

Wright, County of

TIME REQUIRED TO  
RENDER AWARD: 21 DAYS

IN THE MATTER OF THE ARBITRATION BETWEEN

Closed

LAW ENFORCEMENT LABOR SERVICES, INC.,  
  
Union,  
  
and  
  
THE COUNTY OF WRIGHT,  
  
Employer.

MINNESOTA BUREAU OF MEDIATION SERVICES  
CASE NO. 06-PN-0743  
  
  
  
DECISION AND AWARD OF ARBITRATOR

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APPEARANCES

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On September 13 and 15, 2006, in Buffalo, Minnesota, a hearing was held before Thomas P. Gallagher, Arbitrator, who was selected by the parties under the provisions of the Minnesota Public Employment Labor Relations Act to resolve collective bargaining issues about which the parties are at impasse. Post-hearing briefs were received by the arbitrator on September 29, 2006.

## BACKGROUND

Wright County (sometimes, the "Employer" or the "County") is contiguous to Hennepin County -- the most populous county in Minnesota and the county in which are located Minneapolis and most of its suburbs. Buffalo, the principal city of the Wright County, is about thirty-five miles northwest of Minneapolis.

The population of the County is growing fast. It was measured by the 2000 census to be about 84,900. The Union presented evidence that the Employer estimates the County's 2006 population to be about 106,700.

The County employs 638 full-time equivalent employees, 523 of whom are represented by a union. These employees are represented by four unions and are grouped in seven bargaining units. Forty-four employees who build and maintain highways are represented by the International Union of Operating Engineers, Local 49, in a bargaining unit referred to by the parties as the "Highway Unit." Teamsters Union, Local 320, represents three bargaining units -- 1) the "Courthouse Unit," consisting of 105 clerical employees, 2) the "Sheriff's Essential Supervisors Unit," consisting of eight supervisory personnel in the Sheriff's Department, and 3) the "Non-licensed Essential Staff Unit," consisting of fifty-five employees who are Dispatchers and Jailers.

Council 65 of the American Federation of State, County and Municipal Employees represents two bargaining units -- 1) the "Human Services Unit," consisting of one hundred eighty employees who work in the Employer's Human Services Department,

and 2) the "Assistant County Attorneys Unit," consisting of twelve Assistant County Attorneys.

The Union is the collective bargaining representative of 119 employees who work in the Sheriff's Department in the "Deputy Sheriffs and Sergeants Unit" or, for ease of reference, the "Patrol Unit." Four of these employees are employed in the Sergeant's classification, and the other 115 are employed in the Deputy Sheriff's classification.

The Union and the Employer are parties to a labor agreement that has a stated duration from January 1, 2003, through December 31, 2005. Because they have not yet agreed to all of the terms of a new labor agreement, they continue to operate under the terms of the 2003-05 labor agreement, which I may sometimes refer to as the "current labor agreement."

Though the parties have successfully negotiated some of the terms of a new labor agreement, which will succeed the 2003-05 labor agreement, they have reached impasse in their bargaining about several bargaining issues, described hereafter, and, in this proceeding, they seek to resolve those issues in arbitration.

On April 25, 2006, the Minnesota Bureau of Mediation Services certified that the parties were at impasse with respect to twenty-five collective bargaining issues that are to be resolved in this arbitration proceeding. I refer to these issues by the following titles:

- Issue 1. Duration Of The Agreement.
- Issue 2. Salary - General Increase For 2006.
- Issue 3. Salary - General Increase For 2007.

- Issue 4. Salary - General Increase For 2008.
- Issue 5. Employer's 2006 Health Insurance Premium Contribution.
- Issue 6. Employer's 2007 Health Insurance Premium Contribution.
- Issue 7. Employer's 2008 Health Insurance Premium Contribution.
- Issue 8. Compensatory Time - Maximum Accrued Hours.
- Issue 9. Uniform Allowance For 2006.
- Issue 10. Uniform Allowance For 2007.
- Issue 11. Uniform Allowance For 2008.
- Issue 12. Provision of Initial Issue Uniforms For New Employees.
- Issue 13. Shift Differential.
- Issue 14. Court Time - Minimum Compensation.
- Issue 15. Court Time - Cancellation Notice.
- Issue 16. Sick Leave - Hours Earned In Excess Of Maximum Accumulation.
- Issue 17. Investigator - Compensation For Standby Hours.
- Issue 18. Investigator - Compensation For Hours On Call.
- Issue 19. Definition Of Overtime.
- Issue 20. Uniforms - Personal Items Damaged In Line Of Duty.
- Issue 21. Mileage - Reimbursement Rate For Use Of Personal Vehicle.
- Issue 22. Compensation For Assignment To A Higher Classification.
- Issue 23. Structure Of Salary Schedule.
- Issue 24. Salary Schedule Increases If Funding Is Reduced By Legislature.
- Issue 25. Retroactivity.

