

GRIEVANCE ARBITRATION ISSUES IN LAW ENFORCEMENT: THE WISCONSIN EXPERIENCE

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ABSTRACT

This exploratory study examines grievance arbitration cases involving municipal and county sheriff's law enforcement agencies and unions in Wisconsin that had requested arbitration through the Wisconsin Employment Relations Commission (WERC). Using official data ($n = 141$ cases) from WERC for 1994 to 2004, this study provides a profile of the types of cases brought to arbitration in Wisconsin according to dispute or issue, agency, union affiliation, and award outcome. Statistical analysis of the data found that county sheriff's agencies had a statistically significant higher number of cases brought to arbitration in comparison to municipal agencies. When controlling for specific issues, unions were more successful in issues that dealt with economic issues and employee terminations than employers. The findings also show that there were no statistically significant differences between unions affiliated with state-level or national unions in outcome success in comparison to independent-based unions.

In any organization, controversies often arise between management and employees over work-related issues. In unionized settings, employees have an established contractual process that exists in the collective bargaining agreement to pursue

perceived violations of employee rights. While these employee rights exist throughout the collective bargaining agreement, the machinery or process that allows an employee to pursue a perceived wrong is found in the grievance clause of the collective bargaining agreement. This right's arbitration clause can be considered the "living contract," as it allows the grieving party or parties a voice in the workplace. If the dispute goes unresolved, this clause also allows for the collective bargaining agreement to be interpreted by an arbitrator who is a neutral third party, bringing industrial democracy to the workplace.

The use of rights or grievance arbitration in the workplace is not new. The origins of modern arbitration can be traced back to the early 1900s to the Anthracite Board of Conciliation, which was created after a major strike in the coal industry in 1903 and the Protocol of Peace instituted by the garment industry in 1910 [1]. Both of these protocols called for the use of arbitrators to act as conciliators and extensions of the collective bargaining process to avoid the use of the strike [2]. Grievance arbitration was also used extensively by the war labor boards in World Wars I and II to promote labor peace and prevent the strike as a means to resolve contractual disputes [1]. Since this time, rights arbitration has spread to both the private and public sector, where approximately 95% of the public and private sector contracts have some type of rights provision [3]. Grievance arbitration is heavily used. For example, in 1998, there were a total of 39,995 requests for arbitration in the United States from both the private and public sectors, whereas a total of 8,878 awards were issued by arbitrators [4].

Unlike other types of alternative dispute resolution mechanisms, rights arbitration is not legislatively created. Instead, the employer and union contractually create it. It is an integral component of the collective bargaining agreement where the parties determine the nature and extent of what can be arbitrated. They also determine the number of steps involved in the process. As such, it can be customized to each organizational setting and collective bargaining contract, where employees and employers specifically determine what issues can be brought before the grievance machinery. This differs tremendously from other forms of arbitration, such as contract or interest arbitration, which is statutorily created and compels parties to resolve contract disputes—often through a state-operated and mandatory process where "new" contracts are created [5].

This research examines the use of grievance arbitration in public sector law enforcement agencies. In particular, it examines grievance arbitration cases involving municipal and county sheriff's police unions and their respective agencies in Wisconsin that submitted a request for arbitration to the Wisconsin Employment Relations Commission (WERC). Using arbitration awards from 1994 to 2003, this study looks at the nature and extent of cases heard, decision outcomes, types of unions involved, and arbitration award outcomes.

THE GRIEVANCE PROCESS

The typical grievance clause in the collective bargaining agreement provides that claims arising under the agreement must be submitted through a series of steps that both the union and management must follow. Such a procedure provides consideration of claims at successively higher levels within the union and employer structures [6]. Usually, there are three or four steps involved in the process, terminating with arbitration [7]. This dispute resolution process begins when a person feels that his/her rights in the workplace have been somehow wronged under the collective bargaining agreement. The union then pursues the violation on behalf of the injured union member(s), proposing to the employer that it somehow breached the collective bargaining agreement. At the same time, management must persuade the union and perhaps ultimately an arbitrator that no contract violation has occurred or that the issue has no merit or is inarbitrable [8]. Depending on the issue at hand, the burden of proof may rest with management (as is the case with discharge), while in other contract interpretation issues, the union bears the burden of proof [9]. At any of these various steps, management may deny or grant the union's grievance. At the same time, a union may withdraw the grievance, accept a compromise, or proceed to the next level in the progressive grievance process.

