES' LAST BEST OFFER ON WAGES

EMPLOYER'S PROPOSAL

12/31/76 Rate	\$11,650.00		
Gun Allowance	<u>365.00</u>		
Total Base Rate	\$12,015.00		\$12,015

			Increase	
1977 - 6 mos. @ \$12,740	\$ 6,370.00		\$ 362.50	
Last 6 mos. @ \$13,465	<u>6,732.50</u>		<u>725.00</u>	
Total	\$13,102.50	9.1%	\$1,087.50	
Base Rate 12/31/77				13,465

1978 - 6 mos. @ \$14,065	\$ 7,032.50		\$ 300.00	
Last 6 mos. @ \$14,665	<u>7,332.50</u>		<u>600.00</u>	
Total	\$14,365.00	6.9%	\$ 900.00	
Base Rate 12/31/78				14,665

1979 - 6 mos. @ \$15,190	\$ 7,595.00		\$ 262.50	
Last 6 mos. @ \$15,715	<u>7,857.50</u>		<u>525.00</u>	
Total	\$15,452.50	5.5%	\$ 787.50	
Base Rate 12/31/79				15,715
Total Earnings	\$42,920.00			
Total Increased Earnings		23.1%	\$2,775.00	

12/31/76 to 12/31/79 Increase in Base Rate			\$ 3,700	30.8%
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ASSOCIATION'S PROPOSAL

12/31/76 Rate	\$11,650.00		
Gun Allowance	<u>365.00</u>		
Total Base Rate	\$12,015.00		\$12,015

1977 Base	\$14,112.00		
Increased Earnings		17.0%	\$2,097

1978 Base	\$15,006.00		
Increased Earnings		6.0%	894

1979 Base	\$15,738.00			15,738
Increased Earnings		4.9%	<u>732</u>	
Total Increase		31.0%	\$3,723	\$ 3,723
Total Earnings	\$44,856.00			31.0%

PANEL'S EXHIBIT NUMBER 3

PROPOSED CHANGES IN DIFFERENTIALS

Classification	ASSOCIATION'S PROPOSAL				EMPLOYER'S PROPOSAL			
	1976 Grade Differ- ential	Proposed Grade Differ- ential	Change In Grade Differ- ential	Number of Employees	Total Cost of Changes	Proposed Grade Differ- ential	Change In Grade Differ- ential	Number of Employees
Patrolman		Base for Comparison						
Clerk Matron	-\$2,450	None	\$2,450	4	\$9,800	-\$1,200	+\$1,250	4
Chief Matron	- 1,382	\$1,741	3,123	1	3,123	+ 150	+ 1,532	1
Sargeant	+ 1,475	1,741	266	4	1,064	1,200	- 275	4
Lieutenant	+ 2,010	2,706	696	17	11,832	2,000	- 10	17
Captain	+ 2,668	3,148	480	2	960	2,600	- 68	2
Chief Deputy	+ 3,015	3,558	543	1	543	3,000	- 15	1
					\$27,322			

\$5,111

Excess Cost of Association's Proposal vs. Employer's Proposal

\$22,211
\$66,632

For Three Years

PANEL EXHIBIT NUMBER 4

CLASSIFICATION DIFFERENTIALS

Classification	ASSOCIATION'S PROPOSAL			EMPLOYER'S PROPOSAL			Average Panel Standard	Number of Employees	Total
	Base Salary	Patrol-man's Base	Differ-ential	Base Salary	Patrol-man's Base	Differ-ential			
Patrolman	\$14,112	\$14,112	--	\$13,103	\$13,103	--	--	--	\$2,400
Clerk-Matron	14,112	14,112	--	11,903	13,103	-\$1,200	-\$ 600	4	-\$2,400
Chief Matron	15,853	14,112	\$1,741	13,253	13,103	150	946	1	1,946
Sergeant	15,853	14,112	1,741	14,303	13,103	1,200	1,471	4	5,884
Lieutenant	16,818	14,112	2,706	15,103	13,103	2,000	2,353	17	40,001
Captain	17,260	14,112	3,148	15,703	13,103	2,600	2,874	2	5,748
Chief Deputy	17,670	14,112	3,558	16,103	13,103	3,000	3,279	1	3,272
								29	\$53,458