At the hearing, the Employer withdrew two proposals it had initiated, thereby resolving the parties' impasse with respect to each of those issues -- Issue 19, "Definition Of Overtime," and Issue 25, "Retroactivity." The effect of the Employer's withdrawal of its proposal to change the definition of overtime, covered in Issue 19, is to withdraw as an issue the change it sought in Section 12.1 of the current labor agreement, though the Union proposes another change in that section, covered in Issue 8, "Compensatory Time - Maximum Accrued Hours." The effect of the Employer's withdrawal of its proposal on retroactivity, covered in Issue 25, is to make the effective date of the

new labor agreement January 1, 2006 -- except that the parties agree that any change in the Employer's contribution to health insurance premiums will become effective on the anniversary date of its health insurance policy, March 1 of each year.

In the following discussion and resolution of the issues at impasse, I group related subjects together to provide a comprehensive review of the parties' arguments on related subjects and, after that review, a comprehensive award.

#### ISSUE 1: DURATION OF THE AGREEMENT

Article XXVII of the current labor agreement provides:

This Agreement shall be effective as of the first day of January, 2003, and shall remain in full force and effect until the thirty-first day of December, 2005.

#### The Union's Position.

The Union proposes that the new labor agreement have a two-year duration, calendar years 2006 and 2007.

#### The Employer's Position.

The Employer proposes that the new labor agreement have a three-year duration, calendar years 2006, 2007 and 2008.

#### Decision and Award.

The Union argues that there is not sufficient relevant information to adopt a three-year term for the new labor agreement. Three of the County's other bargaining units -- the Courthouse Unit, the Highway Unit and the Human Services Unit -- have settled the provisions of a new labor agreement, adopting a three-year term, 2006, 2007 and 2008. The Union argues that I

should not consider the settlement with the Human Services Unit because it was announced by the Employer at the hearing in the present case and no signed agreement was introduced to confirm that announcement. I accept the Employer's representation that such a settlement was reached, though I also recognize the possibility, noted by the Union, that the Employer may have granted an unknown quid pro quo to induce that settlement. The evidence also shows that very few counties in the state have settled 2008 salary rates.

The Employer makes the following arguments. If the term of the new labor agreement expires on December 31, 2007, as the Union proposes, the parties will be required to begin bargaining about the provisions of a succeeding contract within a short time. The parties have a history of adopting three-year agreements. The current labor agreement has a three-year duration, the same as the duration of four previous agreements adopted since 1988. The Employer has negotiated new labor agreements with three-year durations, 2006, 2007 and 2008, with three other bargaining units and the Employer expects to settle contracts of the same three-year duration with the other three bargaining units. The Employer urges that a shorter contract term for the Patrol Unit would end the synchronization of bargaining across the County's seven bargaining units, thereby creating an unnecessary and expensive second cycle of negotiations.

I award the position of the Employer. Adoption of a three-year duration will promote better labor relations by providing an additional year in which bargaining is not the

focus of the parties. In addition, the coordination of the time of bargaining for the County's seven bargaining units will provide the parties with better information about internal comparisons.

- ISSUE 2: SALARY - GENERAL INCREASE FOR 2006
- ISSUE 3: SALARY - GENERAL INCREASE FOR 2007
- ISSUE 4: SALARY - GENERAL INCREASE FOR 2008
- ISSUE 23: SALARY - STRUCTURE OF SCHEDULE
- ISSUE 24: SALARY - REDUCTION OF FUNDING BY LEGISLATURE

The last four pages of the current labor agreement establish the salaries of Deputies and Sergeants for 2003, 2004 and 2005. Hereafter, I refer to these four pages as the "Salary Appendix." The first of these four pages is entitled, "LELS Salary Schedule" (hereafter, simply the "Salary Schedule"). The next page is entitled "Salary Appendix (continued)." It consists of five paragraphs, lettered From "B" through "F." Nothing on these two pages is lettered as "A," but I assume that the Salary Schedule itself is meant to be Paragraph A of the "Salary Appendix."

The last two of these four pages are entitled, "LELS Step Movement Grid." I explain its content below, after I describe the Salary Schedule. The Salary Schedule establishes the following hourly rates for Deputies and Sergeants during 2005:

<u>Promotion Steps</u> <u>Effective January 1</u>	<u>Deputy:</u> <u>Hourly Rate</u>	<u>Sergeant:</u> <u>Hourly Rate</u>
5th Grade	\$15.45	
4th Grade	16.76	
3rd Grade	18.31	
2nd Grade	20.07	
1st Grade	22.06	\$25.13

Step Increases  
Effective on  
Anniversary

After 5 Years	22.06	25.13
After 6 Years	22.95	26.15
After 7 Years	23.75	27.05
After 8 Years	24.57	28.00
After 9 Years	25.44	28.98
After 10 Years	26.33	30.00

At the hearing, the parties explained how, in practice, employees move through these progressions, the first group of which is described as "Promotion Steps Effective January 1" (hereafter, simply "Promotion Steps") and the second group of which is described as "Step Increases Effective on Anniversary" (hereafter, simply "Anniversary Steps"). Employees who are hired between January 1 and June 30 advance to the next Promotion Step on January 1 of the first calendar year following the date of hire, but employees hired between July 1 and December 31 do not advance to the next Promotion Step until January 1 of the second calendar year following the date of hire.

