

**BEFORE ARBITRATOR
BRIAN CLAUSS**

Policeman's Benevolent Labor Committee

and

**Kane County & Kane County Sheriff's Office
Co-Employers (Correctional Officers)**

Interest Arbitration Award

APPEARANCES:
FOR THE UNION

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Kane County Sheriff's Office

INTRODUCTION

Kane County, Illinois and the Kane County Sheriff, (“County” and “Sheriff”) as co-employers pursuant to the Illinois Public Labor Relations Act, and the Policeman’s Benevolent Labor Committee (“Union”) are parties to a Collective Bargaining Agreement (“CBA”). The parties reached impasse during negotiations for the CBA covering the period December 1, 2010 until November 30, 2013, and the undersigned was selected to hear and decide the interest arbitration pursuant to the procedures of the Illinois Labor Relations Board.

The CBA at issue in the instant Award shall be effective December 1, 2010 and shall continue in full force and effect until November 30, 2013.

OVERVIEW OF KANE COUNTY, ILLINOIS¹

Kane County, Illinois is located approximately 40 miles west of Chicago. The County operates under the township form of government and is comprised of 16 townships covering a total of 522 square miles. The Kane County Board (“Board”) is the designated governing body. The Board’s structure and legal activities are controlled by state statute.

The following provides an overview of the County and its finances as reported in recent Certified Audited Financial Reports and Bond Ratings.

County Government Structure

A primary function of the County Board is to establish the various budgets for County funds and to levy taxes for County purposes. The Board also adopts ordinances and rules

¹ This section provides a general overview of the County and the broad range of the operations of the County government offices. This information is contained in the County’s certified Comprehensive Annual Financial Report for 2010 and the most recent bond rating summary. These documents were received at the hearing in this matter and are available at

<http://countyofkane.org/Documents/FinanceDepartment/ComprehensiveAnnualFinancialReports/CAFR2010.pdf> and
<http://countyofkane.org/Documents/FinanceDepartment/OtherDocumentsandReports/bondRating.pdf>

pertaining to the management and operations of County departments. There are currently twenty-six members of the County Board, elected from separate districts, with staggered two-year terms, and one Board Chairman who is elected at-large for a four year term. Due to reapportionment requirements every 10 years (2012 is the next year of reapportionment), effective December 2012, the Board's size will decrease to twenty-four (24) members. The County Board is comprised of eleven standing committees that meet monthly. Each Board member serves on at least two standing committees.

County Budget Policy

The stated goal of the County is to maintain at least a 20% cash reserve of the appropriated budget for all funds in order to stabilize cash flow. Budget containment has been used over the past several years in order to achieve and maintain this reserve amount. As of November 30, 2010, the General Fund unreserved Fund Balance, excluding the Insurance Liability Fund, was \$43,238,801. This amount exceeds the 20% cash reserve requirement.

County Economic Outlook

The County's population and tax base continue to grow and diversify due to residential and commercial development. According to the 2010 Census, the County's population of 515,269 makes it the fifth largest county in Illinois. The 2030 population is projected to be over 750,000.

Like all communities, economic development and residential housing has been slowed by the struggling economy. Over the several years prior to the slowdown, however, growth in service, manufacturing, retail, professional and agricultural industries contributed to the diverse economic growth of the County. The large population increases and rapid rise in the building of residential housing prior to the slowdown have led to the need for major infrastructure improvements.

Although a slowdown in growth has occurred, the need for future infrastructure improvements continues. Kane County has the unique distinction of having two casino operations within its borders. In 1993, a riverboat opened in the City of Aurora and in 1994, a second casino was opened in the City of Elgin. While riverboat casinos may bring about a

current positive impact, this growth continues to present significant challenges for Kane County in meeting the need for additional services.

In 2010, Kane County collected \$99.9 million from sources other than property taxes and direct charges. Most of this revenue (intergovernmental revenues, grants, reimbursements and miscellaneous income), was received from the State of Illinois. The State provides the County with Sales Tax Revenue, as well as various local use taxes to support operations. Public Act 86-16, effective in 1995, permitted Kane County to add up to a \$.04/gallon tax to all motor fuel sold within the County's borders.

Infrastructure Initiatives

The County Board finished a strategic plan initiative in 2006 and its implementation continues. The Board restructured many departments in an attempt to bring more efficiency to its operations pursuant to the strategic plan.

The County passed \$11.3 million in capital improvements bonds in early 2007. These bonds have been used to fund much needed capital improvements projects throughout the County, including additional build out and roof replacement at the North Campus. These funds were used to build out the Sheriff's shell space at the Judicial Center in 2008. The remaining funds have been earmarked for the improvements at the North Campus, with the addition of a Traffic Court facility.

The County completed construction on a new Adult Justice Facility and Sheriff's Office at the Judicial Center Campus in 2008. Related to the new jail and Sheriff's Office, the County implemented jail management software in 2008. The County began implementing public safety software in 2009 and it was fully implemented in 2011. The County will be funding the \$3.6 million public safety software purchase mainly through the new RTA sales tax, with additional funding from the ETSB and a Department of Justice grant. The County began collecting the RTA sales tax monies as of April 1, 2008.

