

BEFORE THE ARBITRATOR

In the Matter of the Arbitration  
of a Dispute Between

KENOSHA COUNTY, Wisconsin

and

LOCAL 990 (JAIL STAFF), WISCONSIN  
COUNCIL 40, AFSCME, AFL-CIO

Grievance #94-990J-004  
of Julie Crawford regarding  
denial of Relief Cook vacancy

WERC Case 141  
No. 51427  
MA-8607

Appearances:

Ms. Debra Bursinger, Assistant Kenosha County Corporation Counsel, 5512 - 60th Street,  
Kenosha, WI 53140, appearing on behalf of the County.

Mr. John Maglio, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, PO Box  
624, Racine, WI 53401-0624, appearing on behalf of the Union.

ARBITRATION AWARD

The parties jointly requested that the Wisconsin Employment Relations Commission designate the undersigned Marshall L. Gratz as Arbitrator to hear and determine a dispute concerning the above-noted grievance under the grievance arbitration provisions of their 1992-94 collective bargaining agreement (herein Agreement).

The parties presented their evidence and arguments to the Arbitrator at a hearing held at the Sheriff's Conference Room in Kenosha, Wisconsin, on November 30, 1994. The hearing was not transcribed, but the parties agreed that the Arbitrator could maintain an audio tape recording of the evidence and arguments for his exclusive use in award preparation. The parties summed up their positions on the record at the conclusion of the hearing, marking the close of the record.

STIPULATED ISSUES

At the hearing, the parties authorized the Arbitrator to decide the following issues:

1. Did the County violate the Agreement when it failed to award the Relief Cook position to Julie Crawford in June of 1994?
2. If so, what is the appropriate remedy?

PORTIONS OF THE AGREEMENT

ARTICLE I - RECOGNITION

. . .

Section 1.2. Management Rights: Except as otherwise provided in this Agreement, the County retains all the normal rights and functions of management and those that it has by law. Without limiting the generality of the foregoing, this includes the right to hire, promote, demote or suspend or otherwise discharge or discipline for proper cause; the right to decide the work to be done and the location of work; to contract for work services or material; to schedule overtime work; to establish or abolish a job classification; to establish qualifications for the various job classifications; however, whenever a new position is created or an existing position changed, the County shall establish the job duties and wage level for such new or revised position in a fair and equitable manner subject to the grievance and arbitration procedure of this Agreement. The County shall have the right to adopt reasonable rules and regulations. Such authority will not be applied in a discriminatory manner. The County will not contract out for work or services where such contracting out will result in the layoff of employees or the reduction of regular hours worked by bargaining unit employees.

. . .

ARTICLE VII - JOB POSTING

. . .

Section 7.1 Procedure: Notice of vacancies which are to be filled due to retirement, quitting, new positions, or for whatever reason, shall be posted on all bulletin boards within five (5) work days; and employees shall have minimum of five (5) workdays (which overlap two (2) consecutive weeks) to bid on such posted job. The successful bidder shall be notified of his/her approximate starting date within five (5) workdays.

. . .

Section 7.3 Seniority - Filling Vacancies: In filling a vacancy, the qualified employee signing with the greatest seniority in the Sheriff's Department shall be awarded the job.

...

Section 7.7 Failure to Qualify on New Job: An employee who fails to have the ability to handle a job obtained through job posting during his/her probationary period shall return to his/her former job.

...

Section 7.8 Union Notification: Whenever a posted position has been filled by hiring from the outside, the Union shall be notified.

...

#### ARTICLE XXII - MAINTENANCE OF BENEFITS

Section 22.1: Any benefits received by the employees, but not referred to in this document, shall remain in effect for the life of this Agreement.

#### BACKGROUND

The County's Sheriff's Department operates a kitchen at the County Jail. The Union has for many years represented a unit of non-sworn Jail Staff personnel including Cooks, Relief Cooks, Booking/Control personnel and Jailers. AFSCME also represents other bargaining units of County employes, including a bargaining unit of nonprofessional employes employed at the County's Brookside nursing home facility represented by Local 1392.

