

**DECISION OF THE**  
**ARBITRATOR**

IN THE MATTER OF

**Interest Arbitration**

**between the**

**International Brotherhood of Teamsters, Local 238**

**and**

**Muscatine County, Sheriff's Department**

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PUBLIC EMPLOYMENT  
RELATIONS BOARD

**IOWA PERB CASE NO. CEO 1042/2**

**REPRESENTATIVES:**

Local 238: Jill Hartley, Attorney

County: James Hanks, Attorney

**DATE OF DECISION:**

September 6, 2012

**DATE OF HEARING:**

August 22, 2012

**EXHIBITS:**

- Joint Exhibit: No. 1 Collective Bargaining Agreement between the Parties for the period July 1, 2011 to June 30, 2013.
- Local 238 Exhibits: Note Book of Exhibits, Nos. 1 through 22.
- County Exhibits: Note Book of Exhibits, Nos. A-1 through G-3.  
Rebuttal Exhibit, No. H-1.

**WITNESS:**

Local 238: Nick Doy, Correctional Officer

**ARBITRATOR'S AUTHORITY:**

By E-Mail dated May 21, 2012, the Iowa Public Employment Board (PERB) notified Peter Obermeyer of his selection by the parties to hear and decide PERB Case No. CEO 1042/2. The parties to the dispute were identified as the International Brotherhood of Teamsters, Local 238 (Local 238) and the County of Muscatine, Sheriffs Department (County). The bargaining unit involved was Correctional Officers working at the jail.

On Wednesday, August 22, 2012 10:00 A.M., a hearing was held in Room 101 of the County Administration Building, Muscatine, Iowa. At the hearing both parties were provided the opportunity to present exhibits and testimony which were relevant to the impasse item in dispute.

Based on the record developed at the hearing of August 22, 2012, the Arbitrator was obligated to select one party's "final position" on the issue at impasse. Iowa Code establishes the following criteria, along with other "relevant factors", as the basis for selecting Local 238's or the County's position, on the impasse item in dispute, as the "most reasonable":

1. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
2. Comparison of wages, hours and conditions of employment of the involved public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
3. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
4. The power of the public employer to levy taxes and appropriate funds for the conduct of it's operations.<sup>1</sup>

The decision in this case was based on the record of the hearing and the criteria of Iowa Code, Section 20.22 (9).

The representatives of Local 238 and the County agreed that the Arbitrator's decision, postmarked no later the Thursday, September 6, 2012, would be accepted as timely by the parties.

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<sup>1</sup> Iowa Code, Section 20.22 Subdivision 9 (2005).

## **INTRODUCTION:**

1. Background. The County is governed by a Board of Supervisors, which is responsible for conducting collective bargaining on behalf of the County for all represented employees. The County Sheriff's Office has two bargaining units - Deputy Sheriffs and Correctional Officers. David White is the elected Sheriff and carries out his duties through three divisions, Patrol, Civil, and Jail. The Jail Division is directed by Dean Naylor, Jail Administrator. The Correctional Officers bargaining unit includes approximately 49 positions - 33 full-time and 16 part-time.

The County is located in Southeastern Iowa on the Mississippi River. With a population of 42, 745 it is the 14<sup>th</sup> largest of the 99 Iowa counties. It provides a variety of public services to the citizens through approximately 224 full-time and part-time employees.

2. Bargaining Structure. The County has a collective bargaining relationship with employees included in three appropriate units, all represented by Local 238. The units include, in addition to the Correctional Officers of the Sheriffs Office; Deputy Sheriffs of the Sheriffs Office; and road maintenance employees of the Secondary Road Department. Collective bargaining agreements covering all represented employees expire June 30, 2013.

3. The Iowa Arbitration Process. Iowa's interest arbitration system requires the arbitrator to select the "final offer" of the issue in disagreement as submitted by either Local 238 or the County. In this case one issue - hourly rates is in dispute. As is true in other arbitration cases, the Arbitrator here may have reached a decision which would have varied from either Local 238's or the County's "final offer", if he had such flexibility.

**ISSUE AT IMPASSE:**

The parties have had a generally constructive labor-management relationship since Local 238 became the exclusive representative of the County's Correctional Officers in 1994. A re-opener clause in the July 1, 2011, through June 30, 2013, Agreement provided the parties with an opportunity to re-open the Agreement July 1, 2012, "... for wages and for two other articles".<sup>2</sup> Tentative agreement was reached on all items, except Article 18 Hourly Rates and is the sole issue in this Arbitration.