In December 2009, the County purchased the North Campus Circuit Clerk's Office building that it previously leased on Randall Road in St. Charles. The County also has space limitations at the Judicial Center that need to be addressed. In the first six months of 2010, the

County started examining options to meet the expanding space needs of the Judiciary. It was determined that additional funding was needed for capital improvements at the North Campus, mainly the addition of Traffic Court.

Capital projects under the American Recovery and Reinvestment Act (ARRA) / Energy Efficiency and Conservation Block Grant (EECBG) program focused on implementing changes to Kane County Facilities to improve their energy efficiency. Such projects included upgrades to lighting, air handling systems, energy management systems, insulation, and other improvements to County Facility systems and building shells.

The County issued \$7.7 million of recovery zone economic development bonds in December 2010 for the purpose of paying all or a portion of the costs of acquiring, constructing, improving, and equipping various water and/or sewer public works joint County-municipality projects. The County is loaning the bond proceeds over 10 or 20 years to the units of local government pursuant to intergovernmental agreements between the County and such units. The County is pledging Riverboat revenues to cover the debt service associated with these bonds; however, the debt service will actually be paid by units of local government.

Additional ongoing capital improvement projects that were funded in 2010 included computer replacement and voice and data infrastructure maintenance. The Information Technologies Department maintained lifecycle management initiatives via PC replacement and Server Replacement Programs. The Information Technologies Department also maintained lifecycle management initiatives for voice and data infrastructure through the creation of a parts closet program and a program to replace components over a five-year period.

Future Infrastructure Initiatives

Future budget planning includes the continuation of long-range operating and capital plans so that large projects can be identified and funding sources secured to ensure completion of those projects approved by the County Board.

The Kane County Division of Transportation will continue efforts to engineer and construct various federally funded bridge rehabilitation/replacement projects and begin construction of the Orchard Road widening to four lanes from Jericho Road to US 30. Studies

are in process to determine the feasibility of constructing the Longmeadow Parkway Bridge as a toll bridge. Major transportation initiatives include various traffic signals interconnect projects to enhance our traffic control system. The annual pavement resurfacing and striping initiative covers approximately 100 lane miles.

Other capital initiatives include the continuation of the computer standardization program, continuation of voice and data infrastructure program, replacement of Sheriff's Office vehicles, energy improvements under the American Recovery and Reinvestment Act (ARRA) / Energy Efficiency and Conservation Block Grant (EECBG) program, and building improvements at the North Campus, old Courthouse and Government Center.

Debt Administration

\$40 million dollars of General Obligation (Alternate Revenue) Bonds were issued in 2009 for highway improvement projects. Pledged revenues for repayment have been identified from the Regional Transportation Authority (RTA) sales tax. Excerpts from Standard & Poor's Ratings Direct – October 14, 2009 regarding those bonds indicates the following:

Standard & Poor's Rating Services assigned its AA+ long-term rating to Kane County's series 2009A general obligation (GO) alternate revenue source bonds and series 2009B federally taxable GO alternate revenue source bonds. At the same time, Standard & Poor's affirmed its AA+ underlying rating (SPUR) on the county's outstanding GO bonds, and its AA SPUR on the county's outstanding debt certificates, reflecting the limited-tax pledge.

The AA+ long-term rating and SPUR reflect the County's:

- Participation in the deep and diverse Chicago MSA economy
- Strong wealth and income indicators
- Maintenance of very strong financial reserves despite challenges faced by decreasing revenue streams

Offsetting credit considerations include the county's moderate overall debt burden, particularly from overlapping entities, and elevated debt service carrying charges.

Kane County has been able to build and sustain strong reserves due to conservative financial management. The county has a formal fund balance policy of three months general fund expenditures and as a practice, has historically maintained more than that in the general fund. The county has also implemented

mid-year cuts in an effort to minimize the imbalance in fiscal year 2009 due to decreased revenues in sales tax, recording fees, and development permits.

Kane County's management practices are considered good under Standard & Poor's Financial Management Assessment methodology, and indicate that practices exist in most areas. Key items include monthly reporting of financial position to each committee, with procedures for budget adjustments in place if needed.

The stable outlook reflects our expectation that the county will maintain at least a strong financial position as it manages pressures on its economically sensitive revenue streams. The county's participation in the diverse Chicago metropolitan area economy also provides credit stability.

INTEREST ARBITRATION

Jurisdiction

This interest arbitration comes before the Arbitrator pursuant to Section 14 of the Illinois Public Labor Relations Act. The subject collective bargaining agreement ("CBA") covers sworn Correctional Officers and Correctional Sergeants of the Kane County Sheriff and Kane County as statutory co-employers pursuant to the Illinois Public Labor Relations Act.