The subject posting (No. 990J-94-008) went up in all 27 County Departments on April 12, 1994 with a closing date of April 18, 1994. It read in pertinent part as follows:

...

RELIEF COOK - Sheriff's Department - May Work Any of the Three Shifts (May Perform Duties at Public Safety Building or Other Locations)

RATE OF PAY: \$10.46 -12.99 per hour

VACATED BY: Theresa Gigliotti

NATURE OF WORK: This position performs routine cooking duties in the preparation and serving of meals for a large number of jail inmates. Duties may include some or all of the following: Washes, peels, and slices fruits and vegetables; prepares and cooks

meats; prepares soups and salads; and bakes breads. Portions food in compliance with nutritional standards. Sets up food on steam tables and delivers food to cell blocks. Picks up serving trays and eating utensils from cell blocks, keeping accurate inventory of these items. Washes and dries dishes, pots and pans, serving trays, utensils, steam carts, etc. Cleans floors and work tables. Sanitizes serving carts. Cleans stoves, grills, mechanical mixers, kitchen utensils, kettles, and steam cookers. Estimates quantities of food and supplies needed to meet menu requirements. Determines utilization of leftovers. Keeps food stored in proper containers. Performs other duties as required or assigned.

**QUALIFICATIONS:** Knowledge, skill, and mental development equivalent to graduation from high school, supplemented with experience in the preparation of food on a large scale basis; or any combination of education, training, and experience which provides the required knowledge, skills, and abilities. Knowledge of large scale food preparation and cooking methods. Knowledge of sanitation regulations relating to the handling and preparation of food. Familiarity with special diets. Ability to follow oral and written instructions. Ability to work cooperatively with others. Requires a background free of criminal convictions. Must be able to work any of the three shifts.

**APPLY:** Any interested Local 990 Jail Staff member may indicate his/her desire for this position by signing a copy of this posting in the Personnel Office no later than the closing date above.

**SELECTION PROCESS:**

- 1) Application Review - Qualifying.
- 2) Preliminary Background Investigation - Qualifying
- 3) Oral Interview - Qualifying.
- 4) Full Background Investigation - Qualifying.
- 5) Physical Examination - Qualifying.

Five County employees including the Grievant expressed an interest in the position. The five were interviewed on the morning of May 18, 1994 by a six-member interview panel. The panel consisted of Captain David McRoberts and Lieutenants Thomas Puidokas and Mark Schlecht from Sheriff's Department administration, Personnel Department Senior Personnel Analyst Diane Yule and an outside dietary specialist, Mary Jane Haugaard-Lippert. Each applicant was asked each of the following questions:

1. Why did you apply for the position of Cook?
2. Tell us about any past training and/or work experience

you have had in this field.

3. Describe the types and sizes of kitchen equipment you have used. Explain the circumstances - where, for how long, type of operation, etc.

4. Describe a well-balanced menu for breakfast, lunch, and dinner.

5. List four (4) sanitation concerns/requirements in the operation of an institutional kitchen.

6. [a] State four (4) food items that would not be given to a person on a salt-free diet.

6. [b] State four (4) food items that would be foods of choice for a salt-free diet.

7. [a] State four (4) food items that would not be given to a person on a diabetic diet.

7. [b] State four (4) food items that would be foods of choice for a diabetic diet.

8. Here is a copy of an actual menu that would be used in the jail. Describe all requirements for preparation from scratch (supplies needed, how to prepare, timing, etc.).