If the union and management do not resolve the issue, by virtue of the collective bargaining agreement, either party can submit the dispute to an arbitrator. Arbitrators, who are third-party neutrals, are jointly selected by the parties in dispute, pursuant to the agreed-upon method of selection prescribed in the collective bargaining agreement. Arbitrators can be selected from rosters of the American Arbitration Association (AAA), the Federal Mediation and Conciliation Service (FMCS) and various state and local agencies [4]. The parties can also mutually agree upon arbitrators. There may be a permanent arbitrator who is called upon when a dispute arises, or an arbitration panel composed of several arbitrators. Arbitration panels are used by some large corporations in the United States to settle disputes [5].

There are two philosophical approaches to the role of the arbitrator. One view sees the grievance arbitration process as an extension of collective bargaining, where the role of the arbitrator is to interpret the contract with an eye on the solution of underlying problems. In this role, the arbitrator also serves to mediate the dispute. Known as the Taylor model of grievance arbitration, this is the prevailing perspective on the role of the arbitrator, who must be faithful to the contract above all other issues [10] and adhere to the "four corners" of the contract [11]. Others propose that arbitrators are not limited to the four corners of the contract. Instead, they may rely on industrial common law or the law of the shop, where the arbitrator uses his/her personal judgment "to bring to bear considerations which are not expressed in the contract criteria for judgment" [2, p. 77]. This is known as the Braden model of grievance arbitration.

The role of the arbitrator in the arbitration hearing is quite diverse. The arbitrator is responsible for scheduling the hearing, conducting all aspects of the hearing, and writing the arbitration award. More specifically, the role of the arbitrator in rights arbitration is to interpret what the parties intended in the contract [12], which can often be complex. For example, in determining the appropriate remedy where the contract is silent or vague on the issue(s) in dispute, the arbitrator must render a decision based on the past practices of the parties involved. At the same time, precedent does not bind an arbitrator. His/Her power stems from the contract or collective bargaining agreement and not case law. In addition, the decisions from previous arbitration cases are not binding on current cases [13].

An arbitrator can basically create three outcomes to any arbitration proceeding. He/She can uphold the grievance, which results in the union winning or receiving whatever it demanded from the grievance. The grievance can also be denied, meaning that the grieving party loses or does not get what it demanded. The grievance can result in a compromise or stipulated award between the parties, where both the employer and union move on the issue to some degree (e.g., a discharge reduced to a five-day suspension) [14]. Regardless of the outcome, the decision of the arbitrator is final and binding upon the parties [11]. Usually, the party that loses in arbitration is financially responsible to the arbitrator.

Benefits of Grievance Arbitration

There are several benefits associated with grievance arbitration. First, it is often considered to be a flexible extension of the negotiation process, as one of the roles of the arbitrator is to clarify issues in the collective bargaining agreement [15, 16]. In some situations, the collective bargaining agreement remains silent on specific issues because collective bargaining agreements usually establish only generalized principles, such as a discharge for just cause. The arbitration process, however, allows the parties to negotiate the substance of an issue and defines specific rights on a case-by-case basis [6]. Giannetti also proposed that when handling some issues, such as officer misconduct, the arbitrator must “give due consideration to many factors involved, unencumbered by misguided, politicized, or irrelevant pressures from outside” [17, p. 43].

Grievance arbitration also preserves labor peace [16]. In those sectors where strikes are legally permissible, grievance arbitration provides an alternative to the strike. Instead of relying on the strike or other economic weapons to settle the dispute in question, parties stipulate that they will arbitrate disputes and be bound by the settlement awarded by the arbitrator [6]. It also allows the parties to settle their disputes in private without the costs associated with litigation that could heighten the adversarial nature of the conflict [18], while reducing some of the indirect costs of an unresolved dispute, such as the impact it may have on workplace morale [19]. In comparison to the formal legal system, it is also faster

[20]. Grievance arbitration is also a private, informal, and inexpensive means of resolving workplace disputes.

The Legality of Arbitration

The courts have also recognized the benefits of grievance arbitration. It has been accepted and reinforced as an alternative dispute resolution mechanism through many Supreme Court decisions. Through a series of decisions known as the *Steelworker's Trilogy*, the Supreme Court has shown deference to rights arbitration in the private sector over the parties seeking judicial relief in the courts. In fact, some authors proposed that the arbitrator is the court of first and last resort for labor disputes [13].