After an employee has advanced to the last of the Promotion Steps, which is called "1st Grade," he or she is eligible for advancement through the second group of progressions, the Anniversary Steps. Note that the hourly rate established for the first of the Anniversary Steps, which is called "After 5 Years," is the same amount as the hourly rate for the last of the Promotion Steps, which is called "1st Grade." After an employee has attained the "1st Grade" Promotion Step, he or she is eligible to advance through the Anniversary Steps on his or her hiring anniversary -- except that no increase in pay occurs on the hiring anniversary that is "After

5 Years" because the hourly rate listed for that step is the same hourly rate that is listed for the last of the Promotion Steps, "1st Grade."

Below, I set out the five paragraphs of the second page of the Salary Appendix:

- B. For employees in the Sergeant classification eligibility will be based on years of continuous service as a licensed officer with the County since they are not on a step schedule.
- C. Step increases are for the purpose of promotion and may be withheld at the discretion of the Sheriff or his management designee. Employees may only be considered for Step increases on January 1 of each year at the discretion of the Sheriff or his designee.
- D. Investigators required to be on standby by the Employer for a 24-hour period for investigative duty during the investigator's scheduled off-duty time shall be paid \$40.00 for each such 24-hour period.
- E. Deputies required by the Employer to be on standby shall be paid their regular rate of pay for such standby time.
- F. There shall be no retroactive payments to employees who are not employees of record with the County on the date of final signature on this Agreement or who were hired by the County on or after that date.

As noted above, the last two pages of the Salary Appendix are entitled, "LELS Step Movement Grid." This Grid shows how employees will progress through the Anniversary Steps who are hired at each of the first three "Grades" of the Promotion Steps in each year from 1990 through 2005. The Grid is consistent with the explanation given by the parties of how, in practice, employees move through the two kinds of salary progression, as I have described above.

#### The Union's Positions.

Issues 2, 3, and 4. The Union proposes that the salary rates for 2005, as set out above, be increased by 4% for 2006,

by an additional 3.5% for 2007, and, if a contract duration of three years is awarded, by an additional 3.5% for 2008.

Issue 23. The Union proposes that the structure of the Salary Schedule be changed by eliminating the first two Promotion Steps, "5th Grade" and "4th Grade," so that the first step on the schedule is "3rd Grade."

Issue 24. The Union opposes adoption of the Employer's proposal, the text of which is set out below, which would eliminate any general adjustment in salaries for years affected by a legislative withholding or elimination of County Program Aid, a freezing of the property tax levy or a restriction of the Employer's ability to raise revenue through property taxation.

The Employer's Positions.

Issues 2, 3, and 4. The Employer proposes that the salary rates for 2005, as set out above, be increased by 2% for 2006, by an additional 2% for 2007, and, if a contract duration of three years is awarded, by an additional 2% for 2008.

Issue 23. The Employer opposes the Union's proposal to change the structure of the Salary Schedule by eliminating the first two Promotion Steps, "5th Grade" and "4th Grade," thus making the "3rd Grade" Promotion Step the schedule's first step.

The Employer does, however, propose to increase the amount of the first Anniversary Step, "After 5 Years," so that that amount would no longer be the same amount as the last Promotion Step, "1st Grade." Instead, the Employer proposes that the amount of the "After 5 Years" step be increased by

one-half of the difference between the amount of the "1st Grade" step and the "After 6 Years" step.

Issue 24. The Employer proposes that the following provision be added to the labor agreement:

In the event the Minnesota Legislature withholds or eliminates County Program Aid (CPA), freezes the property tax levy or otherwise restricts the ability of the County to raise revenues through property taxation, there shall be no general wage adjustment and the wage schedule will be retained at the previous year's level for the years impacted by such action.

Decision and Award.

Issues 23 and 24. Before I decide Issues 2, 3 and 4, thereby establishing the percentage by which salaries will rise in 2006, 2007 and 2008, I will decide Issues 23 and 24, which affect the structure of the Salary Schedule and the permanence of the Salary Schedule during the new contract term.

The Union proposes that the schedule's first two steps, "5th Grade" and "4th Grade," should be eliminated, thus making the "3rd Grade" step the starting step for all newly hired employees. It presented evidence that during the past year the Employer has hired new Deputies without prior law enforcement experience at the 4th Grade step because it was losing potential new personnel to surrounding counties. The Union argues that a new and higher starting rate is needed to alleviate this problem.