9. Are you physically capable of doing repetitive heavy lifting and carrying of items weighing up to 50 pounds?

10. Have you ever had any allergic reactions when using cleaning chemicals?

11. Would working various shifts present any difficulties for you? Why?

12. What two (2) personal strengths would you bring to this job?

13. List two (2) things you would like to improve about yourself relative to this job.

14. Have you ever been disciplined or terminated from any of your previous jobs? If so, please describe.

15. Why do you want to leave your present position?

The panelists occasionally asked some follow-up questions, as well. Each panelist made notes of each applicant's responses to each question. After all five interviews were concluded, the panel discussed their opinions about whether each applicant was qualified for the position and then each panelist wrote his/her opinion whether the applicant was qualified or unqualified along with a brief statement of reasons.

The interview schedule established and followed listed the applicants as follows:

8:30 a.m.	Lila Dorn	(Brookside - 2nd consideration)
9:10 a.m.	Claudette Smith	(Brookside - 2nd consideration)
9:50 a.m.	David Lienau	(temporary - 3rd consideration)
<b>10:30 a.m.</b>	<b>Julie Crawford</b>	<b>(Local 990J - 1st consideration)</b>
11:10 a.m.	Janice Anderson	(temporary - 3rd consideration)

Pursuant to the County's established selection procedures, Grievant was boldfaced because she was the only (and hence the most senior) non-temporary Sheriff's Department employe who applied for the position. As such Grievant was entitled to be selected for the position if she was qualified for it. Hence she was identified as entitled to "1st consideration." Only if the panel found Grievant not qualified could it select an individual identified as entitled to "2nd consideration", and only if they were found not qualified could the panel select the an individual identified as entitled to "3rd consideration."

During the course of that process, the panel as a whole (and each of its members individually) found that Grievant was not qualified for the position, and the panel ultimately selected Claudette Smith for the position.

The subject grievance was signed and processed by both Grievant and Union Chief Steward Kathleen Shidagis, challenging Grievant's non-selection. The grievance asserted that the County's failure to select Grievant for the Relief Cook position violated Secs. "1.2 Management Rights - Just Cause, 7.1 Job Posting Procedure, 7.3 Seniority - Filling Vacancies, 7.8 Union Notification, and 22.1 Past Practice." That grievance remained unresolved and was submitted to arbitration as noted above.

At the hearing the Union presented testimony by the Grievant and Shidagis. The County responded with testimony by Yule, Schlecht, McRoberts and Hauppert-Lippert.

Grievant testified that she has been employed by the County exclusively as a Jailer since being hired in April of 1982. As a Jailer, Grievant's base wage rate is 68 cents per hour higher than that for the Relief Cook position for which she applied. Grievant described her prior institutional food service experience as consisting of work at the former Zion Benton Hospital and at ARA Services. Grievant worked at Zion Benton as a dietary assistant from 1973 through May of 1976, prior to her graduation from high school in 1977. (Exhibit 4) That work was apparently part-time (4 hours per day) at least during each school year. As a dietary assistant at the hospital,

Grievant worked under the direction of the hospital's cooks preparing and placing on trays food for patients, staff and visitors. From May of 1976 through July of 1979 Grievant worked full-time for ARA Services, first as an Assistant Cook and then for about a year as a Cook. She worked in ARA's vending and catering kitchen preparing and packing large quantities of such foods as chicken, spaghetti, ham salad and cole slaw. Grievant would be told, for example, to prepare enough ham for 300 ham sandwiches. Grievant would determine how much ham to prepare and would prepare it in accordance with ARA's recipes.

Grievant testified that her ability to answer the interview questions was very much affected by her preoccupation about injuries her husband had suffered the day before the interview. Grievant received a message the night before the interview that her husband, who was working in Portland Maine, had fallen from a scaffold and suffered broken ribs and a shattered arm. With no other information about her husband's whereabouts, Grievant was unable to contact him or obtain further information about his condition as of the time she was interviewed. Grievant stated that her resultant emotional condition caused her to leave the interview in tears at one point. She returned to answer what she thought were the three or four remaining questions after Captain McRoberts spoke privately with her and assured her that she was doing fine in the interview. Grievant testified that she would have welcomed a rescheduling of the interview because of her state of mind, but that she returned to complete the interview because neither McRoberts nor any of the rest of the panel offered to reschedule it.