The preference for arbitration over court proceedings was indicated in *United Steelworkers of America v. Warrior and Gulf Navigation Co.*, where the Supreme Court determined:

The collective bargaining agreement is part of an attempt to establish a system of industrial self-government. . . . Gaps may be left to be filled in by reference to the practices of the particular industry and of the various shops covered by the agreement. . . . The labor arbitrator is selected for his knowledge of the common law of the shop and for his ability to bring to bear considerations, which may indeed be foreign to the competence of the courts. . . . The ablest judge cannot be expected to bring the same experience and competence to bear upon the determination of a grievance, because he cannot be similarly informed [21, at 1351-1353].

Besides deferral to the arbitrator, in *United Steelworkers v. American Manufacturing Co.*, the Court determined that its responsibility in grievance arbitration was to simply determine whether the type of dispute is arbitrable under the collective bargaining agreement [22]. This was based on the contention that national labor policy favors arbitration and the “processing of even frivolous claims may have therapeutic values of which those who are not part of the plant environment may be quite unaware” [22, at 1346]. In *United Steelworkers of America v. Enterprise Wheel and Car Corp.*, meanwhile, the Court examined the enforcement of arbitration awards and the role of the courts in reviewing and overturning arbitration awards. Adopting a substantive-based position, the Court determined that arbitration awards cannot be overturned “as long as it [the arbitration award] draws its essence from the collective bargaining agreement” [23, at 1361].

The *Trilogy* decisions limited the role of the courts in reviewing arbitration awards. As long as the dispute is arbitrable under the collective bargaining agreement, and as long as the award draws its essence from the collective bargaining agreement, courts must enforce or uphold arbitration. Basically the courts defer to the arbitrator’s award. This was based on the fact that arbitrators are selected by the parties for their expertise in labor relations, they are better

suited than judges to deal with labor disputes, and arbitration is faster and more cost-effective than using the courts. At the same time, if reversal would be readily available, arbitration would lose its finality and advantages over litigating the dispute in the courts [6].

While Supreme Court decisions have determined that grievance arbitration is the preferred terminal procedure, a party or parties can still seek relief from the courts, based on the type of grievance. If an individual has had a constitutional or statutory right violated by the employer (such as Title VII of the Civil Rights Act of 1964, as amended) after the arbitration proceeding, the individual has the right to seek judicial relief through the courts. This was decided in *Alexander v. Gardner-Denver Co.* [24]. The Supreme Court determined that “there is no suggestion in the statutory scheme [of Title VII] that a prior arbitral decision either forecloses an individual’s right to sue or divests federal courts of jurisdiction” [24, at 47].

The *Trilogy* decision and other relevant court cases addressed grievance arbitration in the private sector only. In the public sector, meanwhile, civil service laws (depending on the state) may govern grievance arbitration procedures. However, a variety of states that allow for public sector unions have deferred to the private sector’s *Trilogy* decisions in whole or in part [16]. The rationale behind this position is based on the fact that when grievants submit a claim to arbitration under a collective bargaining agreement, they seek to vindicate a contractual right and not a constitutional right per se [25].

REVIEW OF THE LITERATURE

Despite the widespread use of grievance arbitration in the public sector, the existing research is relatively limited and dated, especially in the context of grievance arbitration in the field of law enforcement. However, the existing research does provide an agenda to explore issues in law enforcement, particularly the nature and extent of grievance arbitration use and issues that arbitrators decide in the law enforcement field.

Early research examined the role of the formal legal system and the courts’ role in grievance arbitration. Many studies have been specific, focusing on specific states or federal courts. For example, one of the early issues examined by Hughes and Stone was whether state law or collective bargaining agreements govern issues related to employee rights [26]. Perkovich and Stein conducted a historical review of court challenges to public sector arbitration in Illinois and concluded that the courts defer to Supreme Court decisions based on the *Steelworker’s Trilogy* [27], while Reed conducted similar research into the finality of mandatory grievance arbitration and judicial review of arbitration decisions in Florida [16]. Hodges also examined how several states use the principles of the *Trilogy* decision to limit the judicial review of arbitration decisions while deferring to arbitrators’ decisions and how civil service laws and collective bargaining agreements can

create conflict over who is responsible for employee discipline and appeals of disciplinary decisions [28, 29]. In the context of deferral of cases to the federal courts Pertcheck researched the Tenth Circuit Court of Appeals' policy of deferral to the arbitration process [30], while Flanagan reviewed of the Second Circuit's new policy of vacating awards based on the new standard of an arbitrator's manifest disregard of the facts [31]. Other authors have debated the merits of using arbitration to resolve statutory civil rights claims at arbitration instead of in the courts [25], and whether arbitrators should consider external law in attempting to resolve a grievance [32].