\$53,458 X 3 Years = \$160,374 Standard Cost of Wage Differentials

PANEL'S EXHIBIT 5

COST OF GRADE DIFFERENTIALS

<u>Classification</u>	<u>Patrol- man's Base</u>	<u>Classifi- cation Base</u>	<u>Differ- ential</u>	<u>Number of Employees</u>	<u>Total Cost</u>
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E M P L O Y E E R ' S P R O P O S A L

Patrolman	\$12,740	\$12,740	--	45	--
Matron	12,740	11,540	-\$1,200	4	-\$ 4,800
Chief Matron	12,740	12,890	150	1	150
Sergeant and Detective Sergeant)	12,740	13,940	1,200	4	4,800
Lieutenant and Det. Lieutenant)	12,740	14,740	2,000	17	34,000
Captain	12,740	15,340	2,600	2	5,200
Chief Deputy	12,740	15,740	3,000	<u>1</u>	<u>3,000</u>
				<u>74</u>	<u>\$42,350</u>

Three Years \$127,050

A S S O C I A T I O N ' S P R O P O S A L

Patrolman	\$14,112	\$14,112	--	45	--
Matron	14,112	14,112	--	4	--
Chief Matron	14,112	15,853	\$1,741	1	\$1,741
Sergeant and Detective Sergeant)	14,112	15,853	1,741	4	6,964
Lieutenant and Det. Lieutenant)	14,112	16,818	2,706	17	46,002
Captain	14,112	17,260	3,148	2	6,296
Chief Deputy	14,112	17,670	3,558	<u>1</u>	<u>3,558</u>
				<u>74</u>	<u>\$64,561</u>

Three Years \$193,683

ASSOCIATION'S BRIEF

ON

WAGES AND CLASSIFICATIONS

1. Wages.

A careful analysis of the counties wage proposal shows that the county is offering to pay the patrolmen, turnkeys, uniformed dispatchers and nurse who have reached the top basic pay level (fourth year) an additional \$1,087.00 in the year 1977. This amounts to 9.05%. This figure is arrived at by noting that the annual salary increase effective January 1, 1977, as proposed by the county in the amount of \$725.00, would be in effect for six months or one-half year. Thus, the employee involved would receive one-half of the \$725.00 increase in annual salary over that six month period, or \$362.50. The increase in annual salary applicable to the last half of 1977 would be \$1,450.00. Since this would only be applicable for one-half of the year, the employee would receive over that one-half year, one-half of the increase, or \$725.00. The total increase in salary under the county's proposal is thus \$362.50 plus \$725.00, for a total of \$1,087.50. When this figure is divided by the salary which was in effect during the last year of the prior collective bargaining agreement (\$11,650 plus \$365 gun allowance equals \$12,015), the 9.05% increase is determined. The actual base salary which a top patrolman would receive during 1977 would be \$13,102.00.

By means of similiar calculations, it is found that the following are the amounts of additional pay, along with percentages, for the following classifications for 1977 under the county's proposal:

Marine officer - \$1,076.00 - 8.45%

Detective - \$544.00 - 3.78%

Sergeant - \$950.00 - 7.04%

Lieutenant - \$1,082.00 - 7.72%

Captain - \$1,053.00 - 7.17%

Chief Deputy - \$1,080.00 - 7.19%

Accordingly, the Lodge takes exception to the note contained on page 3 of the county's last best offer in which the county claims that the cost of the wage increase which it has offered amounts to \$1,450.00 times 74 employees, with additional adjustments for the more substantial increases offered to the matrons. Clearly, these figures are incorrect. The actual cost increase per employee is closer to the \$1,087.50 additional money which would be paid to each patrolman. The actual money spent for increases in other positions, other than the matrons, would be less. However, using the \$1,087.50 figure as being representative, the pay increase offered by the county would not cost \$107,300.00 but, in fact, would cost during the first year only \$80,475.00. This is approximately \$27,000.00 less than is claimed by the county. In addition, the matrons adjustment would be somewhat less than the \$9,386.00 claimed by the county since the full amount of the more substantial increases for the chief matron and the matron would not go into effect until the middle of the year.