Shidagis testified that she has been a Cook in the Jail kitchen for four years and that she has been acting as Chief Cook (though without an increase in pay) due to the lengthy absence of the incumbent Chief Cook. In the latter capacity, Shidagis provided a menu to Capt. McRoberts at his request. Shidagis could not recall why McRoberts told her he was asking for the menu. However, because she surmised that McRoberts was attempting to determine whether Grievant was able to develop an impressive menu, she prepared a menu for which the Jail kitchen is neither currently staffed nor equipped to prepare. Shidagis learned later that the Wednesday lunch meal was used as part of the interview questions given to the Relief Cook applicants. Shidagis testified that that meal is one which was not typical of a Jail meal, and that it could not have been prepared by the existing Jail kitchen staff and equipment.

Shidagis also testified that the Jail Nurse gives oral or written directions regarding special dietary needs of particular individuals. Kitchen personnel can then obtain information about how to meet those needs by referring to a booklet on the subject available in the Jail kitchen and by discussions with the Chief Cook, the Nurse and co-workers. Shidagis also stated that when she recently bid and was interviewed for the Chief Cook position, she was asked questions about diet and menu but nothing about how to do special diet meals.

Finally, Shidagis testified that when she came to the Jail kitchen after 10 years as a Cook at Brookside, she found the Jail kitchen operation was quite different than that at Brookside. As a

result, she found it necessary to ask questions of the Chief Cook and her co-workers every step of the way. Shidagis also testified that Claudette Smith has been asking her and other co-workers such questions each time Smith encounters a meal item that she has not previously prepared at the Jail kitchen.

Yule testified that the subject posting and selection processes were undertaken consistent with County practice in all respects. The posting was materially the same as that used for a Relief Cook vacancy in 1990. Yule and McRoberts developed the interview questions relating to cooking and diet based on the contents of the posting.

Yule stated that to be qualified an applicant had to come to the Relief Cook position with a basic foundation of knowledge and skill of the sort that would be derived from working as a cook in a facility similar to the Jail kitchen. In that way, the employee would need to learn only the particular routines of the Jail kitchen but would not need to develop or redevelop basic knowledge regarding diets and cooking skills, as well.

Yule said she found Grievant's answers to questions 4, 5, 6, and 13 unsatisfactory for the following reasons. Grievant answered #4 by stating that she did not know the criteria for a well-balanced breakfast, but she offered as examples, cereal, milk, bread for breakfast, vegetable, fruit, 2 slices bread, milk, coffee for lunch and a sandwich and fruit treat for supper. Grievant answered #5 by stating hair (nets), hands, counter tops and equipment. In response to #6.a., Grievant rolled her eyes, commented that it was a "pretty good question," came up with pretzels and Chinese food and concluded "I don't know." In response to #6.b., Grievant said "I have to learn some things" and that it was "Very hard for me to tell you." In response to #13, Grievant identified "my knowledge of diets" and "cooking skills" as two things she would like to improve about herself relative to the job. Yule also noted that Grievant's interview responses indicated that she was interested in the Relief Cook position as a means of getting out of her current Jailer position which she found stressful, rather than viewing Relief Cook as a job she would be enthusiastic about doing.

Yule recalled that Grievant became tearful and evidently emotional during her answer to the concluding question #15. Grievant paused during that answer to dry her eyes with a tissue and went on to conclude her answer. She then left the room before the interview was formally concluded, was spoken to privately by McRoberts briefly, returned to the interview room and was told that the interview was complete and that she would be contacted later regarding the results. Grievant did not ask for a reinterview on account of her emotional condition, and Yule saw no reason why a reinterview was needed in the circumstances so she did not suggest one.

Yule stated that, consistent with the County's longstanding and uniform practice, the Union was not notified of Smith's selection because, as an existing County employee, Smith is considered by the County to be an "internal" applicant and therefore not someone being hired "from the outside" within the meaning of Sec. 7.8.