The expansion of the formal legal system into the arbitration process has also been studied. In their analysis of the use of arbitration in a national-level public sector union, Rubin and Rubin concluded that this particular union was less willing to take cases to arbitration, while attitudinal surveys revealed that arbitration proceedings were becoming more formalized, suggesting that "creeping legalism" was entering into the arbitration process [33]. Earlier research by Rubin et al. concluded that "creeping legalism" in the context of legal formalities in grievance arbitration hearings decreased the willingness to arbitrate cases [34], while Thornicroft's research in using lawyers in arbitration proceedings concluded that lawyers increase delays and expenses and have no impact on arbitration outcomes [20].

Researchers have also examined issues related to the arbitration process. In particular, factors that delay the grievance arbitration process have been studied. Trudeau provided both a qualitative and quantitative review of the arbitration process in Quebec [35]. He found that the average length of a hearing was 1.8 sittings, while the typical hearing was 6.5 hours long. He also found that the "time of filing" to "time of hearing" was 203 days, while the average time of the arbitrator's deliberations was 47 days [35]. Time delays in arbitration were also researched by Ponak and Olson [36]. In this study the authors found that it took approximately one year from the origin to the resolution of a grievance by an arbitrator. Grievances involving discharges and those that arose in the private sector were found to be resolved more quickly, while the majority of delays were found in the arbitrator selection and scheduling stages. It was also found that the arbitrator's caseload and the number of lawyers involved in the process had no effect on arbitration delays [36]. Further research by Ponak, Zerbe, Rose, and Olson of approximately 600 arbitration awards found similar results [37]. Factors associated with delays included the complexity and nature of the grievance, while discharge cases were handled more expeditiously. They also found that the average time delay was 333 days; legal counsel did not contribute to delays in all stages of arbitration; and arbitrator workload did not contribute to delays [37].

Factors that affect arbitrator decision making and the issue of bias have also been studied. Simpson and Martocchio studied the decision-making traits of 179 arbitrators in using work history factors (seniority, performance, absence, history, and disciplinary record) in hypothetical arbitration absentee discharge

cases [38]. The researchers concluded that a grievant's prior job performance and disciplinary record affected arbitrators' decisions and that arbitrators view rehabilitative potential as an important factor when making their decisions [38]. Eylon, Giacalone, and Pollard's research on the effects of using impression management (making oneself look good) concluded that an arbitrator's decision could be biased or influenced by the actions of the grievant [39]. Gender bias in grievance arbitration cases has also been examined. Mesch concluded that females are less successful than males, regardless of the severity of the offense, in grievance arbitration cases [40], while other studies, including Zirkel and Breslin's [40] and Scott and Shadoan's [42] concluded that there were no differences in the treatment of male and female grievants. In addition, Caudill and Oswald found that female arbitrators treat grievants less favorably than male arbitrators [43].

Other researchers have examined subjective measures of the grievance process. Bemmels examined the satisfaction levels of shop stewards with grievance procedures and found that stewards were more satisfied with grievance procedures when they had manageable caseloads [44]. Later research by Bemmels and Lau found that satisfaction levels of union officials were related to their task identify: those who perceived grievances as important, represented a smaller amount of members, and handled grievances from start to finish were more satisfied. Other measures of satisfaction included timely feedback and success in processing grievances [15].

Grievance arbitration has also been researched in the context of success—particularly as an alternative for the strike, and as success rates for unions and management in grievance arbitration cases. In their analysis of 9,000 bargaining units in Ontario, Canada, and the use of grievance arbitration instead of the strike, Hebdon and Stern concluded that grievance arbitration was used more often as a substitute for the strike to contest issues in sectors without strike laws, including government and essential service workers (including police and fire) [45]. Mesch conducted research involving 3,949 arbitration cases from both the private and public sectors from 1987 to 1993 [14]. Comparing the two sectors, Mesch concluded that unions win their grievances more often in the public than in the private sector. In the review of specific types of cases, it was found that more suspensions and reprimands are brought to arbitration in the public sector, while fewer discharge cases are brought to arbitration. Mesch also concluded that the grievant wins more often in public sector-related cases [14].