The Employer concedes that it has had temporary difficulty hiring new Deputies, but it argues that that difficulty has since abated and that it now has a sufficiency of applicants for open positions. It argues that it has the ability to resolve

any difficulties in hiring by the method it used during the past year, discretionary hiring at an advanced step, and that it has used the same method to hire personnel in other departments when it finds a shortage of new applicants.

I follow the general principle, universally adopted in interest arbitration, that, unless a compelling need for change can be demonstrated, the structure of a salary schedule should be established by the parties in the give and take of bargaining and should not be changed in arbitration. In the present case, it appears that difficulties in hiring are remediable when they occur by hiring at an advanced step. Consequently, I do not award the change in the structure of the Salary Schedule proposed by the Union.

I do, however, award the Employer's proposal to increase the amount of the first Anniversary Step, "After 5 Years," so that it will no longer be the same amount as the last Promotion Step, "1st Grade." Instead, in the new labor agreement, the amount of the "After 5 Years" step will provide an increase in salary of one-half the difference between the amount of the "1st Grade" step and the "After 6 Years" step. I award this Employer-proposed change because it provides a benefit to the bargaining unit and, presumably, it is not opposed by the Union, which has not expressed opposition to it.

With respect to Issue 24, the Employer proposes a new contract provision that would abrogate general adjustments in salaries if "the Minnesota Legislature withholds or eliminates County Program Aid (CPA), freezes the property tax levy or

otherwise restricts the ability of the County to raise revenues through property taxation." The Employer showed that in 2003 the legislature reduced state aid to the County by about \$899,000 and that in 2004 it reduced state aid by about \$1,576,000, and it argues that it should not be required to pay salary increases for 2006, 2007 and 2008 if the legislature again reduces state aids in those years.

I do not award this new provision proposed by the Employer. I recognize the need of the Employer to have stability in its budgeted revenues and a corresponding stability in its expenditures, but a large entity such as the County should be better able to adapt to a reduction in income than an individual employee. The evidence does not show that other County employees, either union or non-union, would be required to accept a similar reduction in income, should the legislature reduce aid to the County.

Issues 2, 3 and 4. The Union presented cost estimates of its proposals and the Employer's proposals for salary increases in 2006, 2007 and 2008. All of these estimates assume that all members of the bargaining unit are paid at the top step. For 2006, it estimates that its proposal to increase salaries by 4% would increase expenditures by \$246,792, and that the Employer's proposal to increase salaries by 2% would increase expenditures by \$124,404. For 2007, it estimates that its proposal to increase salaries by 3.5% would increase expenditures by \$225,430, and that the Employer's proposal to increase salaries by 2% would increase expenditures by \$126,714. For 2008, it

estimates that its proposal to increase salaries by 3.5% would increase expenditures by \$232,648, and that the Employer's proposal to increase salaries by 2% would increase expenditures by \$129,022. These estimates, as presented, do not assume an award of the Employer's proposal to increase the After 5 Years step by half the difference between the 1st Grade step and the After 6 Years step.

The Union argues that the difference between the cost of its proposals and the cost of the Employer's proposals is not significant in relationship to the Employer's overall budget and financial health. The Union presented evidence that for the year ended December 31, 2004, the County's actual General Fund revenues were \$31,210,905, an increase of \$207,501 over the amount budgeted -- \$31,002,404. The Union also presented an estimate that for 2006 the County's General Fund revenue, as budgeted, will increase by 8% over 2005 -- from \$33,892,000 to \$36,596,000.

The Employer argues that the Union's estimates of salary costs do not include many additional costs -- the cost of roll-ups for FICA and pensions, the added cost of overtime and the added cost of the Union's other proposals for added benefits. Further, the Employer argues that its financial condition has deteriorated because of a loss of state aids, that increases in its revised General Fund budget were caused by expenditure cuts totaling \$571,590 and transfers from reserved funds of \$501,500 and \$409,266. In addition, the Employer argues that it should correct a current negative capital fund

balance of \$921,000 and that it has many unfunded projects that should be pursued, including radio upgrades for law enforcement that would cost \$921,000 and building and facility repair projects that would cost \$325,000.

The parties presented evidence and argument relating to the Employer's compliance with the provisions of the Minnesota Pay Equity Act. Both of the bargaining unit classifications, Deputy and Sergeant, are "male-dominated" classifications within the rules established by the Minnesota Department of Employee Relations ("DOER"). The Employer has not received a response from DOER to the most recent Compliance Report submitted by the Employer, but evidence presented by the Union indicates that the Employer may be out of compliance with an "underpayment ratio" of about 68% -- 12 points under the required 80% ratio. The Union argues that, if this is so, the remedy is to raise the wages of "female-dominated" classifications, rather than restrict the compensation of male-dominated classifications.

The Employer argues that the delicate formulas used by DOER to determine compliance may be distorted by the Union's proposals relating to salaries and especially by its proposal to change the structure of the Salary Schedule. The Union argues that, even if the Union's proposals were awarded, the "underpayment ratio," which currently indicates that the Deputy's classification is below "predicted pay" and that the Sergeant's classification is above "predicted pay," would not change.