The arbitrator was selected and accepted this appointment pursuant to IPLRA Section 14 impasse procedures for protective service bargaining units. The relevant portion of the statute provides:

ILLINOIS PUBLIC LABOR RELATIONS ACT 5 ILCS 315/1 et seq.

Section 14(h) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (1) The lawful authority of the employer.

- (2) Stipulation of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparisons of the wages, hours and conditions of employment of the employees involved in the arbitration proceedings with wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes, in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

Party Positions

The Employer made the following final offers:

- I. Wages – Prior Award²
- II. Insurance – Prior Award
- III. OIC – 7 minutes reporting time per shift
- IV. Merit Commission – conform to language in Deputies CBA
- V. Management Rights – conform to language in Deputies CBA

² PBPA and Kane County Sheriff's Office (Deputies, Deputy Sergeants and civilians), issued October 25, 2011, Arbitrator Clauss. ("Deputies Interest Arbitration Award" or "prior award")

- VI. CRT – 140 compensatory time maximum and buyout over 100 hours
- VII. Compensatory Time – eliminate 2 tiers, 140 compensatory maximum and buyout over 100 hours.

The Union submitted the following final offers

I. Wages – all retroactive to December 1, 2010

(a) December 1, 2010 to November 30, 2011 – 2% across the board.

(b) December 1, 2011 to November 30, 2012 – 2.5% across the board,

(c) December 1, 2012 to November 30, 2013 – 2.5% across the board.

II. Compensatory Time: 240 hours for all covered employees.

III. Holidays: Christmas Eve and Independence Day paid at premium time (double time).

IV. Mandates: All shift mandates paid at double time.

V. Reporting Time: Sergeants to receive 7 minutes reporting time.

VI. Grievances: All grievances to be resolved or set for arbitration within 120 days of filing.

VII. Steps: Steps from six to three revert.

VIII. OIC: The Union has a counterproposal to the OIC language that it believes that the Employer will seek.

Economic Impasse Issues

The following are economic impasse issues. Accordingly, the statute requires the selection of either the Union's or the Employer's proposal.

Wages

The co-employers take the position that the County's financial position precluded the County from offering any wages beyond the wages awarded by the undersigned in the Deputies Interest Arbitration Award. The wages, both lump sum and percentage increases, awarded to the sworn employees in the Deputies Award were the Employer's Final Offer. The Employer maintains that the other County law enforcement unit is the best available comparable. The Deputies Award provides in relevant part:

In lieu of across the board pay increases, effective 12/1/10, bargaining unit employees shall receive one time lump sum payments, less applicable deductions and pro-rated based on the number of days the employee worked and received pay during the fiscal year, as described below:

Deputies - \$2,400
Sergeants - \$2,600

Civilians with 8 or more years of service - \$2,200
Civilians with less than 8 years of service - \$1,800

Employees shall be compensated in accordance with the wage schedule attached to the CBA and marked Appendix C which shall be amended in accordance with this award. The wage schedule shall be considered a part of the CBA and provide as follows:

A. Civilians Wage Schedule - Reference appropriate appendix
Effective 12/1/11 - 2% across the board increase
Effective 12/1/12 - 2% across the board increase

B. Deputy Wage Schedule - Reference appropriate appendix
Effective 12/1/11 - 2% across the board increase
Effective 12/1/12 - 2% across the board increase

C. Sergeant Wage Schedule - Reference appropriate appendix
Effective 12/1/11 - 2% across the board increase
Effective 12/1/12 - 2% across the board increase

The Union countered that the County's financial position did not support the County's offer and instead seeks a three year agreement of 2% in the 1st year, and 2.5 % each year

thereafter. The Union states that comparables and the County's financial condition support their request and offered evidence of comparable jurisdictions of McHenry County, DeKalb County, Kendall County and Lake County. The Union also maintained that the lump sum payment is inappropriate because, although it offers an amount that may exceed 2% for the first year, the lump sum is not considered in the employee's base pay for purposes of the increases in the second and third year. The end result is that the Correctional Officers will continue to fall behind what is paid to Deputies and the lump sum will not be considered as part of their base pay in years two and three.

The two final offers have been considered. The statute requires the undersigned to choose between the parties' final offers on economic issues. It is important to note that the evidence offered by both parties in the instant matter indicates that the statutory factors that were discussed in the Deputies Award are largely unchanged. The Union's Exhibit F, the Kane County Budget Committee Report of July 16, 2012, the internal and external comparables, the cost of living, the CPI and other relevant statutory factors all support that conclusion.