At the hearing the representatives of Local 238 and the County stipulated that one issue was in dispute was:

Article 18, Hourly Rates.

Both parties; "final offer" modified the existing structure of the hourly wage rate schedule. Local 238's "final offer"<sup>3</sup> included three changes:

1. collapsing the job classification of Full-Time Correctional Officer and Part-Time Correctional Officer into a single Correctional Officer job classification;
2. removing the Probationary wage rate from Article 18; and
3. establishing a single hourly wage schedule of ten steps, based on length of service. The hourly wage schedule would begin at a 1-3 years of service step and end at 28-30 years of service step.

The County's "final offer"<sup>4</sup> put forth two changes:

1. providing hourly rate increases of 2% for Full-Time Correctional Officers and increases of \$1.50 per hour for Part-Time Correctional Officers; and
2. dropping the Probationary status wage rate for both the Full-Time and Part-Time correctional job classifications.

The County calculated the total cost of the two "final positions" by establishing a 2011-2012 base cost of \$1,903,725. This base cost included the hourly rate, longevity

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<sup>2</sup> Agreement, Article 25, paragraph 2.

<sup>3</sup> Local 238 Exhibit Book, Exhibit 2, p.1.

<sup>4</sup> County Exhibit Book, Exhibit B1, p.2.

stipend, shift differential, FICA cost, and IPERS cost.<sup>5</sup> The County's "final offer" was costed at a \$55,230 for 2012-2013 - a 2.90% increase.<sup>6</sup> Local 238's "final offer" was costed as a 2012-2013 base cost increase of \$155,368, a 8.16% increase.<sup>7</sup>

Local 238's cost analysis focuses on the base hourly rate and longevity cost of all members of the bargaining unit, as of June 30, 2012, with the "final position" of the bargaining unit cost of Local 238's and the County's position for July 1, 2012. The total bargaining unit hourly cost was \$775.92 as of June 30, 2012, including base rate and longevity.<sup>8</sup>

The County's proposal resulted in a \$834.63 total hourly bargaining unit cost, which included base pay, longevity, and corporal differential. A 7.5% increase. Local 238's offer produced a hourly bargaining unit cost of the revised salary schedule of \$855.11, a 10.2% increase.<sup>9</sup>

Both "final positions" modify the existing wage schedule and distribute increases in varying amounts to current employees. Local 238 argues for a new ten-step wage schedule which is driven by an employees' length of service.<sup>10</sup> This results in Part-Time employees and Full-Time employees with more than ten years of service with significant increases. The County suggests dropping the Probationary Hourly Rate for both Full-Time and Part-Time Correctional Officers and an across-the-board (ATB) increases of \$1.50 for the Part-Time wage rate and 2% ATB for the Full-Time wage rate.<sup>11</sup> This alternative also provides a major increase to the Part-Time wage rate.

## **POSITION OF THE PARTIES:**

1. Local 238 Final Position. The origin of Local 238's "final position" is the

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<sup>5</sup> County Exhibit Book, Exhibit B1, p.3.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid. Exhibit B2, p.4.

<sup>8</sup> Local 238 Exhibit Book, Exhibits 21, p.2 and p.4.

<sup>9</sup> Ibid.

<sup>10</sup> Local 238 Exhibit Book, Exhibit No. 2.

<sup>11</sup> County Exhibit Book, Exhibit No. B-1.

opening of the new jail facility on March 10, 2011. This new facility significantly modified the nature of the jailing responsibility. The Muscatine County Jail changed from a facility with:

- 118 inmate beds to 250,
- 110 to 120 average population count to an average count of 240 to 250,
- 16 cell block beds to 36 beds, and
- 36.75 FTE correctional officers (including supervisors) to 54.50.

These changes, argues Local 238, brings with it increased risk, demands on, and problems for the Correctional Officers working at the jail.

With these changes in the number and nature of the jail inmate, particularly the federal prisoners, the duties and responsibilities of the Correctional Officer has increased significantly. Accordingly, the appropriate comparability “pool” should be Iowa counties with a generally similar number of prisoner beds and who hold federal prisoners. The Union concluded that from a larger group of eight jails holding federal prisoners, the following four would serve as an appropriate “pool” for wage schedule comparison - Dubuque, Polk, Scott, and Story.