Yule asserted McRoberts and Schlecht run the day to day operations of the jail and "know what it takes to run a kitchen" even though it may be that neither of them has institutional cooking experience or expertise. Yule admitted that the panel learned of Grievant's prior cooking experience only from her responses to interview questions because Grievant had not listed that experience on her last previous application for County employment as a Deputy. Yule also admitted that the panel did not contact Grievant's former employers to verify or determine the nature of the food service work she performed for them. Yule asserted that based on Grievant's responses or lack of responses to various interview questions, Yule concluded that Grievant did not have the sort of experience as a cook in a 7-day, 3 meals/day institutional setting that the County was looking for.

McRoberts testified that although he had asked Shidagis for a copy of a standard jail menu, he learned after the interviews were completed that what he received and what was used as the basis for question #8 was more demanding than a typical jail lunch menu.

Schlecht testified that the Relief Cook sometimes works with other Cooks on the first shift or with one or no other Cooks on the second shift. By necessity, when the Relief Cook works alone, the menu prepared is reduced or simplified (e.g. to soup, sandwich and beverage) to permit it to be prepared and cleaned up after during the shift. Schlecht concluded, that Grievant did not have the knowledge to step in and do the job. He found unsatisfactory her answers to #5, 6.a., 6.b. and 7 because they were only partial or because Grievant was unsure or in admitted need of brushing up. Schlecht's notes indicate Grievant's response to #5 was "hair, hands, clean countertops & equipment;" to #6.a., "pretzels / Chinese food pretty salty / I don't know"; to #6.b., buttered noodles / I would have to be refreshed on such knowledge - Have difficulty separating knowledge of what Jail Staff currently does and what I would say sitting here"; to 7.a., "sweet stuff/ peaches w/ heavy sauce - sugar packets for coffee - diabetic jellies"; and to 7.b. "Fresh fruit, cheeses, fishes, milk & juice." He also noted that Grievant herself acknowledged in response to #13 that her job knowledge about diets and her cooking skills were two things she would like to improve about herself relative to the position.

Hauppert-Lippert testified that she holds a BA degree in Hospital Dietetics and Food Service Management, has had 30+ years experience as a Hospital dietitian and occasional substitute cook, and has had further experience as a dietitian consultant for the County at Brookside and for other businesses regarding their food service operations. She states that she reviewed the questions and found them reasonable and appropriate for the Relief Cook position. She found Grievant not qualified based on responses that indicated that Grievant lacked what Hauppert-Lippert considered matters of common knowledge for a cook in an institutional food service setting. She also stated that compared to the other applicants, Grievant's answers were more hesitant and not as smoothly given. Grievant's work as a Dietary Aide at the Hospital while

she was in high school is not the same as working as a true cook in a 7-day 3 meals/day institutional setting. In addition, Hauppert-Lippert stated that food preparation requirements change over time, making the recency of an applicant's food service experience important. She acknowledged that she had not personally looked at the Jail kitchen but knew that there were big differences between the Jail kitchen operation and that at Brookside as regards such matters as the type of equipment available, the size of the kitchen facility, the items typically on the menu, and the types of modified diets that needed to be provided. For that reason, even an experienced Brookside Cook would need an opportunity to adjust to the procedures and routines in the Jail kitchen. However, a qualified applicant should not need training or brushing up on the basics of cooking and diets. In her opinion, Grievant's lack of experience and knowledge would make it much more difficult for her to adjust to the Relief Cook work than it would be for an experienced large scale food service cook to do so.

### POSITION OF THE UNION

The County violated Secs. 7.3 and 7.8 by its failure to award the Relief Cook position to the Grievant in June of 1994. Grievant was the senior qualified applicant and should have been selected. In addition, the County violated Sec. 7.8 by failing to notify the Union, i.e., Local 990 (Jail Staff), that it had selected an applicant from outside of the Jail Staff bargaining unit. The Union is not aware of or bound by a practice of applying Sec. 7.8 only to selections of individuals outside the County's employ.