The same analysis applies to the claimed cost of the county's wage increase offer for the years 1978 and 1979. The two \$600.00 increases contained in the county's offer for 1978 actually mean \$900.00 in additional money to the employees. This is a cost of \$66,600.00 rather than \$88,800.00. The two \$525.00 increases contained in the county's offer for

1979 actually mean an additional amount of \$787.50 being paid over the course of the year to each employee or a total of \$58,275.00 rather than \$77,700.00.

The last best offer of the Lodge on wages as contained in the proposed Appendix A attached to its last best offer. This is a continuation of the prior format in which the salary schedule was separate from the gun allowance and thus some adjustment of the figures contained therein is necessary for an accurate comparison to the last best offer of the county.

The top basic salary (fourth year) for each of the classifications would be as follows under the Lodge's last best offer with the gun allowance included:

Chief Deputy - \$17,670.00 (increase of \$2,640.00)

Captain - \$17,260.00 (increase of \$2,477.00)

Lieutenant, etc. - \$16,818.00 (increase of \$2,793.00 for Lieutenants and \$2,510.00 for Detectives)

Sergeant, etc. - \$15,853.00 (increase of \$1,998.00)

Jail Rehabilitation Director - \$14,965.00 (increase of \$14,965.00)

Patrolmen, Guards, etc. - \$14,112.00 (increase for Patrolmen of \$2,097.00 and increase for Matrons of \$3,479.00)

The total first year costs of the Association's proposal would be as follows:

One Lieutenant -	\$ 2,640.00
Two Captains -	\$ 4,954.00
Nine Detectives -	\$22,590.00
Seven Lieutenants -	\$19,551.00
Five Sergeants -	\$11,810.00
Four Matrons -	\$13,916.00
Forty-five Patrolmen, et al -	<u>\$94,365.00</u>
Total	\$169,876.00

The amount of the increase in wages contained in the last best offer of the Lodge in the first year is substantial, amounting to an increase of approximately 17.5% over the salary which was paid in the last year of the prior collective bargaining agreement. However, when applying the statutory factors discussed above, the last offer of settlement of the Association "more nearly complies with the applicable factors"³ than does the last best offer of settlement of the county.

By way of illustration base salaries paid in comparable communities to top patrolmen can be analyzed. The exhibits introduced into evidence show that patrolmen in the city of St. Joseph have been paid \$13,736.68 annually since July 1, 1976 and are in negotiations for an increase effective July 1, 1977; patrolmen in the city of Niles have been paid \$12,811.38 since August 1, 1976 and are in negotiations for an increase effective August 1, 1977; patrolmen in the city of Benton Harbor have been paid \$13,349.00 since July 1, 1976 and are in negotiations for an increase to be effective July 1, 1977; patrolmen in Benton Township have been paid \$13,631.80 since April 1, 1977, and a State Police Trooper, I, has been paid \$14,762.16 since October 1, 1976. (L14). With a cost of living settlement of approximately 6.9%, both Benton Harbor and Niles will be well above \$14,112.00 and Niles will be quite close to \$14,000.00. In addition, it should be noted that in the city of Benton Harbor (L11, p 36), Benton Township (L10, p 5), the city of Niles (L12, p 24 and L13, longevity column) and in the city of St. Joseph (L9, p 19) there are longevity programs under which an officer can be eligible for as much as 10% of his pay in longevity payments in addition to the salary set forth previously. This is in contrast to the maximum longevity available to Berrien County employees of approximately 6% of

their annual salary.