The Employer argues that internal consistency should be the primary consideration relevant to the salary issues. The

evidence shows that the Employer has settled new contract provisions, covering 2006, 2007 and 2008, with the unions representing three of the seven bargaining units of County employees. They have accepted general wage increases of 2% for 2006, 2.75% for 2007 and 2.75% for 2008. The Employer argues that, these employees together with the non-union employees who it expects will receive the same wage increases, comprise 70% of the County's employees, thus establishing a pattern of wage settlements.

The Employer argues that internal consistency should be the primary consideration when deciding salary issues. It presented evidence showing that, in each year since 1994, all County employees, union and non-union, have received exactly the same percentage increase in wages, with only two exceptions -- first, that in 1994 the Union obtained 1% more (2% instead of 1%) for the Deputies and Sergeants than the increases that other employees of the County received and second, that the Union did so also in 1995 (3% instead of 2%). The Employer argues that an upward departure from the internal pattern established for 2006, 2007 and 2008 will encourage other bargaining units to seek correspondingly higher increases in future years, thus raising the County's future expenditures. The Employer, citing a number of arbitration decisions, argues that since the early 1990s interest arbitrators have been guided primarily by internal consistency when determining compensation issues.

The Union argues that internal consistency should not be the only consideration that determines the salary issues. In

addition, it argues that recent increases in the cost of living justify salary increases that are larger than the 2% proposed for each contract year by the Employer and larger than the internal settlements that other bargaining units agreed to. The Union presented evidence that the Midwest Consumer Price Index has increased by 3.1% from December, 2003, to December, 2004, by 3.5% from December, 2004, to December, 2005, and by 3.5% in the year that ended in July, 2006.

The Employer argues that in past years employees have received percentage increases greater than then current cost of living increases, but the Union responds that recent years make up the relevant period for consideration here. The Employer also argues that these increases in the cost of living do not justify a departure from the internal pattern of wage increases because other County employees have experienced the same rise in the cost of living, but have settled for lesser increases than the Union proposes.

The Union also argues that external wage comparisons justify the increases it proposes. The parties disagree about what other public employers should be used to make external comparisons. The Union suggests several comparisons. First, it proposes that the salaries paid to Deputies and Sergeants in six counties -- Anoka, Carver, Dakota, Scott, Washington and Sherburne -- be compared to the salaries paid by the Employer. The first five of these six counties abut Hennepin and Ramsey Counties, the counties in which Minneapolis and St. Paul are located. Wright County also abuts Hennepin County. Though

Sherburne County does not abut either Hennepin or Ramsey County, it does abut Wright County. The 2000 census showed that the population of Anoka County was 297,776, of Dakota County, 347,245, of Washington County, 198,606, of Scott County, 71,547, of Carver County, 66,168, of Sherburne County, 63,182, and of Wright County, 84,926. Presumably, if the population of Wright County has grown to 106,700 in 2006, the population of these other counties has also grown. Hereafter, I refer to this group proposed for comparison as "the Union's comparison group."

The Union also proposes that other comparisons are relevant. It notes that the average general wage increase for Deputies in all Minnesota counties for 2006 is 3.59%. The Union also notes that the average general wage increase for police officers in Minnesota cities was 3.31% for 2006. Two of the six counties in the Union's Comparison Group have settled wage increases for Deputies in 2007; Scott County settled with a 3% increase, and Sherburne County, with a 3.99% increase.

The Employer proposes that, to the extent external comparison is relevant, two primary groups of counties be used. First, it suggests comparison with a group of six counties -- Benton, Carver, McLeod, Meeker, Sherburne and Stearns. The Employer describes this group as "Economic Region 7W and Applicable Contiguous Counties." Hennepin County is the only one of the counties that abut Wright County that is not within this group. Benton County does not abut Wright County. The 2000 census shows that the population of Benton County was 35,110, of McLeod County, 34,197, of Meeker County, 21,509, and

of Stearns County, 128,522. Hereafter, I refer to this group as "the Employer's First Comparison Group."

Second, the Employer suggests comparison with a group of eleven counties, which it describes as "First and Second Tier Counties" -- Anoka, Benton, Carver, Chisago, Isanti, McLeod, Meeker, Scott, Sherburne, Stearns and Washington. The 2000 census shows that the population of Isanti County was 30,826, and of Chisago County, 42,041. Hereafter, I refer this group as "the Employer's Second Comparison Group."

The Union notes that the 2005 top monthly salary paid to Deputies by the Employer is \$4,564 compared to an average of \$4,722 paid by the six counties in the Union's Comparison Group. The average for these six counties rises substantially in 2006 to \$5,005, primarily because Scott County increased the maximum payable to a Deputy from \$4,333 to \$5,510. An award of the Employer's proposed increase of 2% would result in monthly top pay of \$4,655 and an award of the Union's proposed increase of 4% would result in monthly top pay of \$4,746. The Union argues that it is appropriate to use its comparison group because it includes the fast-growing urban counties surrounding Hennepin and Ramsey Counties. The Union urges that Wright County is similar because it is also a fast-growing county that abuts Hennepin County.