Issues taken to arbitration have also been examined. Mesch and Shamayeva analyzed 994 public sector arbitration cases over a seven-year period (1985-1992) by content, issue, and outcome [46]. The authors found that approximately 50% of the cases dealt with discharge, wages, suspensions, and benefits. Depending on the basis for the grievance, the authors also determined that the union had a higher win rate in grievances involving benefits, promotions, demotions, employee rights, job bidding, and employee rights. The employer, meanwhile, had a higher win rate in discipline-related grievances, where the most common

arbitration case was for drug and alcohol use [46]. Their findings were consistent with those of Coleman [47] and Katz and LaVan's [48] research, which also found that discipline-related issues were prevalent for public sector employees. Other studies have concentrated on specific professions. Conlon's research of Iowa schoolteachers revealed that the vague contract language related to job security clauses led these issues to be resolved by arbitrators [49], while Wolkinson and Lundy's study of arbitration decisions in the nursing field from 1970-1998 showed that grievance arbitration was commonly used to enforce contract provisions related to staff reductions and minimum staffing levels [50].

Very little research has been conducted specifically on grievance arbitration in law enforcement organizations. Iris conducted an analysis of arbitration decisions for the Chicago police department from 1990 to 1993 [51]. His analysis of 328 grievance arbitration decisions found that in 41% of the cases, the arbitrator upheld the department's discipline, 40% of the time arbitrators reversed and awarded full back pay for grievants, while 19% of the time, the arbitrator compromised the department's actions, splitting the decision between management and the union. In his analysis of specific arbitrators, the number of cases they heard, and their decisions, it was found that arbitrators often split their decisions between management and the union [51].

DATA AND METHODS

This study is based on an in-depth content analysis of all police grievance arbitration awards decided in Wisconsin from 1994 to 2003. Data for this research was obtained from the Wisconsin Employment Relations Commission electronic data archive. This archive publishes all arbitration cases and subsequent awards heard by WERC arbitrators. The population selected for this study was universal in content. In other words, all grievance arbitration cases that were heard regarding disputes involving sworn police officers and their respective police unions in both county and municipal police agencies were used in this study. During the 10-year period under review, 144 usable awards were filed with the Wisconsin Employment Relations Commission and were included for analysis in this study. As this research is primarily interested in the award outcome, cases that were stipulated, dismissed, or resolved through compromise were removed from the data set. After removing these cases ($n = 3$), the sample size was 141 cases.

The specific methodological approach employed in this research is exploratory in nature. The first phase of this analysis included an examination of the nature and extent of grievance arbitration cases heard by WERC arbitrators. Data were coded based on case chronology, agency type, content, issue, and outcome. In the context of issues heard at arbitration, this study adopted Mesch and Shamayeva's classification schema utilized in their analysis of private sector arbitration cases from 1985 to 1992 (see Chart 1) [46]. Case characteristics, including the type of union and agencies involved in arbitration proceedings, were also explored.

Chart 1.

Issue categories	
Wages	Overtime pay, compensatory time, court time, holiday, vacation, and shift differential pay, pay for supervisors.
Benefits	Includes the denial of benefits including health insurance, vacation time, sick leave, and education reimbursement pay.
Working conditions	Deal with unhealthy working conditions and staffing issues. They also deal with rest, paid lunch periods, parking privileges, and procedural requirements regarding job evaluations.
Work assignments and work schedules	Employees have assigned work to persons outside the collective bargaining unit, changed work schedules and denied overtime assignments.
Arbitrability	Deal with issues such as whether a grievance is arbitrable under the collective bargaining agreement. Issues include timeliness of the filing of the original grievance, jurisdictional claims, and clarification of awards.
Promotion/demotion	Examples include when employees bid for new positions or when other employees are promoted over them.
Job bidding/dumping/vacancy	When the employer denies employees a job bid or bumping rights. Other issues include the employer failing to post job vacancies, changing procedures for vacancy selections, and not filling positions.
Reprimand	Disciplinary actions related to the employee that include verbal and written warnings, disciplinary letters in the employee's file, withholding pay, transfers, and demotions.
Sick leaves and leaves of absence	When employees are denied their request for personal/sick or when they have been placed on a leave of absence.
Layoffs	Include right to recalls after layoffs.
Employee rights	When employee's claim they are denied the right to use the grievance process or the employer has not acted in good faith in dealing with the grievance.
Termination	Address issues related to an employee's being discharged for on- or off-duty incidents.