Also of import by way of illustration are the counties which the Lodge contends are comparable to Berrien County. The 1977 salary in Kalamazoo County is \$14,527.00 (E9), and in Muskegon County the salary is \$15,200.00 as of January 1, 1977 with an increase on July 1, 1977 to \$15,700.00 (L26).

Thus, in comparison with salaries for patrolmen in comparable communities, the last best offer of settlement of the Lodge, which amounts to \$14,112.00 annually, including gun allowance, more nearly complies with this particular factor than does the offer of the county for a salary amounting to \$13,102.00 during the year of 1977.

The Panel should also consider the private sector wage comparison submitted by the Lodge. (L14). The top unskilled laborer working for Whirlpool earns \$14,478.40 per year, plus cost of living. A skilled worker, such as a tool and die maker, earns \$15,163.20 per year. It is the position of the Lodge that because of the academic and practical training which a patrolman must have prior to being certified, a patrolman is comparable to a skilled worker such as a tool and die maker.

Further comparisons show that other skilled workers in Berrien County earn from \$16,657.60 per year, plus cost of living (Bendix, welder) up to \$24,752.00 for a crane operator. (L14). These figures also establish that the last best offer of the Lodge for an annual salary of \$14,112.00 more nearly complies with this factor than does the last best offer of the county for an annual salary amounting to \$13,102.00 during the year of 1977.

Applying the statutory cost of living factor, the last best offer of settlement of the Lodge also more nearly

complies. During the duration of the prior collective bargaining agreement, the cost of living rose 25.5% while the wages of the patrolman rose only 11.8%. Thus, in effect, the patrolman was 13.7% behind where he started out three years ago relative to the cost of living. Current figures indicate that the annual cost of living increase during the year 1977 will be an additional 6.9%. Thus, in order to stay even with the cost of living for the first year of the new collective bargaining agreement, as compared with the beginning of the prior collective bargaining agreement, the patrolman needs a wage increase of 20.6%. The county is offering a wage increase of 9.05% during the first year of the contract. The last best offer of the Lodge amounts to approximately 17.5% increase and more nearly complies with the actual cost of living increase than does the last best offer of the county.

In addition, the budget figures for a family of four on an intermediate budget show that a family of four in the central states area needs an income of approximately \$14,500.00. Certainly, the basic law enforcement personnel of the department, the patrolmen, should have at least the standard of living provided by an intermediate budget and, accordingly, the last best offer of the patrolmen for a base salary, including gun allowance, of \$14,112.00 more nearly complies with this aspect of the cost of living factor than does the offer of the county for a base salary to be paid in 1975 of \$13,102.00.

In the second and third years of the new collective bargaining agreement, the last best offers of the parties are more closely aligned. The panel will note that by the last half of the third year of the contract, the top patrolmen's salary, including gun allowance, as contained in the Lodge's last best offer would be \$13,738.00 as opposed to \$13,715.00

contained in the last best offer of the county. However, as the panel will note, the actual dollars earned during the second and third year will be greater under the Lodge's proposal because of the staggered increments contained in the county's proposal. That the total dollar amounts contained in the Lodge's last best offer for the second and third years of the contract more nearly comply with the historical and projected cost of living increases that can be expected over the course of the next two years.

It should be apparent to the Panel also that the grouping of classifications contained in the last best offer of the Lodge more nearly complies with the applicable statutory factor (a) regarding the lawful authority of the employer. The county differentiates between the chief matron and the sergeants position and also between the matrons position and the guard position.

The testimony at the hearing was that matrons do essentially the same work as do the jail guards. The matrons have responsibility for female prisoners in the jail. The matrons carry guns. The argument of the county that the matrons position is substantially different from the guards position because it also includes clerical duties must fall. The guards also do clerical work in keeping inmate records and jail records.