The Union points out that bargaining unit members receive no longevity pay, as do Deputies in several of the counties that both parties use for comparison. The Union argues that, when longevity pay is added to average top pay in the comparison

groups, there is a greater deficiency in the Employer's total compensation. The Union also argues that "career earnings" -- total pay from start to the end of a twenty-five year period of employment -- of a Deputy in Wright County is 7.76% below the career earnings of Deputies working in the counties of the Union's Comparison Group.

The Employer has two primary objections to the use of the Union's Comparison Group. First, the Employer argues that it is not appropriate to use Dakota County because it is not similar to Wright County in that it is far more urbanized with a substantially larger population, budget and tax base. Second, the Employer argues that the Union's calculations of the top pay in several counties is distorted because those counties use a merit pay system with wide ranges at the top that an employee cannot achieve with time-based step advancement. Thus, the Employer argues that the increase in Scott County from 2005 to 2006 was merely an expansion of the merit pay range, not reflected in actual salaries of most long-serving Deputies. To the latter argument, the Union responds that step advancement in Wright County can also be withheld for lack of performance.

The Employer presented evidence that the 2006 monthly top pay for Deputies working in the six counties of its First Comparison Group averages \$4,222, and that the 2006 monthly top pay for Deputies working in the eleven counties of its Second Comparison Group averages \$4,322. The Employer notes that an award of its proposed increase of 2% would result in monthly top pay of \$4,655 and that an award of the Union's proposed increase

of 4% would result in monthly top pay of \$4,746. The Employer argues that these comparisons do not justify an award of the Union's position.

With respect to the Sergeant's classification, the Employer argues that Wright County Sergeant's do not have many of the supervisory duties that Sergeants have in the counties in the parties' comparison groups. The Employer argues that, for that reason, the greater responsibilities of Sergeants working in the other counties may justify greater compensation.

In the six counties of the Union's Comparison Group, the 2006 monthly top pay for Sergeants averages \$5,802. An award of the Employer's proposed increase of 2% would result in monthly top pay of \$5,304 and an award of the Union's proposed increase of 4% would result in monthly top pay of \$5,408.

The Employer presented evidence that the 2006 monthly top pay for Sergeants working in five of the six counties of its First Comparison Group -- excluding Meeker County, which has no Sergeant's classification -- averages \$5,209. The Sergeants in four of these five counties have full supervisory duties. In Stearns County, where Sergeants do not have full supervisory duties, their top pay is \$4,810. Ten of the eleven counties in the Employer's Second Comparison Group have a Sergeant's classification. The 2006 monthly top pay for Sergeants working in these ten counties averages \$5,160. The Sergeants in six of these ten counties have full supervisory duties. In the four counties where Sergeants do not have full supervisory duties the monthly top pay averages \$4,995. An award of the Employer's proposed increase of 2% would result in monthly top pay of

\$5,304 and an award of the Union's proposed increase of 4% would result in monthly top pay of \$5,408.

The Union argues that the Employer's comparison groups are inappropriate because several of the counties included are small and less developed than is Wright County. The Union urges that it is now appropriate to discard comparison with those smaller counties in recognition that growth in Wright County is making it more like its urban neighbors surrounding Hennepin and Ramsey Counties.

I award a 2% increase for 2006, a 2.75% increase for 2007 and a 2.75% increase for 2008 -- the same increases that County employees in three other bargaining units will receive and, as the Employer represents, that non-union employees will receive. Aside from the Employer's arguments that internal consistency justifies this award, I make it for the following reasons.

First, external comparisons do not indicate a substantial difference between the salaries of Wright County Deputies and Sergeants and the salaries of their counterparts who work in the counties appropriate for comparison. As is often the case when measuring comparison groups proposed in interest arbitration, there is validity in the criticisms each party makes about the inclusion of some of the counties proposed for comparison by the other party. I agree with the Union that growth is changing the character of Wright County, but I agree with the Employer that its urbanization is far less than that of Dakota County, which is not appropriate for comparison. Similarly, Meeker and McLeod Counties, proposed for comparison by the Employer, seem no longer appropriate for comparison because of Wright County's growth. I

also find that the use of the top of the permitted range in counties that have performance-based systems distorts comparison. If the information is available, it would be more appropriate in a performance-based pay system to compare actual pay received on average by Deputies with service as long or longer than the time needed to reach the top step in Wright County. Even though the Employer can potentially withhold step advancement for lack of performance, nothing in the evidence indicates that bargaining unit employees do not regularly advance from step to step at the usual annual or anniversary date.