Given that the statutory factors that were presented and discussed in the Deputies Award have remained largely unchanged, so follows the conclusion that the Employer's Final Offer on Wages should apply. The facts and applicable statutory factors support the Employer's Final Offer. The wage increase shall be as follows:

In lieu of across the board pay increases, effective 12/1/10, bargaining unit employees shall receive one time lump sum payments, less applicable deductions and pro-rated based on the number of days the employee worked and received pay during the fiscal year, as described below:

Deputies -	\$2,400
Sergeants -	\$2,600

Employees shall be compensated in accordance with the wage schedule attached to the CBA and marked Appendix A which shall be in accordance with this award. The wage schedule shall be considered a part of the CBA and provide as follows:

A. Correctional Officer Wage Schedule

Effective 12/1/11 – 2% across the board increase

Effective 12/1/12 – 2% across the board increase

B. Correctional Sergeant Wage Schedule

Effective 12/1/11 – 2% across the board increase

Effective 12/1/12 – 2% across the board increase

Insurance

The co-employers, primarily Kane County, took the position that the significant Health Plan design changes were necessary in order to contain the cost of insurance for both the employees and the County. Those changes were discussed at-length in the Deputies Award and the Employer adopted the insurance program discussed in that award as the Employer's final offer on insurance in this matter. In support, the Employer states that the County has a policy for all employees and the instant bargaining unit should be part of that plan. This County-wide plan allows employees to maintain a high-quality health insurance program while still keeping costs in line.

The Union counters that, although the Correctional Officers will pay the same amount for coverage as Deputies, the practical application of the County's proposal requires the Correctional Officers to pay a higher percentage of their income for health care. The current insurance program should remain status quo.

Like the discussion in the Wages section above, the statutory factors that were presented and discussed in the Deputies Award on the impasse issue of insurance have remained unchanged, so follows the conclusion that the Employer's Final Offer on insurance should apply. The facts and applicable statutory factors support the Employer's Final Offer on Insurance.

Based on the evidence, the plan design changes are reasonable and legitimate in terms of all parties' stated interests to provide above-average health coverage at reasonable costs to both

employees and County employers. Therefore, the changes described in the Deputies Award and attached as Exhibit B may be implemented by the County for the remainder of the CBA period.

Holiday Pay

The Employer maintains that the status quo of the 4 existing holidays should be awarded. The Union cites the Deputies CBA in support of the award of two additional Premium Days of Christmas Eve and Independence Day. In support, the Union points to the statutory factors and also cites the historical perspective of Deputies and Correctional Officers. The Deputies started being paid more than Correctional Officers during the 1990s and maintaining the status quo would make the separation even larger. Further, the Union points to the Employer's reliance on the Deputies Award as a basis for its final offers on those economic issues. That reliance was appropriate for the Wages and Insurance and should therefore be appropriate on the economic issue of Holiday Pay.

The Union maintains that given the Employer's argument that the Deputies Award was appropriate for Wages and Insurance, the comparison to the Deputies CBA should also be appropriate on the issue of Holiday Pay.

The Deputies CBA is a comparable to the substantially similar law enforcement bargaining unit in the same county. Accordingly, when the statutory factors are considered, the Union's Final Offer on Holiday Pay is awarded.

Officer in Charge ("OIC")

The Employer's proposal:

Article 21

Section 7 Officer in Charge (OIC)

If an officer is assigned to act as a shift supervisor, in the absence of the sergeant from that shift, that Officer shall receive an increase in pay over his/her current hourly rate in the amount of four dollars (\$4.00) per hour. Officers selected to be an OIC, pursuant to duty Assignment, shall be on the current list for promotion to sergeant and/or have a minimum of three (3) years experience as a Kane County Sheriff's Correction Officer.

The Employer's proposal included adding the following language to Article 26:

Section 5 Overtime Procedure:

If no Sergeant is scheduled to work and an OIC is scheduled to be on duty, the shift will normally be covered by an OIC. If there is no OIC scheduled to work on a day Sergeant overtime is needed, then the overtime will be offered to all Sergeants by seniority, and then to all OICs. In the event that the Sergeant overtime is created due to a sick call or other short term emergency condition (less than 24 hour notice) the overtime shall be offered to on duty Sergeants only and if they do not want to work, it will be offered to the OIC of the shift needed if the OIC is working. If at any time the appointment of an OIC to fill Sergeant overtime would cause officer overtime, the overtime will be offered to Sergeants.

The Employer also included Proposed Safeguards Discussed in Mediation which states:

1. If a sergeant is not scheduled to work and an OIC is scheduled to be on duty for that shift, the OIC will run the shift.
2. If there is no OIC scheduled to work the day that Sergeant overtime is needed, then it will be offered to all sergeants and then to all OICs.
3. If a Sergeant calls in on a short term emergency, (within 24 hours) it would be offered to the on duty Sergeants only and if they did not want it, it would be offered to the OIC of the shift needed if they are working.
4. If at any time making an OIC would cause officer overtime, the overtime should be offered to Sergeants.

The Union's proposal:

Union's Counterproposal to Employer's OIC Proposal

In the event a shift is normally supervised by a sergeant goes unfilled due to vacation, absence, sickness or any other contractually allowed absence, the Employer shall offer the shift to any other sergeant available to cover the shift. In the event no sergeants accept the open shift, then the Employer can offer the open shift to an officer in charge scheduled to be on duty for that shift. In the event an officer in charge was appointed to fill a sergeant supervisory role, the Employer shall backfill that officer's position to maintain acceptable staffing levels.