Likewise, the chief matron is the first level supervisor of the matrons. She is equivalent to a sergeant, who is the first level supervisor for the guards.

Since the work performed by the chief matron is essentially equivalent to that performed by the sergeant and the work performed by the matron is essentially the same as performed by a guard, there can be no differentiation in pay. There must be equal pay for equal work. Accordingly, the last

best offer of the Lodge lumping the matrons with the guards and the chief matron with the sergeants more nearly complies with the applicable statutory factors.

2. Retirement Plan.

The current Berrien County Pension Plan, which covers all county employees, has a normal retirement age of 65 with a monthly retirement benefit of 1 1/2% of the employee's average monthly earnings, multiplied by the years of credited service.

The last best offer of settlement by the county proposed no change in the current pension program.

The county's position is completely out of line with the statutory factors applicable to this issue.

The principal statutory factor applicable to this issue is a comparison of law enforcement pensions in comparable communities. Both the city of Niles (L18, L20) and the city of St. Joseph (L16, L20) have a normal retirement age of 55 with ten years of service. The monthly retirement benefit in Niles is 2% of the average monthly compensation multiplied by the number of years of service up to 25 years and 1% of the average monthly compensation for each year of service after 25 years. The monthly benefit in St. Joseph is 1.85% of the final monthly average compensation times the number of years of service.

The city of Benton Harbor (L19, L20) has a pension program which provides for retirement after 25 years of service at any age (25 and out) or retirement at age 55 without any service requirement. In either case, the monthly pension benefit is 50% of the final average monthly compensation with an additional 1% for each year of service after age 55 or after 25 years of service.

Benton Township (L17, L20) also has a "25 and out"

EMPLOYER'S BRIEF

ON

WAGES AND CLASSIFICATIONS

various uniforms. Any officer who wants a separate wallet to carry his identification card or who wants to have an additional badge to carry around when he is off duty can purchase these items at cost.

34. Training Time

Employer's position:

Adopt section 3, Article XIX, of Kalamazoo contract providing for 50 hours of training time per year

Union's position:

Retain section 55 of current Agreement

This is the only economic issue proposed by the Sheriff. Essentially, the Sheriff believes that his officers should devote up to fifty hours of training per year on the officers' own time. Such training would include all job-related instruction including firearm sessions. His proposal is borrowed from the Kalamazoo Fraternal Order of Police Contract where there, 60 hours are devoted annually to in-service training. (Union Exhibit No. 43, Article XIX, section 3)

19. Wages and Classifications

At the hearing, the Panel ruled that the wage package would be considered one issue, that is, the entire three-year wage proposal of one of the parties would be accepted and the Panel would not split the proposals into yearly issues.

Before considering the merits of the wages per se, there are several sub-issues included in the wage proposals which must be considered. They are:

- (a) inclusion of the gun allowance into the wage rate
- (b) establishment of new classifications of: nurse, administrative assistant, records supervisor, detective sergeant and rehabilitation director
- (c) upgrading clerk-matron to the same rate as patrolman
- (d) upgrading chief matron to the same rate as sergeant

(a) Gun allowance

All officers now receive \$365 gun allowance per year. It has no relationship to the cost of a weapon. As Captain Imoos testified, the gun allowance was given during the wage price freeze for the purpose of circumventing the restriction on pay raises. Having served its purpose, the Employer now proposes that the \$365 be included in the salary pay plan; its final proposals on wages includes the allowance.

(b) New Classifications

Included in the Union's wage proposal is the establishment of the following new classifications: nurse, administrative assistant, records supervisor, detective sergeant and rehabilitation director. The Employer's proposal includes the new classifications of nurse and detective sergeant, so there is no

issue on these two classifications. However, the remaining three classifications are in issue.