Grievant met the minimum qualifications for the position as set forth on the posting. It is her qualifications compared to those specified in the posting that controls this case, not a comparison of Grievant's qualifications with those of the individual selected by the County.

Grievant's answers at the interview showed that she had the necessary prior cooking experience. That experience was also referred to on Grievant's application for initial County employment, but the County did not review that document at any time during the selection process. Nor did the County contact the previous employers for whom Grievant performed food service work to determine the nature of the work she performed for them. The posting specified no minimum amount of past experience and no maximum time period within which that experience was to have been obtained.

The interview panel, by its nature, was not capable of fairly assessing Grievant's qualifications. It consisted of four individuals with no real experience or knowledge regarding food preparation and a fifth individual with no knowledge of the County's jail. In the absence of a Chief Cook to include on the panel, the County should have included the Acting Chief Cook even though that was Union Chief Steward Shidagis. Moreover, the interviewers improperly asked Grievant how she would prepare a menu that was not typical of meals actually prepared and served in the County's Jail. The interview was also flawed because Grievant was under a serious emotional strain when interviewed. When Grievant became visibly emotional during the interview because of uncertainty about her husband's injury and condition, the interviewers could have but did not either offer her an opportunity to continue her interview at another time or give her the benefit of the doubt because she had been under such a strain. Rather, a panel member assured

her that she was doing fine in the interview, and Grievant went ahead with the balance of the interview without knowledge that a postponement was possible.

The evidence shows that no one could be expected to come into the Jail kitchen and perform the Relief Cook job without some orientation. Indeed, Sec. 7.7 recognizes the possibility that an employee may, during his/her probationary period, fail to have the ability to handle a job gained through job posting. With regard to the Jail Relief Cook position, the evidence shows that institutional kitchens do many things differently. The Jail kitchen's methods differ even from those used at the County's Brookside facility. New Jail Cooks and Relief Cooks always become oriented by asking the supervisor or co-workers not only how to meet special diets but also how many of the other tasks are done in the Jail kitchen. With her experience and the customary opportunity to ask questions of co-workers, Grievant would have been able to perform the duties of the position. She could have met the needs of individuals on special diets by obtaining information from co-workers, from the Nurse, from the Dietician and from an existing and available booklet regarding special diets. For those reasons, the emphasis on special diets in the interview questions and on the nature of Grievant's answers to those questions was unnecessary and inappropriate.

The County should therefore be ordered to immediately offer the Relief Cook position to the Grievant.

#### POSITION OF THE EMPLOYER

The County has the right to establish minimum qualifications and to assess applicants' qualifications to see whether they meet the established minimums. The evidence shows that Grievant did not meet the established minimum qualifications and, specifically, that she lacked the knowledge required by the posting.

The precise nature and extent of experience needed to perform the duties of the position were not and cannot be expected to be specified on the posting. The nature and length of Grievant's experience in institutional food service work is one reasonable guide as to her knowledge about such work. The interview panel learned of Grievant's prior food service experience during the interview and gave it consideration. Grievant's prior food service experience was derived 15-20 years ago. There have been substantial changes in nutritional standards since Grievant last worked in institutional food service. Grievant's primarily part-time work for the hospital as a high school student is not comparable to full time work as a cook in an institutional setting. Grievant's work for ARA Services was in a catering and vending setting that differs significantly from the demands of a 3-meal a day, 7-day per week institutional food service operation such as that in the Jail kitchen. The impact of Grievant's lack of experience as a cook on her knowledge and skill base were corroborated by her inability to adequately answer questions which the outside food service person on the panel considered reasonable and matters of common knowledge for an institutional food service cook. Each of the five panel members

concluded that Grievant was not qualified, and the arbitration hearing record supports their conclusion.

