

**AWARD OF ARBITRATOR**

In the Matter of Interest  
Arbitration

between the  
County of McLean/McLean County  
Sheriff

and the  
Illinois Fraternal Order of  
Police Labor Council

Opinion and Award  
by  
Arbitrator  
Peter Feuille  
in  
ILRB No. S-MA-10-088  
FMCS No. 11129-00851-A

Date of Award: April 15, 2011

**APPEARANCES**

For the Employer:

Mr. Bruce Beal, Claudon, Kost, Beal, Walters & Lane, Ltd.,  
Attorney  
Mr. Jeff Elston  
Mr. Brent Wick  
Mr. Bill Wasson

For the Union:

Mr. James Daniels, Attorney  
Ms. Becky Dragoo, Field Supervisor  
Dep. Matt Lane, President  
Dep. Nick Massey, Negotiating Team  
Dep. Shane Harbison, Negotiating Team  
Dep. Hadley Welsch, Negotiating Team  
Dep. Justin Faulk, Negotiating Team

**INTRODUCTION AND BACKGROUND**

The County of McLean/McLean County Sheriff ("Employer") and the Illinois Fraternal Order of Police Labor Council ("Union") have been negotiating for a successor collective bargaining agreement ("CBA") to succeed the 2007-2009 CBA covering the approximately 48-member bargaining unit of deputy sheriffs, sergeants, investigators, and lead process servers. During their negotiations the parties reached agreement on many issues, but

were not able to reach agreement on all issues. Accordingly, they invoked the interest arbitration procedure specified in Section 14 of the Illinois Public Labor Relations Act ("Section 14," "Act"). The parties selected the undersigned as Arbitrator, and the Illinois Labor Relations Board ("Board") appointed me as the interest arbitrator in this matter. Additionally, the parties waived the Act's requirement in Section 14(d) that the hearing in this matter must commence within 15 days of the Arbitrator's appointment, and the parties agreed to waive/extend Section 14(d)'s hearing and other timelines to accommodate the scheduling needs of the participants in this matter. The parties also waived the tripartite arbitration panel format and agreed that I would serve as the sole Arbitrator (Transcript, pages 3-4 ("Tr. 3-4")).

By mutual agreement, the parties held an interest arbitration hearing April 6, 2011, in Bloomington, IL. The hearing was stenographically recorded and a transcript produced. The parties waived the submission of post-hearing briefs. Based on the information supplied by the parties, the Arbitrator found that it was not necessary to direct the parties to submit their last offers of settlement on each economic issue, or to make written findings of fact based upon the factors specified in Section 14(h) of the Act.

#### **THE ISSUES**

The parties stipulated that the issues presented for resolution are (Tr. 5):

1. Wages (Article 37, Section 1 and Appendix C)
2. Vacations (Article 26)

3. Secondary Employment (Article 28, new section)
4. Grievance and Arbitration (Article 10, Sections 2 and 3)

#### **ANALYSIS AND OPINION**

After examining the unresolved issues presented for resolution in the instant proceeding, and scrutinizing the information provided by the parties on each of these issues, I find that the following resolutions of these issues are appropriate, which are hereby incorporated into and rendered via this Award.

#### **1. Wages (Article 37, Section 1 and Appendix C)**

The parties agreed upon a three-year contract duration covering the 2010, 2011, and 2012 contract years. Article 37, Section 1 specifies that the wage rates, in both hourly and annual salary amounts, for bargaining unit classifications shall be listed in Appendix C for the three years covered by the expiring contract (2007, 2008, 2009). Section 1 goes on to provide the amounts by which pay rates shall be adjusted for different classifications during each of the three contract years. Article 37, Section 1 shall be revised to read as follows:

##### Section 1 - Wage Rates for All Officers:

"The wage rates for all officers for the duration of this Agreement are included in Appendix "C" (2010, 2011, 2012). The rate for each officer . . . [the remainder of this first paragraph shall continue unchanged.]

"Wage rates for the employees during the term of this Agreement shall be increased as follows:

(a) 2010: Retroactively effective to the first day of the first year of this Agreement, all employee wage rates in Appendix C shall be increased by 1.75 percent from the 2009 wage rates specified in Appendix C of the 2007-2009 Agreement.