Chart 1. (Cont'd.)

Issue categories	
Suspension	Address the appropriateness of the employer's decision to suspend the employee for on- and off-duty behaviors; suspensions may be paid or unpaid.
Policy	Deals with employer policies and procedures related to personnel.
Discrimination	When employees perceive that they are being treated unfairly or not the same way as other employees in the bargaining unit.
Subcontracting	When an employer assigns work that is usually performed by a bargaining unit member to an outside contractor.
Job classification	Deal with misclassifications of jobs, eliminating positions, or requiring employees to perform work outside of their job classifications.
Seniority	When an employee is bypassed because the employee was overlooked for overtime, transfers, promotions, training, or scheduling.
Miscellaneous	Any case that does not fit into the above categories.

Adapted from Mesch and Shamayeva [46].

FINDINGS

The results for issues heard at arbitration, type of agency, and union affiliation are shown in Table 1. These data show that a total of 73 (51.2%) arbitration proceedings involved municipalities, while 68 (48.2%) involved county law enforcement agencies. In the context of whether the union was an independent union or affiliated with a state-based union (such as WPPA) or an affiliate-based national union (such as AFSCME), cases were almost evenly split. A total of 74 (52.5%) arbitration cases were brought to arbitration by an independent union, while 67 (47.5%) were brought to arbitration by an affiliate union. Table 1 further shows aggregate union “wins” or grievances upheld by the arbitrator (46.8%) and those issues where unions were proportionately more successful, which included policy (80.0%), benefits (61.1%), wages (57.1%), and terminations (55.5%).

Table 2 examines if there are any differences between issues depending on union type and the origin of dispute. Data were collapsed into the issue categories

Table 1. Issues and Arbitration Awards Upheld
1994-2003

Issue category	Frequency	Percent	Grievance upheld	Bargaining unit		Type of union	
				Municipal	County	Affiliate	Ind.
Wages	42	29.8	24 (57.1%)	23	19	17	25
Suspensions	12	8.5	6 (50.0%)	2	10	9	3
Benefits	18	12.8	11 (61.1%)	12	6	8	10
Work assignments and schedules	24	17.0	6 (26.1%)	15	8	10	14
Termination	9	6.4	5 (55.5%)	2	7	5	4
Job bidding, dumping, and vacancies	8	5.7	3 (37.5%)	3	5	6	2
Reprimand	7	5.0	2 (28.6%)	3	4	0	7
Policy	5	3.5	4 (80.0%)	4	1	2	3
Seniority	3	2.1	1 (33.3%)	1	2	2	1
Arbitrability	4	2.8	1 (25.0%)	3	1	2	2
Leave of absence; sick leave	2	1.4	0 (00.0%)	1	1	1	1
Miscellaneous	2	1.4	1 (50.0%)	1	1	0	2
Promotion/ demotion	5	3.5	2 (40.0%)	2	3	5	0
Total	141	99.9	66	73	68	67	74

of disciplinary, economic, and managerial-related. The category of discipline consisted of the original issues of suspensions, termination, and reprimands. The category of economic issues included financial actions taken by management that had a direct effect on the individual's wages. This new category was constructed from the original issue categories that included wages, benefits, leaves of absence, and overtime. The last category addressed managerial activities. This new variable consisted of collapsing grievances related to work assignments, job bidding,

Table 2. Contingency Table of Grievance Categories by Union and Agency Type^a

Variable	Grievance issue category					
	Economic ^b 41.8% (59)	Chi square	Discipline 21.3% (30)	Chi square	Managerial- related activities 36.9% (52)	Chi square
Type of union:						
Independent	57.6% (34)	1.373	50.0%	.000	48.1%	.166
Affiliate	42.4% (25)		50.0%		51.9%	
Type of agency:						
Municipality	57.6% (34)	1.373	26.7%	6.533*	59.6%	1.923
County sheriff	42.4% (25)		73.3%		40.0%	
Grievance upheld:						
Yes	57.6% (34)	1.373	46.7%	.133	34.6%	.027
No	42.4% (25)		53.3%		65.4%	

^aPercentages in column totals/*df* = 1.

^bColumn total and percentages were the same for all three variables.