The Employer's proposal allows an on-duty OIC to run the shift if no sergeant is available. If no OIC is available, then overtime is offered to all sergeants then all OICs. For

short notice sergeant absences, the on-duty sergeant and then the on-duty OICs are offered the overtime. Overtime caused by appointing an OIC will be offered to sergeants.

The Union's proposal requires that an unfilled shift supervisor position must be offered to all available sergeants. An on-duty OIC can be appointed if no sergeant accepts the assignment. The open position created by the OIC appointment will be filled.

The statute requires that either the Employer's final offer or the Union's final offer be accepted. After considering the statutory factors, evidence and arguments, the Employer's proposal for Officer in Charge is accepted.

Compensatory Time and CRT Unit Training Compensation

The Employer's proposal for compensatory time:

Employees may elect to receive compensatory time off at the rate of time and one half in lieu of premium pay. Up to 100 hours of compensatory time may be banked with an additional 40 hours permitted on an annual basis. Once the 140 hours is reached, overtime work must be compensated by overtime pay.

Once the employee's compensatory time bank has been drawn down by the use of compensatory time off, the employee may again elect to receive overtime in the form of compensatory time rather than pay, up to 140 hours. At the end of the fiscal year however, all compensatory time in excess of 100 hours remaining in each employee's compensatory time bank shall be bought out by the Employer.

Compensatory time payout shall be at the end of each fiscal year. The Employer shall provide the annual compensatory time payout in a separate check.

If, at the time of the issuance of the interest arbitration award by Arbitrator Clauss, an employee has accumulated more than 140 hours of compensatory time, the Sheriff, after consultation with the employee, will schedule the employee to use such time within 180 days of the date of the interest arbitration award is issued.

The Union's proposal for compensatory time:

Compensatory Time: 240 hours for all covered employees.

The evidence establishes that compensatory time can be accumulated under the current CBA by 68 members of the bargaining unit, whereas 44 newer members cannot accumulate compensatory time.

The Employer maintains that a two-tiered compensatory time system places a significant number of Correctional Officers at a distinct disadvantage because they will never have the opportunity to accumulate time, only pay. This two-tiered system affects the Employer's ability to manage the workforce.

The Union proposes that all Correctional Officers be allowed to accumulate up to 240 hours of compensatory time. The Union points out that there are over a dozen Correctional Officers and Correctional Sergeants who have over 200 hours of compensatory time on the books. The Union continues that the Employer's proposed language ignores the realities of their situation.

The Employer's proposal for the CRT Unit included adding the following underlined language to Article 26, Section 1(F) Voluntary Training:

For voluntary training outside an employee's regular tour of duty, approved by the Employer, for special units such as NRT, GIU, CIU or the Canine Unit, the employee shall be compensated by either compensatory time or pay at the employee's option. For specific periods during the term of this Agreement, the Employer and Union may agree to limit the compensation to compensatory time only for any or all special units by a written Memorandum of Understanding. For voluntary, CRT Unit training outside an employee's regular tour of duty, approved by the Employer, the Employee shall be compensated by compensatory time only. If at the time of issuance of the interest arbitration award by Arbitrator Clauss an employee has accumulated flex time on the books as compensation for CRT training, all such flex time shall be converted to compensatory time on a one to one basis.

The parties agreed during the hearing that, if the Department final offer was accepted, the below language would be included:

All bargaining unit members with greater than 140 hours compensatory time are grandfathered at their hours and this provision is in effect until November 30, 2013.

The Union proposes that CRT Unit training remain status quo. In support, the Union maintains that Correctional Officers should be able to choose pay or compensatory time for CRT Unit training. Offering only compensatory time has repercussions and creates operational issues when employees exceed the allowable amount of compensatory time.

The evidence establishes that compensatory time is accumulated under the current CBA by 68 members of the bargaining unit, whereas 44 members cannot accumulate compensatory time. The current CRT Unit training is not paid training. Instead, employees accumulate flex time for CRT Unit training that occurs outside their scheduled work time.

The Employer maintains that a two-tiered compensatory time system places a significant number of Correctional Officers at a distinct disadvantage because they will never have the opportunity to accumulate time, only pay. This two-tiered system affects the Employer's ability to manage the workforce. Further, there will be no CRT Unit if the employer has to offer pay for the training because the Sheriff simply cannot afford the overtime. The CRT Unit is a voluntary unit. The Employer currently offers flex time for Employees participating in CRT Unit training and that flex time is allowable under the CBA. The Union has not grieved the use of flex time for CRT Unit training.

The Union proposes that Correctional Officers be allowed to choose between pay or compensation time for CRT training and also that employees be allowed to accumulate up to 240 hours of compensatory time. The Union points out that there are over a dozen Correctional Officers and Correctional Sergeants who have over 200 hours of compensatory time on the books. The Employer's proposed language ignores the realities of their situation. The Union also states that the current compensation for CRT Unit training is limited to accumulating flex time – a type of compensation that is, at best, dubious under the CBA. The Union continues that flex time is a problematic and inappropriate compensation scheme for CRT Unit training. It is appropriate for the Employer to pay for the CRT Unit.

