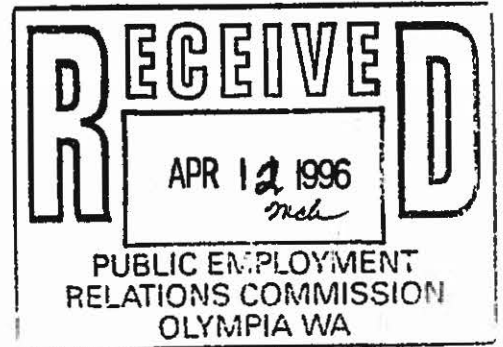


IN THE MATTER OF ARBITRATION )  
BETWEEN )  
TEAMSTERS LOCAL 58 )  
REPRESENTING COWLITZ COUNTY )  
CORRECTIONS OFFICERS v. )  
COWLITZ COUNTY - INTEREST )  
ARBITRATION )

OPINION AND AWARD  
OF  
GEORGE LEHLEITNER  
ARBITRATOR



HEARING: February 15, 1996  
BRIEFS RECEIVED: March 27, 1996  
INTEREST ARBITRATOR: George Lehleitner  
7276 S.W. Beaverton-Hillsdale Hwy. #334  
Portland, OR 97225  
REPRESENTING  
COWLITZ COUNTY: Larry Amburgey, Attorney at Law  
REPRESENTING THE UNION: John Silva, Business Representative

## I. INTRODUCTION

The undersigned was selected as Interest Arbitrator by Teamsters Local 58 (Union) and Cowlitz County (County). The selection was made in accordance with RCW 41.56.450.

A hearing was held on February 15, 1996 in Kelso, Washington. The Union was represented by John Silva, Business Representative and the County by Larry Amburgey, Attorney at Law. Both sides were afforded a full opportunity to make verbal and written presentations and to submit post hearing briefs. The hearing was closed upon the receipt of post hearing briefs on March 27, 1996.

## II. BACKGROUND

The County, a public employer in Southwest Washington, employs approximately 425 represented employees in seven (7) bargaining units and about 175 non-represented employees (TR 30, Exh. C-1). The Union represents a bargaining unit consisting of Corrections Officers (CO's).

The parties' labor agreement covers a two (2) year period from January 1, 1994 through December 31, 1995 and includes a reopener for wages only for 1995. This arbitration arises out of the wage reopener provision. The only issue before me is the appropriate wage adjustment, if any, for 1995.

1. Wages (Appendix A)

The 1994-95 Collective Bargaining Agreement between the parties sets forth wage rates for CO's employed by the County effective January 1, 1994. The beginning salary for a CO (Step 1) is \$2399.00 per month and the highest salary (Step 5) is \$2797.00 per month. COs, who are firearms qualified receive an additional one percent (1%) of their base pay.

1. The Union

The Union is proposing an across the board wage adjustment equivalent to the September 1994 All Cities CPI-W of 3%.

The Union's arguments are summarized as follows:

(1) The appropriate comparators for purposes of determining wage rates are listed in Exhibits U-1 and C-2. These comparators consist of similarly sized counties in Washington, Oregon and California. This list of comparable jurisdictions is based on an Interest Arbitration award rendered by Neutral Arbitrator Michael Beck in 1987 between these same parties. Since that time it has to the Union's knowledge been the practice of the parties to use these jurisdictions as the appropriate west coast comparators during wage negotiations.

(2) Since the County is now suggesting for the first time that three (3) Washington Counties (i.e., Benton, Clallam and Lewis) might be more appropriate comparators, the Union feels compelled to seek an amendment of the comparable list. More specifically, a more appropriate list of comparators, in the Union's view, would consist of all the Washington counties (i.e., Benton, Clallam, Greys Harbor, Lewis and Skagit) as well as the five (5) Oregon counties (Benton, Deschutes, Douglas, Josephine and Linn). The Union proposes to delete the five (5) California counties used in the past because of their distance from Southwest Washington and because in recent years the CPI-W for California cities has been from .5% to 2.5% less than the CPI-W for Seattle and Portland. Once the California counties are eliminated, the average for comparable counties increases to \$2934.00 per month. This average more than supports the Union's proposed wage adjustment of 3%.