It is true that even an employe with years of recent experience at the County's Brookside food service operation needs some time and assistance in becoming oriented to the way things are done in the Jail kitchen. However, given her time away from institutional food service work and the limited nature of her food service experience generally, Grievant's adjustment to the Relief Cook's position would have been significantly longer and harder than the demands of the position could permit. The Relief Cook position requires someone who can step in and, with limited orientation, perform the duties of the job. The Relief Cook's work includes preparing meals to meet special dietary needs based on written slips specifying only such directions as "low salt" or "diabetic," etc. The Jail kitchen's staffing situation requires an applicant who can perform the full range of Relief Cook functions independently without a lengthy and difficult period of refamiliarization with the basics of cooking in an institutional food service setting. The meals must be prepared and the work related to them completed properly and on time shift in and shift out, 7 days per week. The contractual probationary period referred to in Sec. 7.7 is not designed to provide an applicant with training in the basic skills of the job, but rather only to permit the employe to adjust to and become oriented to the peculiarities of the way the work is performed in the Jail kitchen.

The interview process gave the panel a fair basis on which to judge Grievant's qualifications. Grievant did not become emotional until the panel reached the last of the 15 questions. Grievant's emotional upset was understandable in the circumstances, but it did appear to affect her ability to answer the interview questions until the very end of the interview. Then, following a short break the interview was completed. Grievant did not ask to reschedule her interview. It was not the panel's responsibility to offer or propose that the brief remaining portion of her interview be postponed.

Accordingly, Grievant's non-selection did not violate Sec. 7.3.

Section 7.8 was also not violated. The County has always treated "outside" to mean outside the employ of the County. Thus, the County over the years has not notified Local 990 (Jail Staff) when County employes outside the Jail Staff unit have previously been selected for Jail Staff bargaining unit positions. Consistent with that practice, the County did not notify the Jail Staff Union that it had selected Smith because Smith was an "internal" candidate then employed by the County at Brookside and represented by AFSCME Local 1392.

The grievance should be denied in all respects.

## DISCUSSION

Resolution of the STIPULATED ISSUES appears to involve only a determination of whether Grievant was qualified for the Relief Cook position within the meaning of Sec. 7.3. Neither of those issues can fairly be said to turn on whether the County violated Sec. 7.8 by not notifying the Union of Grievant's non-selection. The Union has not shown that its ability to challenge Grievant's non-selection was in any way adversely affected by the County's failure to notify it of Smith's selection. Accordingly, the Arbitrator does not find it necessary or appropriate to decide whether Sec. 7.8 was violated in the instant situation.

As the Union correctly points out, Sec. 7.3 calls for a comparison of Grievant's qualifications with the minimum qualifications established for the position, and not with the qualifications of any other applicant.

In determining whether Grievant was qualified for the position, the Arbitrator does not find it appropriate to give significant weight to the ultimate opinion of the County's interview panel for four reasons. First, the County's selection process had the panel members interview 2nd and 3rd consideration applicants before it interviewed and determined the qualifications of the Grievant, presenting the possibility that the panel's judgments about the Grievant's qualifications were affected by comparisons with the qualifications of one or more of the earlier-interviewed applicants. In that regard, Haugaard-Lippert drew a comparison in her testimony between Grievant's hesitancy in answering questions with the smoothness with which other of the applicants had answered them. Second, the Union has shown that the menu on which question #8 was based was more demanding than a typical Jail kitchen lunch and that as currently staffed and equipped the Jail kitchen could not produce the meal specified. Third, the panel did not include anyone with experience cooking in the Jail kitchen, and the outside specialist had not looked at the Jail kitchen. Fourth and finally, that approach will permit the Arbitrator to consider any additions or corrections to her interview question responses that Grievant might offer at the arbitration hearing to avoid any adverse impact on her answers associated with the emotionally trying circumstances that existed for Grievant when she was interviewed.