**p* < .01.

policy, seniority, arbitrability, miscellaneous, and promotion/demotion-related disputes. Cross-tabulations and chi-square analyses were conducted on each of these recoded variables to determine whether any statistically significant differences were based on union affiliation and whether the grievance had originated from a county or municipal police agency. The only statistically significant finding was in the context of disciplinary issues, where sheriff's departments had more discipline-related grievances in comparison to municipal agencies.

The findings in Table 2 show that economic issues are the most common type of arbitration issue (41.8%), while discipline-related issues accounted for the smallest percentage of cases heard and determined by WERC arbitrators. Unions were also the most successful in economic-based grievances (57.6%), followed closely by disciplinary issues (46.7%). Table 2 also shows differences in grievance arbitration cases by type of agency and issues brought forward to arbitration. The most common issue in municipal police departments was managerial-related (59.6%), while the majority arbitration proceedings involving sheriff's departments addressed disciplinary-related issues (73.3%).

Table 3 shows the relationships among the variables type of union, agency, and the outcome of the grievance. These data show statistically significant differences between the nature of the grievance and type of police agency. Table 3 further explores whether any statistically significant relationships exist that are related to

Table 3. Contingency Table of Grievance Outcomes
by Union and Agency Type^a
(*n* = 141)

Type of union	Grievance upheld ^a				Chi-square
	Yes		No		
	<i>n</i>	%	<i>n</i>	%	
Type of union:					
Independent	33	44.6	41	55.4	.350
Affiliate	33	49.3	34	50.7	(sig = .350)
Type of agency:					
Municipality	44	60.3	29	39.7	3.050
County sheriff	37	54.4	31	45.6	(sig = .057)

^a*df* = 1

cases upheld by an arbitrator vis-à-vis the type of union and origin of grievance in the context of agency type. While no statistically significant relationships were found on the outcome of the arbitration proceeding and the nature of the union or type of police agency where the grievance originated, the data do show that in comparison to affiliate unions, independent unions had a lower percentage of awards upheld in arbitration. Table 3 also shows that police unions which served municipalities were more successful than sheriff's unions in having their grievances upheld.

CONCLUSION

The analysis of these specific data allows for a profile to be built of grievance arbitration cases that were brought before the Wisconsin Employment Relations Commission. The profile shows that the five most-common grievance arbitration issues dealt with wages, work assignments and schedules, benefits, suspensions, and terminations. Of the total grievances examined, the success of unions in having the grievance upheld by an arbitrator occurred 46.8% of the time. When controlling for specific issues, unions were more successful in grievances that dealt with economic issues, including benefits and wages. Unions were also more successful in having arbitrators uphold grievances related to employee terminations. This research also found no significant differences between local unions affiliated with a state or national union and independent unions in the context of outcome success (or wins) and the number of issues brought before arbitrators. The findings from this study also show that sheriff's agencies had a

statistically significant higher number of grievance-related cases brought to arbitration in comparison to municipal agencies.

These research findings also provide practitioners with a comprehensive understanding of which grievance issues are brought before WERC arbitrators. By reviewing the issues that often lead to arbitration, police managers and union officials can use these findings as a catalyst for reflection and change. Through the review of existing contract language, combined with educating parties on the content, nature, and scope of the collective bargaining agreement and its application in the workplace, issues can be identified and addressed prior to initiating the grievance process. This may subsequently lead to labor peace in the organization.

This analysis of cases in Wisconsin has also both reinforced and refuted findings from earlier research in grievance arbitration. It supports Coleman's findings that the majority of arbitration cases involve work assignments and schedules and discipline-related issues [47]. This finding further supports Mesch and Shamayeva's research, which found that the majority of grievances are related to wages, benefits, discharges, and discipline [46]. At the same time, it refutes Mesch's conclusion that unions have a higher "win" rate in public sector grievances [14] and Katz and LaVan's conclusion that discipline-related issues were prevalent in the public sector [48].

This study does have its limitations. It covered a relatively short time period and concentrated on only one state. At the same time, it is limited because it is solely descriptive and concentrated on the end product of the grievance process—arbitration. Future research in grievance arbitration should examine the "why" and attend to the complex political, social, and economic factors surrounding the reasons issues ultimately reach the arbitration stage. A task for future researchers, then, would be to develop various methods of identifying those variables that affect the use of the collective bargaining agreement's grievance machinery, including attitudinal and behavioral analyses of the participants. Taken together with existing research, it may be possible to achieve a comprehensive understanding of the complexities involved in law enforcement-related grievances that may lead to arbitration.

ENDNOTES

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