The CRT Unit is a rapid-response unit designed to handle serious issues of jail unrest. The evidence at the hearing established that this is an important unit not only for officer safety, but also for inmate safety. Not all jail disturbances can be handled by a lockdown. An available

CRT Unit provides safety and security for disturbances. A rapid-response to jail disturbances potentially saves medical and litigation costs by preventing injuries to staff and inmates.

On economic impasse issues, the Arbitrator must select between the final offers of the parties. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems.

The evidence established that the current compensatory time scheme allows only a shrinking majority of employees to accumulate compensatory time. The Union seeks to increase the maximum number of hours to be carried by all correctional employees to 240. Further, the Union opposes use of compensatory time for officers to train for the CRT Unit. The Employer seeks to be able to offer compensatory time to all employees and gain the budget flexibility that including compensatory time allows.

The evidence also established that the Sheriff's office has eliminated a number of special units due to budget constraints. Absent the ability to offer compensatory time for CRT Unit training in what is essentially the final year of the agreement, there will either be no CRT Unit or the use of flex time for training will continue. Even if CRT Unit members wanted to take compensatory time for training, many of them cannot under the current scheme. Further, the current proposal for CRT Unit training and compensatory time for the training expires at the end of the CBA term.

After considering the statutory factors, evidence and arguments, the Employer's proposal for Compensatory Time and CRT Unit Training is accepted.

Reporting Time

The Union proposes:

Reporting Time: Sergeants to receive 7 minutes reporting time.

The Employer proposes status quo.

The Union maintains that correctional officers receive reporting time of 7 minutes per shift for Roll Call. The correctional officers receive this 7 minutes time because of Arbitrator Cerone's decision. ("Reporting Time Award."). The correctional sergeants were not included in the grievance over the elimination of reporting time and accordingly do not receive the time. The CBA is the same for the sergeants and correctional officers. However, the current system does not pay the sergeants the same way that the correctional officers under their supervision are paid.

The Employer counters that the sergeants did not join in the grievance and were not included in the Reporting Time Award. They are bound by that decision and cannot gain in interest arbitration what they should be seeking in negotiation.

On economic impasse issues, the Arbitrator must select between the final offers of the parties. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems.

The applicable provisions of the statute provide:

- (4) Comparisons of the wages, hours and conditions of employment of the employees involved in the arbitration proceedings with wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (C) In public employment in comparable communities.
 - (D) In private employment in comparable communities.
- (5) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

Here, the current system whereby correctional officers are paid seven minutes additional time per minute was not a creation of the parties during negotiation. Rather, it was created by an arbitration award. The Reporting Time Award has created a situation where correctional officers are paid for approximately 1700 more minutes annually than the sergeants in the same bargaining unit. When the disparity is considered in light of the above statutory factors, the Union meets their burden. The Union's proposal is accepted.

Mandates

The Union proposes:

MANDATES: all shift mandates paid at double time.

The Employer proposes status quo.

The Union maintains that the existing system is broken because Correction Officers must comply with the mandates. The mandates are an unreasonable intrusion into the employee's life. The Employer should have to pay double time and not simply overtime for mandates.

The Employer maintains that there is nothing wrong with mandates under the current Agreement. The Union is attempting to bargain staffing and staffing is excluded from bargaining.

On economic impasse issues, the Arbitrator must select between the final offers of the parties. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems.

After considering the statutory factors, evidence and arguments, the Union has not met its burden. The Employer's proposal for status quo is accepted.

Steps

The Union proposes:

Steps: Steps from six to three revert.

The Employer proposes status quo.

The Union seeks to return to three steps in the CBA. In support the Union maintains that the existing system means that the correctional officers will continue to lose ground. The County houses federal prisoners and is compensated for those prisoners. The County, in turn, sends county prisoners to Kendall county at less cost than the income from federal prisoners. This arrangement makes a significant amount of money that goes directly to the General Fund. Sales tax receipts and the Reserve Fund have both increased.

The Employer counters that the budget is still flatline. The return to a three step system would result in approximately a 4.5 percent increase to total wages. The six steps were negotiated and there is nothing fundamentally wrong with the current pay scale.

On economic impasse issues, the Arbitrator must select between the final offers of the parties. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems.

After considering the statutory factors, evidence and arguments, the Union has not met its burden. The Employer's proposal for status quo is accepted.