The percentage increases awarded are somewhat below the rate of rise in the Consumer Price Index ("CPI"). At least some of the increase in the CPI is caused by the rising cost of medical care. Some of the difference between the percentage rise in salaries and the percentage rise in the CPI is offset by the increase in the Employer's contribution to the cost of health insurance, which will rise by \$40 per month in 2006, \$50 per month in 2007, and \$60 per month in 2008.

For most of the bargaining unit -- the seventy-four employees who elect single coverage -- the rise in the cost of health insurance will be fully offset by the Employer's contribution to the health insurance premium, even if they select the most expensive of the three plans offered by the Employer. During 2006, thirty-six employees have elected to have family coverage, and eighteen of these have selected the most expensive plan, the total premium for which is \$1,024 per month. Of that amount, \$685.40 is paid by the Employer, and the

balance of \$338 is paid by the employee. Thirteen employees have selected the least expensive family plan, the total premium for which is \$885 per month, \$685.40 of which is paid by the Employer with \$200 paid by the employee. Five employees have selected the middle plan, the total premium for which is \$963 per month, of which \$685.40 is paid by the Employer with \$277 paid by the employee. These thirty-six employees who elect to have family coverage will receive the full amount of the increase in the Employer's contribution to the health insurance premium. The increase in the Employer's contribution will be about 6.2% in 2006, 7.3% in 2007 and 8.16% in 2008.

The evidence presented about pay equity has had no effect on my award. It appears that the salary increases awarded will not affect the Employer's compliance or lack of compliance with the pay equity standards established by DOER. I agree with the Union that, if external comparison and other evidence had justified the larger salary increases it proposed, those increases would have little effect on the Employer's ability to comply with DOER's pay equity standards.

ISSUE 5: EMPLOYER'S 2006 HEALTH INSURANCE  
PREMIUM CONTRIBUTION  
ISSUE 6: EMPLOYER'S 2007 HEALTH INSURANCE  
PREMIUM CONTRIBUTION  
ISSUE 7: EMPLOYER'S 2008 HEALTH INSURANCE  
PREMIUM CONTRIBUTION

Section 15.1 of the current labor agreement is set out below:

The Employer will contribute up to a maximum of Five hundred ten dollars and forty cents (\$510.40) per month per Employee in 2003 toward health insurance including

dependent coverage, effective March 1, 2003. In 2004 the maximum amount contributed by the Employer shall increase to Five hundred eighty-five dollars and forty cents (\$585.40) and in 2005 the maximum shall be Six hundred forty-five dollars and forty cents (\$645.40), effective March 1st of each year. Health insurance coverage is available the first of the month following the hire date.

The Union's Position.

The Union proposes that Section 15.1 of the labor agreement be amended so that, in 2006, the Employer would provide "paid single coverage and a \$40 increase for family coverage," and in 2007, the Employer would provide "paid single coverage and a \$50 increase for family coverage or 1/2 if increase exceeds \$100," and, in 2008, the Employer would provide "paid single coverage and a \$60 increase for family coverage or 1/2 if increase exceeds \$120."

The Employer's Position.

The Employer revised its final position at the hearing. The revised position of the Employer did not state its proposal in express contract language, but as I interpret the revision, it would amend Section 15.1 as it appears in the current agreement so that new language would be used only as necessary to state increased contribution amounts proposed for the new contract years. So interpreted, the revised language of Section 15.1, as proposed by the Employer, would be the following:

The Employer will contribute up to a maximum of six hundred eighty-five dollars and forty cents (\$685.40) per month per Employee in 2006 toward health insurance including dependent coverage, effective March 1, 2006. In 2007, the maximum amount contributed by the Employer shall increase to seven hundred thirty-five dollars and forty cents (\$735.40) and in 2008, the maximum shall be seven hundred ninety-five dollars and forty cents

(\$795.40), effective March 1st of each year. Health insurance coverage is available the first of the month following the hire date.

Decision and Award.

The parties agree that the maximum amount of the Employer's monthly contribution to health insurance premiums should rise by \$40 to \$685.40 during the new policy year beginning March 1, 2006. They also agree that the limit on the Employer's monthly contribution should rise by at least another \$50 to \$735.40 in the policy year beginning March 1, 2007 (the "2007 policy year"), and by at least another \$60 to \$795.40 in the policy year beginning March 1, 2008 (the "2008 policy year"). The Union, however, proposes that, if monthly premiums rise by more than \$100 in the 2007 policy year, the \$50 dollar increase in the Employer's contribution for that year should rise by an additional amount equal to one-half of the excess over \$100. For the 2008 policy year, the Union proposes that, if monthly premiums rise by more than \$120, the \$60 dollar increase in the Employer's contribution for that year should rise by an additional amount equal to one-half of the excess over \$120.

The Union argues that increases in the cost of health insurance have been substantial in recent years and that there is reason to expect that the cost will rise substantially in the last two years of the labor agreement's duration. For that reason, the Union seeks protective language that would split the burden of larger increases between the Employer and the insured employee. The Union argues that the average health insurance

contribution of the counties in its comparison group is about \$150 more than the Employer's 2006 contribution of \$685.40.