For those reasons taken together, the Arbitrator finds it appropriate in this particular case to independently review the Grievant's qualifications based not only on the evidence regarding her interview responses but also on any other evidence adduced at the arbitration hearing that bears on whether Grievant was qualified for the position.

Upon consideration of all of the evidence presented at the arbitration hearing, the Arbitrator is satisfied that Grievant has been shown to be not qualified for the position.

The posting requires that the applicant possess, among other things, "Knowledge of large scale food preparation and cooking methods" and "Familiarity with special diets." The County used materially the same posting as was used for a Relief Cook position in 1990, and the Union has not persuasively demonstrated that its contents are not reasonably related to the work of the position involved. While the assistance of co-workers and others is often available, the evidence establishes that the Relief Cook is at times required to produce meals independently, without the

benefit of co-workers being present to answer questions. In light of the importance of prompt and satisfactory meal preparation to the operation of the Jail as a whole, the reasonableness of the County's posted qualifications for Relief Cook is amply supported by the record evidence.

While the posting does not prescribe specific time minimums regarding the length or recency of the "experience in the preparation of food on a large scale basis" it refers to, it does require that the applicant possess "any combination of education, training, and experience which provides the required knowledge, skills and abilities" elsewhere listed in the posting. Accordingly, it is reasonable and appropriate for the County to minimally require that an applicant have a combination of education, training and experience that is sufficiently demanding, lengthy and recent to provide the knowledge, skills and abilities elsewhere listed in the posting.

Besides her high school education and experience cooking at home, the only education, training and experience in large scale food service work identified by Grievant during the interview and at the arbitration hearing was as a hospital dietary assistant during her high school years and as a catering and vending assistant cook and cook for ARA Services. That experience is both limited and quite dated, for the reasons noted by the County.

In addition, Grievant's answers to some of the specific interview questions (particularly #4, 6.a., 6.b.) indicate that the passage of time has diminished the knowledge about cooking in an institutional setting Grievant had from her prior experiences. The Grievant's arbitration hearing testimony did not offer different or more complete answers than those Grievant gave at the interview. The record establishes that those questions are relevant for a position of this kind, even though, as the Union points out, a Relief Cook would have various sources of information regarding meeting special diet needs and for performing the duties of the job generally. The Arbitrator finds persuasive Hauppert-Lippert's testimony that a person experienced in large scale food preparation should be able to answer those questions confidently and completely. It is also significant that in response to #13, Grievant identified her knowledge of diets and her cooking skills as two things she would like to improve about herself relative to the Relief Cook job. The honesty of Grievant's #13 responses is surely to be commended. However, the nature of that response constitutes an additional persuasive indication that Grievant lacks the knowledge and skills necessary to perform the Relief Cook job.

While a period of adjustment and orientation to Jail kitchen equipment and methods would apparently be necessary for any qualified applicant unfamiliar with the Jail kitchen, the record establishes that Grievant would need a significantly different and more intensive brushing up on the basic knowledge and skills needed to succeed in the job.

For all of the foregoing reasons, the Arbitrator concludes that the Grievant was not qualified to perform the work of the Relief Cook position.

Agreement Section 1.2 reserves to the County the right "to establish qualifications for the various job classifications" and Sec. 7.3 provides that "the qualified employee signing with the greatest seniority in the Sheriff's Department shall be awarded the job." In light of those provisions, neither Sec. 7.7 nor any of the Agreement provisions cited in the grievance requires

the County to select an employe who lacks the minimum qualifications for the posted position.

The subject grievance is therefore without merit.

DECISION AND AWARD

For the foregoing reasons and based on the record as a whole it is the DECISION AND AWARD of the undersigned Arbitrator on the STIPULATED ISSUES noted above that:

1. The County did not violate the Agreement when it failed to award the Relief Cook position to Julie Crawford in June of 1994.

2. Accordingly, the subject grievance is denied.

Dated at Shorewood, Wisconsin

this 6th day of March, 1995 by

Marshall L. Gratz /s/

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Marshall L. Gratz, Arbitrator