(b) 2011: Retroactively effective to the first day of the second year of this Agreement, all employee wage rates in Appendix C shall be increased by 2.875 percent from the 2010 wage rates in Appendix C.

(c) 2012: Effective on the first day of the third year of this Agreement, all employee wage rates in Appendix C shall be increased by 2.875 percent from the 2011 wage rates in Appendix C.

"All retroactive wage increases are payable for all hours worked or paid as if worked to all employees in the bargaining unit employed by the Employer during the term of this Agreement and who are on the Employer's payroll in the bargaining unit on the date of this Agreement's execution. Retroactive amounts due under this Agreement shall be paid via a separate check to each bargaining unit employee no later than 45 calendar days after the issuance of the interest arbitration award dated April 15, 2011 between the parties." (Tr. 6-7).

The parties have agreed that they will calculate the exact dollar amounts called for by the percentage increases specified above for each contract year and include these new hourly and annual pay rates in Appendix C.

## **2. Vacations (Article 26)**

Article 26, Section 1 specifies the rate at which bargaining unit members accrue vacation time off with pay. I find that the

appropriate outcome on this issue is to continue Article 26 unchanged into the new Agreement.

### **3. Secondary Employment (Article 28)**

Article 28's title shall be changed from "Extra-Duty Employment" to "Secondary Employment."

A new first section, titled "Section 1 - Authorization", shall be included as the first section in Article 28 and shall read as follows:

"Employees desiring to work secondary employment shall seek prior approval by submitting such employment requests to the Sheriff or his designee. Requests for new secondary employment may be submitted at any time during the calendar year. Employees shall submit requests for renewals of existing secondary employment during the first month of the calendar year. Secondary employment requests shall not be unreasonably denied. The Sheriff shall issue approvals or denials of all such requests within a reasonable amount of time. During the pendency of such requests the secondary employment status quo shall continue unchanged until the Sheriff responds to such requests.

"In the event an employee is approved to work secondary employment, said employment shall not affect the performance of his/her duties with the Employer, nor shall such other employment interfere with any operations of the Employer, nor shall such other employment constitute or appear to constitute a conflict of interest with employment for the Employer. Should the Employer reasonably determine that an employee's outside employment does not conform to the requirements set forth in this Section, the

Employer may order the employee to terminate the outside employment, subject to reasonable notice to the employee along with an explanation of the order.

"Employees who are disciplined shall not be prohibited from working secondary employment when the employee's conduct that resulted in the discipline is not connected with the employee's secondary employment."

The existing single paragraph under Article 28 in the 2007-2009 Agreement shall be labeled "Section 2 - Use of Uniforms," and it shall be renewed unchanged into the new Agreement with the following exception - the phrase "extra-duty" in this paragraph shall be changed to "secondary," so that this paragraph reads ". . . while working any secondary employment that is authorized . . ."

#### **4. Grievance and Arbitration (Article 10, Sections 2 and 3)**

Section 2 of Article 10 is entitled "Referral," and this section briefly refers to the appeal of discipline grievances either to grievance arbitration in the contractual grievance procedure or to the Sheriff's Merit Commission, depending upon the severity of the discipline. I find that Section 2 should be revised to allow employees who have received substantial discipline (a lengthy suspension or termination) the choice of using the contractual grievance procedure or the Merit Commission when they decide to challenge their discipline. Specifically, Section 2 should be revised to read as follows:

##### Section 2 - Referral

"Non-disciplinary grievances may be appealed to arbitration within 14 calendar days of the date of the Employer's response to the grievance rendered in Step 4 above.

"Regarding disciplinary grievances, employees who have been disciplined may challenge their discipline as follows:

1. Employees may appeal reprimands or suspensions of thirty (30) days or less by filing a written grievance directly with the Sheriff or his designee within seven (7) calendar days of being notified of the discipline. The Sheriff shall have seven (7) calendar days from his receipt of the grievance to respond to the grievance. If the Sheriff does not respond within this seven-calendar day period, the grievance shall be deemed denied. If the Sheriff or his designee denies the grievance, the employee and the Union may advance the grievance directly to the arbitration step specified in Section 3 of the grievance procedure. The employee and/or Union must notify the Sheriff or his designee in writing within fourteen (14) calendar days of the receipt of the Sheriff's denial that the grievance is being advanced to arbitration.