Non-Economic Impasse Issues

Merit Commission

The Employer proposed the following:

Section 8. Merit Commission Employees
(See Memorandum of Understanding attached as Appendix D)

~~The discipline of Merit Commission employees shall have as an alternative to review by the Merit Commission be subject to review by the provisions of Step Three of the Grievance Procedure. Within the time provided for in Step Four of the Grievance Procedure for appealing the decisions of the Sheriff, the Union may file a request for arbitration under the provisions of Step Four of the Grievance Procedure. If no such request is made, then the employee shall be deemed to have elected to proceed under the terms of the rules of the Merit Commission. The provisions of this section apply to only suspensions, demotions, and discharged, except that the provisions of Step 4 of the Grievance Procedure shall not apply to suspensions of two days or less up to three times not to exceed five days cumulatively in any twelve month period.~~

Sheriff's Merit System Employees covered under this agreement shall be disciplined pursuant to Section 3-8013 of the Sheriff's Merit System Law, 55 ILCS 5/3-8013 (2011) subject to the alternative grievance review provisions provided in this Agreement.

In the event charges are referred to the Merit Commission, the employee shall have the option of waiving a hearing before the Merit Commission and shall then be disciplined by the Sheriff subject to the contractual grievance appeal procedure. To effectuate this election, the following procedure shall be utilized:

1. Within ten (10) business days of the employee receiving a copy of the charges referred to the Merit Commission and the entire investigation file relating to the charges, the Union will advise the Sheriff and the Merit Commission of the employee's election under this Section to waive his or her right to a Merit Commission review and/or hearing and proceed, instead, in accordance with the grievance/arbitration provisions of Article 10 of this Agreement, upon the issuance of discipline by the Sheriff. Such notice shall be in writing and shall include a written waiver, executed by the employee, acknowledging that the employee is knowingly waiving his or her rights to a hearing before the Merit Commission. If no such notice/waiver is provided within ten (10) business days, the employee and the Union shall be deemed to have elected to proceed under the rules of the Merit Commission and all rights under Article 10 shall be deemed waived.

2. Upon receipt of a notice from the Union that the employee is electing to proceed under the grievance/arbitration provisions of Article 10, the Sheriff's Office will withdraw the charges before the Merit Commission. Thereafter, the Sheriff or his designee will make a determination regarding discipline.

3. Once discipline is issued by the Sheriff or his designee, the employee, or the Union, as applicable, may grieve the discipline, as provided in Article 10 of the CBA commencing at Step 4. The filing of said grievance shall serve as a Request for Arbitration under Step 4 of the grievance procedure.

In the event the Sheriff's Merit System Law is amended in a manner which nullifies the rights of parties to a collective bargaining agreement to negotiate, pursuant to Section 3-8013 of the Sheriff's Merit System Law, an alternative disciplinary review process, or which makes the alternative grievance review provisions contained in the section illegal, either party may request to immediately re-negotiate the terms of this section. Any impasse resulting in such negotiation shall be resolved in accordance with the provisions of Section 14 of the Illinois Labor Relations Act.

The Union initially sought status quo because of the initial language that required a Correctional Officer to select the discipline forum without a copy of the complete investigation file. The above language remedied the Union's concern. The Union agreed to include the Merit Commission language at the hearing.

Grievances

The Union proposes:

GRIEVANCES: All grievances to be resolved or set for arbitration within 120 days of filing.

The Employer proposes status quo.

On non-economic impasse issues, the Arbitrator must select between the final offers of the parties or craft an appropriate award. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these

problems. Essentially, this analysis requires an inquiry into whether the system is broken, not merely whether the proposed language makes the system better.

The Union maintains that it seeks to resolve grievances in a timely manner. The Union further states that the current system has allowed grievances to linger and arbitrators have not been selected to hear them. The Employer counters that the Union has not sought to advance many of these grievances. Further, the Employer continues that the current system for processing grievances is not broken. If grievances are backlogged, the parties can resolve that backlog and new contract terms need not be imposed by the interest arbitration process.

The Union has the burden to establish that the proposed language, or language crafted by the Arbitrator, is necessary to address a broken or inequitable situation. After considering the statutory factors, evidence and arguments, the Union has not met its burden. The Employer's proposal for status quo is accepted.

Management Rights

The Employer proposes that the Management Rights language of the Deputies CBA replace the Management Rights language in the CBA.

The Union proposes status quo.

As stated above, on non-economic impasse issues, the Arbitrator must select between the final offers of the parties or craft an appropriate award. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems. Essentially, this analysis requires an inquiry into whether the system is broken, not merely whether the proposed language makes the system better.

The Employer seeks to get uniformity in the Sheriff's CBAs. The existing Management Rights section offers less certainty to the parties than the Employer's proposal.

The Union maintains that there is nothing wrong with the Management Rights section under the current Agreement. The Employer is attempting to get in interest arbitration what it should be discussing during negotiations.

The Employer has the burden to establish that the proposed language, or language crafted by the Arbitrator for non-economic issues, is necessary to address a broken or inequitable situation. After considering the statutory factors, evidence and arguments, the Employer has not met its burden. The Union's proposal for status quo is accepted.

Drug and Alcohol Policy

The Employer proposes that the Drug and Alcohol language of the Deputies CBA replace the Drug and Alcohol language in the instant CBA.