(3) One of the statutory criterion the arbitrator must consider is "the average consumer price for goods and services, commonly known as the cost of living." There is no valid reason for awarding anything less than the full CPI-W for September to September as proposed by the Union. In this regard the parties have in the past used the All Cities CPI-W Index, September to September to determine wage adjustments. Any attempt by the County to modify this historical practice should be rejected by the arbitrator.

(4) The County's suggestion as reflected in Exh. C-4 that a twelve (12) month average of CPI figures would be more appropriate as a wage determinant is fatally flawed. Since CPI figures are based on a twelve (12) month period, the County is attempting to base a cost of living increase effective January 1, 1995 on an average change in the CPI over a two (2) year period.

(5) The main problem with the County's contention that a wage adjustment equivalent to 80% of the CPI-W from September is that there is no basis for undervaluing the index in this manner. To the contrary, as Interest Arbitrator Levak pointed out in Spokane County v. AFSCME Local 492, "where comparability data is relatively neutral . . . a current year's increase should be consistent with last year's increase in the appropriate CPI."

(6) Another "red herring" raised by the County is its contention that wage adjustments paid to other County bargaining units are somehow relevant. As Arbitrator Levak noted in the Spokane County award, internal comparability is of limited importance as a wage determinant.

(7) The arbitrator is also authorized to consider "other factors" traditionally relied upon in these types of proceedings. In this case the "other factor" that should be



considered is the increased work load and stress within this bargaining unit. In this regard, the credible testimony of CO Pecha and the statistics compiled in Exh. U-3 establish a continuing increase in inmate population and even more to the point a trend toward incarceration of more violent inmates. These factors together with overcrowding problems in the jail have resulted in a 30% increase in use of force incidents from 1994 to 1995. It is not at all unreasonable for CO's to expect higher wages to compensate them from the increasingly hostile work environment they face every day.

## 2. The County

The County is proposing a 2.5% cost of living increase for 1995.

The County's arguments are summarized as follows:

(1) The applicable statute directs the arbitrator to compare the wages offered by the County with the wages, hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States (RCW 41.56.465(1)(c)(i)). The County's wage offer clearly satisfies this criterion. In this regard, a review of wage rates among the previously agreed upon west coast comparators from Washington, Oregon and California (i.e., Benton, Clallam,

Grays Harbor, Lewis and Skagit counties in Washington; Benton, Deschutes, Douglas, Josephine and Linn counties in Oregon and El Dorado, Kings, Madera, Mendocino and Nevada in California) reveals that the County's offer is very competitive. More specifically, the County's offer would bring the average base wage for COs up to \$16.54 per hour, or to \$16.71 per hour with the 1% bonus for officers who are arms qualified. By comparison, the 1995 average hourly wage for COs among the comparable west coast counties, including all add ons, is only \$16.26 per hour. Thus, the County's offer would raise CO salaries an average of \$.45 per hour above the average total wage for the comparable counties. Nothing more is warranted.

(2) Another factor that underscores the competitiveness of the County's wage rate is the willingness of prospective applicants to seek employment as a CO. In this regard, when the County advertised for a CO opening in January 1996 more than 100 applicants responded in the first week. Similarly, three (3) years ago approximately 300 people applied for a single vacancy.

(3) If one chooses to focus on the local labor market, the County's wage rates compare favorably to those in the five (5) comparable Washington counties (i.e., Benton, Clallam, Grays Harbor, Lewis and Skagit). The Washington counties 1995 average base pay for COs was \$16.09 per hour, which is \$.45

per hour less than the County's proposal for 1995 (Exh. C-1). Even including all add ons, the total average of the Washington counties (including Cowlitz) was \$16.65 per hour, which is \$.06 per hour less than the County's offer (Id).

(4) If one leaves off the high and low Washington counties (Skagit on the high end and Grays Harbor on the low end) the result is the same. More specifically, looking at Benton, Clallam and Lewis Counties their hourly rate for 1995 ranged from a low average of \$12.22 to a high of \$15.94, while the County's base low was \$14.19 per hour and its base high was \$16.54. If add ons are factored in, the three (3) county average is \$.31 per hour less than that of the County (Exh. C-3). What these comparisons clearly establish is that any way the numbers are calculated the County's wage rates are very competitive and its offer satisfies the statutory criterion.