2. Employees may appeal suspensions of thirty-one (31) days or more and terminations either (a) by filing a written appeal with the Sheriff's Merit Commission within seven (7) calendar days of being notified of the discipline, or (b) by filing a written grievance directly with the Sheriff or his designee within seven (7) calendar days of being notified of the discipline. The employee's choice of an appeal procedure must be submitted in writing to the Sheriff or his designee within this seven-calendar day timely filing period. The employee's choice of an appeal

procedure is a one-or-the-other choice, and when this choice is submitted in writing to the Sheriff or his designee this choice shall become irrevocable

"When an employee notifies the Sheriff or his designee within the seven-calendar day timely filing period that the employee has selected the Merit Commission appeal process, the Sheriff or his designee shall have thirty (30) calendar days to file a Complaint with the Merit Commission. If the Sheriff places the employee on leave prior to the filing of such Complaint, such leave shall be paid administrative leave. If the Sheriff places the employee on leave after the filing of such Complaint, such leave shall be unpaid administrative leave. The employee's unpaid administrative leave shall continue until the Merit Commission renders a decision.

"When an employee timely notifies the Sheriff or his designee within the seven-calendar day appeal period that the employee has selected the contractual grievance process by filing a written grievance with the Sheriff or his designee, the Sheriff shall have seven (7) calendar days from his receipt of the grievance to respond to the grievance. If the Sheriff does not respond within this seven-calendar day period, the grievance shall be deemed denied. If the Sheriff or his designee denies the grievance, the employee and the Union may advance the grievance directly to the arbitration step specified in Section 3 of the grievance procedure. The employee and/or Union must notify the Sheriff or his designee in writing within fourteen (14) calendar days of the receipt of the Sheriff's denial that the grievance is being advanced to arbitration."

Section 3 of Article 10 is entitled "Arbitration," and this Section specifies how arbitrators are selected, specifies their authority, and specifies how they shall be compensated. I find that Section 3 should be modified as follows:

The first paragraph in Section 3 shall have the following two and one-half sentences added to the beginning of this paragraph: "The parties may mutually agree upon the direct selection of an arbitrator in any grievance appealed to arbitration. If the parties are unable to agree upon an arbitrator in this manner, they will use the arbitrator selection procedures provided by the Federal Mediation and Conciliation Service ("FMCS"). Upon receipt of a panel of arbitrators from the FMCS, the parties shall alternately strike names . . . [the remainder of this first paragraph shall continue unchanged into the successor CBA]"

The second and third paragraphs in Section 3 shall continue unchanged into the successor CBA.

Moving ahead to the existing fourth paragraph in Section 3 (it begins "The arbitrator shall have no power . . ."), the following sentence shall be added as a new fourth sentence in this paragraph: "In making the determination as to whether there was just cause to impose discipline when deciding a disciplinary grievance, the arbitrator must follow Illinois law relevant to the matter at hand." The remainder of the fourth paragraph shall continue unchanged into the successor CBA.

### **The Parties' Tentative Agreements and Status Quo Provisions**

The parties negotiated and tentatively agreed upon numerous changes that will be included in their successor CBA, and they

memorialized these tentative agreements as "TA's". These TA'd changes were agreed upon at various dates during their negotiations, including several TA's agreed to on September 9, 2010. In addition, during their negotiations the parties agreed they would continue unchanged numerous other provisions from their prior 2007-2009 CBA into their successor CBA, and they specified these provisions as "status quo." I hereby incorporate into this Award all of these tentatively agreed-to CBA changes, and all of the unchanged/status quo CBA provisions, by reference.

**AWARD**

Under the authority granted to me by Section 14(g) of the Illinois Public Labor Relations Act, I render the rulings on the previously unresolved issues, and the agreed-upon issues, in the manner expressed above. It is so ordered.

Respectfully submitted,

*Peter Feuille*

Champaign, Illinois  
April 15, 2011

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Peter Feuille  
Arbitrator