Local 238 concludes that their “final position” moves towards a compensation system composed of a multi-step wage schedule, which increases officers pay based on length of service. They argue that this system rewards the experienced and more effective Correctional Officer, generally the wage schedule standard for Iowa counties.

2. County of Muscatine Final Position. The County puts forward three arguments to justify their “final position” as the most reasonable.

First, Local 238 was certified as the exclusive representative of Correctional Officers in 1994. The County and the Union entered into their first contract on July 1, 1995. The parties have reached voluntary agreements at various steps of the Iowa dispute resolution system since 1994. The July 1, 2012, re-opener is the first bargaining dispute that has gone to arbitration.

The County has two other bargaining units - Deputy Sheriffs and Secondary Road

Department employees. Local 238 also represents these employees. Since July 1, 2001, the pattern of settlement has been the same for all three units. The wage schedule settlements have been identical in amount, percentage increase, and duration. The deputy sheriff and secondary road employee units both settled for a 2 % hourly wage schedule improvement on July 1, 2012. This bargaining history is a classic example of “pattern” bargaining by the parties, concluded the County.

Given the Union’s “final position” which significantly modifies the Hourly Rate Schedule, the County cautions that such change must be bargained by the parties, in the same manner that it was established by the parties. Not ordered by an arbitration decision.

Second, because the parties have a bargaining history of reaching negotiated settlements, there are no fact finding or arbitration decisions which identified an appropriate comparability “pool” for comparison. The County concluded that a review of arbitrator’s decisions during the last three years would provide some direction. During that period a substantial majority of such decisions used the population of the employer (size) and the geographic location of other similar employers (location).

A comparability “pool” was developed based on all Iowa counties with a population which was 10,000 greater or smaller than Muscatine County. This resulted in an 11 county “pool”- Marion, Sioux, Wapello, Lee, Jasper, Webster, Des Moines, Marshall, Cerro Gordo, Warren, and Clinton.

A comparison of the hourly wage rates paid at the Start, 1 Year, 5 Year, 10 Year, 15 Year, and 20 Year positions suggests that the County has an average hourly rate schedule which is below average from Start through 5 Years and a growing premium at 10 Years through 20 Years. The County concluded that this was the “bargaining” decision made by the parties to favor the experienced employee.

And third, the County submitted extensive data surveying negotiated and arbitrator ordered settlements effective July 1, 2012, for five categories of Iowa county employees.

- deputies and correctional personnel in the 11 county “pool”,
- all county employees in the “pool”,

- all Iowa county deputies and correctional personnel,
- all Iowa county employees.
- all Iowa country and city employees.

The County argues that this data supports it's "final offer" as the more reasonable.

They conclude that the bargaining history of the parties, a comparison of the hourly wage rates of Muscatine County and the 11 county comparability "pool", and the average settlement of all Iowa counties and the "pool" counties confirms the strength of the County's position.

## **DISCUSSION:**

An evaluation of the hearing record and exhibits submitted by the parties to the decision criteria of the Code of Iowa, Section 20.22, Subdivision 9 (2005) results in the following analysis and decision. Neither party entered into the record information concerning criteria "c. The interests and welfare of the public, ..." or criteria "d. The power of the public employer..." of the Code of Iowa.

1. History of Bargaining. The County has a collective bargaining relationship with Local 238 for three bargaining units: Secondary Road Department employees, Correctional Officers of the Sheriff's Department, and Deputies of the Sheriff's Department. The relationship between the parties is generally positive, resulting in prior negotiated agreements being reached for all units.

For the last 12 Fiscal Years nearly identical settlements have been reached covering the three units. These settlements have reflected a similar numerical increase to the Hourly Rate schedules, percentage increases rather than cents per hour ATB, and what appears to be a common contract duration.<sup>12</sup>

The contract re-opener bargaining for FY 2012-2013 (July 1, 2012 through June 30, 2013) resulted in a settlement with the deputy and road maintenance units of a 2%

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<sup>12</sup> County Exhibit Book, No. C-1, p 2.

increase to the Hourly Rate schedule.<sup>13</sup> Given the historical “pattern bargaining” of the parties the County’s “final position” has merit.