The Union proposes status quo.

As stated above, on non-economic impasse issues, the Arbitrator must select between the final offers of the parties or craft an appropriate award. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems. Essentially, this analysis requires an inquiry into whether the system is broken, not merely whether the proposed language makes the system better.

The Employer maintains that the proposed language will fix the problems with the current system and bring certainty to the process by having the policy the same for the deputies as it is for Correctional Officers. The Union counters that the situation is not in need of repair. The current drug and alcohol policy works. This issue can be resolved in bargaining and, because there are no inequities or hardships, the status quo should not change.

The evidence does not support the conclusion that the current system of drug and alcohol testing is broken. Rather, the evidence suggests that the Employer's policy is perhaps an

improvement to the existing system. The Employer has not met its burden. The Union's proposal of status quo is accepted.

Fitness for Duty

The Employer proposed:

Article 25 Section 4

Employees may be required to undergo a physical or psychological fitness evaluation by the Sheriff, or his or her designee, where there is a reasonable belief that an employee may not be physically, emotionally or mentally fit to carry out his or her essential job duties. Determining that a fitness for duty evaluation is warranted shall be made by the Sheriff or his/her designee, in accordance with GO-08-01. The basis for the determination shall be set forth in writing to the employee ten (10) days prior to the time the employee is to undergo such testing. However, the ten (10) day notice shall be waived when the employee's conduct imminently or directly threatens the safety to self or others. In that case, a copy shall be given to the employee at the time the employee is ordered to undergo such evaluation.

All examinations and inquiries into an employee's fitness for duty shall be both job related and consistent with operational necessity and shall be no broader or more intrusive than deemed necessary by qualified, licensed and certified medical doctors, psychiatrists or psychologists.

An Employee shall have the right to inform the Union of the order after it is received and shall have the right to secure a similar fitness for duty evaluation at the employee's own expense from a qualified, licensed and certified medical doctor, psychiatrist or psychologist of their own choosing.

The Employee shall sign any and all releases or authorizations required by the medical doctor, psychiatrist or psychologist, as the case may be, to release the information and evaluation obtained as a result of a fitness for duty evaluation by the Employer. The Employer recognizes the Employee's right to privacy and agrees that any information and evaluation obtained pursuant to this section shall be placed in the employee's secure medical file. The evaluation and information provided to the Employer as a result of such fitness for duty evaluation shall be provided to the employee.

In the event the Employer seeks to terminate an employee covered under this agreement based in the fitness for duty evaluation and other information obtained pursuant to GO -10-01, the Sheriff or his/her designee shall meet with the employee involved and inform the employee of the contemplated action and the reason thereof. The employee shall be informed of his/her contract rights to Union representation and shall be entitled to such if so requested by the

Employee. If the Employer and the Employee are unable to agree to the findings of the fitness for duty examination, the doctors representing the employee and the Employer shall pick a third party qualified physician in that field to arbitrate the decision. The physician can be chosen from a list of area physicians qualified in that practice.

The Union proposed status quo.

As stated above, on non-economic impasse issues, the Arbitrator must select between the final offers of the parties or craft an appropriate award. The party seeking a change to the status quo has the burden of establishing that that (1) the old system and procedure has not worked as anticipated when originally agreed to or (2) that the existing system or procedure has created operational hardships for the employer or equitable due process problems for the union and (3) the party seeking to maintain the status quo has resisted attempts at the bargaining table to address these problems. Essentially, this analysis requires an inquiry into whether the system is broken, not merely whether the proposed language makes the system better.

The Employer seeks to get uniformity in the Sheriff's CBAs. The existing Fitness for Duty section offers less certainty to the parties than the corresponding section in the Deputies CBA from which the proposed language is taken.

The Union maintains that there is nothing wrong with the Fitness for Duty section under the current Agreement. The Employer is attempting to get in interest arbitration what it should be discussing during negotiations. The parties have been discussing the issue and have yet to reach agreement. The current section has never been used, is not broken and should be left alone.

The Employer has the burden to establish that the proposed language, or language crafted by the Arbitrator for non-economic issues, is necessary to address a broken or inequitable situation. After considering the statutory factors, evidence and arguments, the Employer has not met its burden. The Union's proposal for status quo is accepted.

Tentative Agreements on CBA Language

The parties executed tentative agreements which are incorporated into this award. All signed and dated tentative agreements shall be provided to the Arbitrator within 30 days of the

issuance of this award. All current contract language that is not modified by the terms of this award or by a tentative agreement executed by all parties shall remain status quo.

Retention of Jurisdiction

As agreed by the parties, the Arbitrator retains jurisdiction for 60 days from the date of award for the purpose of administering incorporation of the tentative agreements and the terms of this award into a successor agreement.

A handwritten signature in black ink, appearing to read "Brian Clauss", is written over a light gray rectangular background. A solid black horizontal line is drawn below the signature.

Brian Clauss

October 1, 2012