No evidence was introduced during the hearing to support the Union's request. The establishment of new classifications is traditionally the prerogative of the Employer. The Union's right arises as to what wages are to be paid or the impact of the new classification on the work scene. Since the Employer has not proposed these classifications and since no evidence exists as to the reason for the proposal, it should be denied.

The classification of rehabilitation program director was a special position created by a Federal grant. The parties made provision for this position in Appendix A-111 of the current Agreement. The Employer does not propose to change this provision.

(c) Clerk-Matron

The Union's proposal would upgrade the Clerk-Matron classification to the same pay rate as that received by patrolmen. Clerk-Matrons perform no patrol duty. Their major responsibility is preparing and maintaining records and reports on inmates. Because the law requires a female attendant when female prisoners are in custody, the Clerk-Matron also performs this duty as it relates to female prisoners only. The job is a dual classification, part clerical and part jail attendant for female prisoners, but the majority of their time is spent preparing and processing reports and records on prisoners. These clerical functions are

not performed by the male turnkeys or patrolmen. The clerical work involves the usual reports found in County jails: preparing jail cards, posting for Court dispositions or week-enders or day parolees, typing and filing booking sheets and rap sheets along with pictures, criminal papers and gun registrations, together with preparing and maintaining files on prisoners.

The classification was separate from patrolmen in the last contract, and the Employer believes that it should remain that way in this contract. If the Union feels that the classification is discriminatory based on sex, there are forums to determine that issue more appropriate than this proceeding.

(d) Chief Matron

The Union proposes that the Chief Matron be paid the same as a road patrol sergeant. There is no similiarity of duties. Indeed no evidence was submitted on this issue by either party during the hearing. Existing wage schedules do not pay the Chief Matron and the sergeant at the same level. Such a pay scale for the Chief Matron would be inappropriate. It would subject the Employer to the allegation by the sergeants that they have greater responsibility and more duties than the Chief Matron, so they should get more. This cycle could be then repeated each time a new contract is bargained. It is respectfully requested that this panel not tinker with the existing classifications in the contract.

RETROACTIVITY

While the Parties have agreed on the duration of the Agreement, January 1, 1977 to December 31, 1979, the matter of retroactivity is a decision for the Panel.

The Panel orders that the wage rates and classifications mandated by the Panel shall be retroactive to January 1, 1977. All other orders of the Panel shall become effective as of the first day of the first pay period following the signing of the Award, unless otherwise provided for in the specific Award itself.

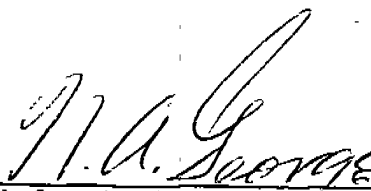
PANEL'S OPINION

The foregoing Panel Arbitration Findings, Opinions and Awards were written entirely by the Panel Chairman and represent his personal analysis of the merits of the respective arguments of the Parties and his evaluation of the weight of the evidence presented by each of the Parties and its witnesses. It is understood that one or the other of the Panel Members generally disagreed with the Chairman and supported the position of his Party. Therefore, although the Panel's total report bears the signatures of all three Panel Members, and while each Order was supported by at least a majority of the Panel Members, the total Award is not unanimous.

The issues to which the Panel gave consideration and ordered Awards follow. After each issue, each of the delegates has shown his concurrence or dissent by writing in his initials in the column so indicated by the heading.

TRANSCRIPTS AND OPINIONS

The contents of the three volumes of Transcripts and the language in the Opinions preceding the Awards, are all a part of the total proceedings and govern the Awards. Either party shall be entitled to produce such Transcripts and/or Opinions in an Arbitration hearing bearing on the interpretation of the Awards, should such a question arise.



Nicholas A. George
Chairman

Thomas R. Fette
Association Delegate

Jack R. Clary
Employer Delegate

Dated _____

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By Order of the Arbitration Panel

N.A. George
 Nicholas A. George
 Chairman
 Date

Thomas R. Fette
 Association Delegate

Jack R. Clary
 Employer Delegate