(5) The testimony of Dick Anderson, the County's long time Personnel Director, established that the County is committed to paying competitive wages to all employees but it has no interest in "leading the pack". In view of the competitiveness of the County's wage rates and its offer for 1995, the County has a fiduciary duty to expend its funds wisely and not favor one group of employees over another. The County's offer is consistent with this responsibility.



(6) The County does not question the dedication, hard work and professionalism of its COs. However, the same can be said for persons employed by the County in the numerous other bargaining units as well as for its non-represented employees. The credible evidence clearly established that in recent years work load demands and stress have increased as much or more for these employees as it has for the COs. In this regard from 1994 (when the parties last negotiated agreed upon wage rates) to 1995 there has been no change in the physical layout of the jail and there has actually been a decrease in total bookings (Exh. U-3). Moreover, workload requirements eased in February 1995 when four (4) new officers were added to the work force. Be that as it may, this bargaining unit seeks more than the 2.5% wage adjustment that has already been accepted by all but two (2) of the other County bargaining units, which remain unsettled (Exh. C-1). Clearly, it would not be in the best interest of the taxpaying public for the County to pay a selectively higher wage adjustment to COs than to other County employees.

(7) The Union contends the COs are entitled to 100% of the All Cities CPI-W from September 1994, which is equivalent to 3%. The Union's contention is misplaced for a number of reasons. First, the September 1994 CPI-W has no talismanic qualities. It is nothing more than an arbitrary measure the parties used because their 1995 negotiations commenced in

November 1994. Interestingly enough, it also happens to be the highest indices for the entire 1994 calendar year (Exh. C-4). In hindsight, a more representative figure would have been the yearly average for 1994 which was 2.5%. Second, while the CPI-W figure for September 1994, may have been convenient and available at the time it is not a direct measure of changes to the cost of living at any particular place. For instance, the index includes medical costs which in the case of County employees is misleading because almost all such costs are paid for by the County. Moreover, the truth is that real people make choices and substitute cheaper goods (i.e., margarine for butter) thereby further reducing actual cost of living increases. Third, the arbitrator should reject out of hand the Union's attempt to use the CPI indices for specific West Coast cities as a wage determinant rather than the All Cities index. There is no evidence suggesting that the indices for large suburban areas such as Seattle, Portland, San Diego and Los Angeles are reflective of the cost of living in rural Cowlitz County. Finally, while both parties can argue pro and con as to whether 80% or 100% of the CPI is most appropriate from a statistical standpoint, the fact remains that based on an application of all the statutory criteria the County's proposal is reasonable and should be awarded.

(8) This is not a case where the CO's are seeking "catch up" pay because their wage rates are lower than those of the

comparator jurisdictions. As previously discussed the comparability data reveals that bargaining unit wage rates are, if anything, above average. Moreover, as a practical matter the credible evidence established that in the past the County has been willing to award "catch up" when it has been warranted.

### C. Discussion

The arbitrator's analysis is based on an application of the statutory criteria to the facts of this case. What follows is a summary of the focal points in that analysis.

#### (1) Comparability

Under Washington law the arbitrator is required to compare "the wages . . . of like personnel of like employers of similar size on the west coast of the United States.

Based on this criterion Neutral Arbitrator Beck adopted fifteen (15) comparable west coast counties consisting of five (5) each from Washington, Oregon and California (See, Teamsters Local 58 v. Cowlitz County, April 1987). Apparently the parties have relied on these comparators during their negotiations from that time to the present.

In my view the statutory mandate to compare "like employers of similar size on the west coast of the United States" together with the Beck award effectively eliminates any question as to which comparators should be utilized. In this regard, it may be that more emphasis should be placed on the Washington and/or Oregon comparators because they are in the same labor market as Cowlitz County but this is more a question of relative ranking than one of what comparators are appropriate.

As the County correctly observes, its wage offer of 2.5% maintains the County's favorable ranking among the fifteen (15) comparator jurisdictions. More specifically, the County's proposed wage adjustment of 2.5% would produce an hourly wage, including add ons, of \$16.71 for Cowlitz County as compared with a \$16.26 average for the comparator jurisdictions. It follows that the County's proposal produces a fair and equitable wage insofar as the criterion of comparability is concerned.