2. Comparability. The parties view comparability from different perspectives. Local 238 bases its view on the significant increase in the Correctional Officer’s job duties and responsibilities brought about by the opening of a new County jail. The opening of the new jail brought a basic change in the nature of the work, requiring comparability based on a jail’s:

- number of beds,
- inmate population,
- holding of “federal” prisoners,
- location in South East Iowa, and
- hourly wage system of increasing wage rates based on experience.

The Union concluded that a comparability “pool” composed of Dubuque, Polk, Scott, and Story Counties would meet the above requirements and result in an hourly rate wage schedule based on their “final position”.<sup>14</sup>

The County used a comparability “pool” based on a state-wide measure of population. Eleven counties were identified, based on a population that was either 10,000 greater or smaller than Muscatine. The resulting population of the counties in the “pool” range from Marion (33,309) to Clinton (49,116), with Muscatine having 42,745.

An analysis of the County’s data<sup>15</sup> for the “pool” at the Start Step, 1 YR, 5 YR, 10 YR, 15 YR, and 20 YR (including longevity) suggests that the County’s wage rate schedule - slightly below average at the Start Step through the 5 YR Step, but grows significantly higher on the 10 YR Step through the 20 YR Step of the “pool”.

Building a useful comparability “pool” is challenging, as demonstrated by this case. Multiple combinations of population, geographic local, number of jail inmates, and job duties and responsibilities can be used to formulate a useful comparability

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<sup>13</sup> County Exhibit Book, Exhibit Nos. C2-C4.

<sup>14</sup> Local 238 Exhibit Book, Exhibit No. 2.

<sup>15</sup> County Exhibit Book, Exhibit No. E-8.

“pool”. The Arbitrator has yet to see a truly accurate and useful one for correctional officers. None the less, it is reasonable to conclude that the County’s “final position” is comparable to the 11 county “pool” that it used.

More persuasive was the County’s data concerning the pattern of settlements within the 11 county “pool” and state-wide for Sheriff’s Department personnel. This data establishes that:

- contracts negotiated within the 11 county “pool” during FY 2011-2012 to be effective July 1, 2012, were 6 in number averaging 2.54%,<sup>16</sup>
- contracts negotiated within the 11 county “pool” to be effective July 1, 2012, were 11 in number averaging 2.17,<sup>17</sup>
- contracts negotiated state-wide during FY 2011-2012 to be effective July 1, 2012, were 16 in number averaging 2.12%.<sup>18</sup>

The County’s “final offer” is more reflective of the settlement pattern of Sheriff’s Department employees within the 11 county “pool” and state-wide.

3. Other Relevant Factor. The structure of the existing Hourly Rate wage structure (Article 18) is the result of extensive bargaining by the parties. Changes to that structure are more properly with Local 238 and the County than the Arbitrator. Particularly, when an expiring contract (June 30, 2013) allows the parties the flexibility of wage rate changes, modification to the Hourly Rate schedule, and the length of the contract to be considered by them in crafting a settlement.

**DECISION:**

The Arbitrator concludes that the history of “pattern” bargaining between bargaining units represented by Local 238 and the County supports the County’s “final position”. In addition, the comparables, particularly settlements for 2012-2013 of other Iowa county Sheriff Departments and the comparability “pool” of 11 counties bolsters

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<sup>16</sup> County Exhibit Book, Exhibit F-1.

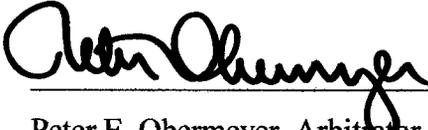
<sup>17</sup> Ibid. Exhibit F-2.

<sup>18</sup> Ibid. Exhibit F-4.

their position.

Accordingly, the County of Muscatine's "final position" with regard to Article 18 Hourly Rate is adopted.

Signed this 6 day of September 2012.

  
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Peter E. Obermeyer, Arbitrator

**CERTIFICATE OF SERVICE**

I certify that on the 6 of September, 2012, the Arbitrator served this Decision on the representatives of the parties by mailing a signed and dated copy to each of them at the following addresses:

Jill Hartley, Attorney  
Previant Law Firm  
1555 North River Center Drive, Suite 202  
Milwaukee, Wisconsin 53212

James Hanks, Attorney  
Ahlers and Cooney  
100 Court Avenue, Suite 600  
Des Moines, Iowa 50309

This Decision was also mailed to the Iowa Public Employment Relations Board on the 6 day of September, 2012.



Peter E. Obermeyer