(2) The Cost of Living

The Union citing an award rendered by Arbitrator Levak in Spokane County v AFSCME Local 492 argues that where the comparability data is relatively neutral, a current year's increase should be consistent with last year's increase in the appropriate CPI.

Generally speaking, I concur with the principle expressed by Arbitrator Levak. However, in my view the principle is not controlling in this case because other factors such as comparability and internal equity come into play. As previously discussed, the factor of comparability supports a finding that the County's proposed wage adjustment produces a wage that compares favorably with wages paid by the comparator jurisdictions. Moreover, as will be discussed elsewhere in this award a wage adjustment of more than 2.5% would be inconsistent with wage adjustments previously accepted by other employees and as such would not be in the public interest. And finally, a somewhat unique aspect of this case is that in the past the County has consistently maintained competitive wage rates without providing across the board adjustments equivalent to the CPI by paying selective, "catch up" increases when appropriate (See generally C-1 and C-2). While this practice may be viewed as somewhat unusual, the point is that bargaining unit wage rates have remained competitive as compared with those of comparable jurisdictions.

### (3) Other Factors

As previously suggested, the criterion of "other factors . . . traditionally taken into consideration in the determination of wages" comes into play in this case.



The first such factor is workload. As the Union correctly observes the job of a CO has become increasingly difficult in recent years. In this regard even though the number of inmate bookings has actually decreased since 1992 it is apparent to me that COs are having to deal with more violent offenders than in the past. This coupled with overcrowding in the jail has certainly increased stress levels.

On the other side of the coin, the credible evidence established that COs are not the only County employees faced with an increasing workload. To the contrary other County employees such as members of the Planning, Road and Building departments are having to deal with similar workload increases but they have already settled for a 2.5% wage adjustment for 1995. Under these circumstances it is difficult to justify a larger increase for COs particularly when a review of the agreed upon external comparators show that they are already receiving competitive wages.

The other factor that is particularly germane under the facts of this case is the interest and welfare of the public as it relates to parity between the wage rates of COs and other County employees. Generally speaking, it is in the interest and welfare of the public to pay competitive wage rates so that the public employer can attract and retain qualified employees. As previously stated, the credible evidence in this case establishes that the County pays competitive wages and has been able to recruit and

retain qualified employees within the local labor market. Moreover, while there is no hard and fast rule that all County wage rates must remained in "lock step," it is generally not in the interest and welfare of the public to pay higher (or lower) wage rates to one particular group of employees absent special circumstances justifying such treatment. In this case, the vast majority of the County's employees, including at least one non-strikeable unit, have settled for the 2.5% cost of living increase offered by the County. Moreover since at least 1988 the County has consistently offered the same across the board wage adjustments (except for selective "catch up" increases) to all employees (Exh. C-1). Under these circumstances, it would not be in the interest and welfare of the public to adjust CO salaries in 1995 by more than 2.5%.

(4) Summary

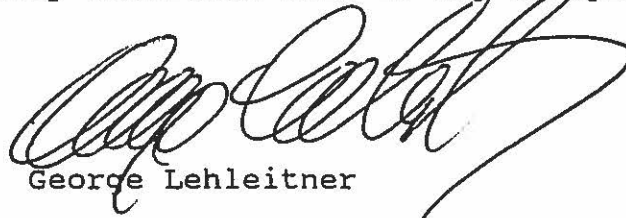
Under Washington law an interest arbitrator is required to consider all of the relevant criteria set forth in RCW 41.56.465(1). When this is done it is apparent to me that the factor of comparability strongly supports the County's position. In this regard, with the 2.5% wage adjustment proposed by the County, the COs will maintain their favorable ranking among the west coast comparators historically used by the parties to determine wage rates. And while it is true that the County's offer is only a little more than 80% of the September to September All Cities CPI-W, it is also true that the parties have in the past utilized

a similar formula. Even more to the point, the County's 2.5% is consistent with the basic adjustment provided to all other County employees, who have settled for 1995. Under these circumstances, I conclude that an application of all the relevant statutory criteria to the facts of this case supports the County's position.

D. Award

Adopt the County's wage offer.

Respectfully submitted this 10 day of April, 1995,

A handwritten signature in black ink, appearing to read "George Lehleitner", written in a cursive style.

George Lehleitner

Interest Arbitrator