The Employer argues that internal consistency should be the primary consideration when determining health insurance benefits. Non-union employees and the employees in the three bargaining units that have settled new labor agreements will all receive the same increases that the Employer proposes here -- \$40 per month for the 2006 insurance year, an additional \$50 per month for the 2007 insurance year and an additional \$60 per month for the 2008 insurance year.

For two bargaining units, the Highway Unit and the Courthouse Unit, the 2005 contribution of \$645.40 was slightly different from the 2005 contribution for the other employees of the County. Thus, the Courthouse Unit had the same monthly maximum of \$645.40, but that amount was to be used for health insurance, life insurance and disability insurance. Similarly, for the Highway Unit, the maximum contribution was to be used for health, life and disability insurance, but the amount of the 2005 contribution was \$636.80 rather than the \$645.40 that other employees of the County received. For members of the Union's bargaining unit, the Employer pays the premium for life and disability insurance in addition to the maximum contribution set in Section 15.1.

I award the position of the Employer on the insurance issues. Almost universally, arbitrators use internal consistency as the standard that determines health insurance benefits. The Union argues that internal consistency is lacking here,

because of the variations in insurance benefits received by employees in the Courthouse Unit and the Highway Unit, but those variations are slight and provide those employees with less than the Deputies and Sergeants receive. The award provides them with the same flat dollar increases that all other employees will receive in 2006, 2007 and 2008, thus continuing substantial internal consistency.

ISSUE 8: COMPENSATORY TIME - MAXIMUM ACCRUED HOURS

Section 12.1 of the current labor agreement is set out below:

Employees will be paid at an overtime rate of time and one-half (1 1/2) or compensatory time on a time and one-half (1 1/2) basis, at the Employer's option, for hours worked as an extension of the employee's regularly scheduled shift. Changes of shifts do not qualify an employee for overtime under this section Article [sic]. The maximum number of compensatory time allowed shall be 48, non-renewable, per calendar year [sic]. All hours of compensatory time shall be used by the end of the year. If an employee has not used his accrual of compensatory time and wishes to be paid for the unused accrual in cash, he may do so, provided:

- The request is received in writing by December 1st so that it can be processed through the payroll system within the calendar year.
- Payment of the accrual is at the rate the compensatory time was earned, minus any required deductibles.

The Union's Position.

The Union proposes three changes in the substance of Section 12.1. First, it proposes that the 48 hour limit on the accrual of compensatory time should no longer be "non-renewable," i.e., that, instead, an employee could accrue the maximum of 48 hours, use some of it and again be able to accrue more compensa-

tory time to the limit of 48 hours, repeating this process throughout the calendar year. Second, the Union proposes that an employee be permitted to carry over to the next calendar year up to 24 hours of compensatory time. Third, the Union proposes to eliminate the option of the Employer to decide whether an employee will be paid in cash for overtime work or will accrue compensatory time, thus transferring that choice to the employee.

#### The Employer's Position.

The Employer proposes that the language of Section 12.1 continue in effect without change during the new contract term.

#### Decision and Award.

Currently, the work schedule used in the Sheriff's Department has each employee working six days followed by three days off. Each shift is eight hours, and employees bid for shifts by seniority. The Employer provides some coverage twenty-four hours per day, seven day per week.

The Union argues that compensatory time is very important to the employees and that, because of the coverage that must be provided for all hours of the week, employees often must use vacation time rather than compensatory time to attend normal family functions that other employees may attend during their time off. The Union's proposals are intended to alleviate the lack of personal time off by giving employees more control over the use of compensatory time.

The Employer argues that compensatory time increases the costs of operating the Sheriff's Department. Because of the need to provide coverage during all hours of the week, an

employee who takes compensatory time off must usually be replaced with an employee who is paid overtime. In addition, the Employer argues that neither internal comparison nor external comparison supports the Union's position. None of the other employees in the Sheriff's Department have compensatory time. Three bargaining units outside the Sheriff's Department have compensatory time -- the Courthouse Unit, the Human Services Unit and the Highway Unit. All of those employees are subject to the same restrictions as to compensatory time that the Union would eliminate by its proposal. They have compensatory time at the Employer's option, they have a non-renewable limit of 48 hours per year on its accrual and they may not carry it over to a new calendar year.

Three of the counties in the Employer's comparison groups do not allow compensatory time. Three place a maximum of 40 hours on the accrual of compensatory time, one, a maximum of 60 hours, and one, a maximum of 80 hours. One county allows accrual of up to 160 hours of compensatory time, but does not permit its use if overtime is needed to replace the employee proposing to use it. Five give the employer the option whether to provide compensatory time or overtime. One provides for the carry over of up to 40 hours of compensatory time to the new calendar year. The evidence does not include information about the use of compensatory time in Dakota County, the only county not included in one of the Employer's comparison groups.

I do not award the changes in Section 12.1 that the Union proposes because neither internal nor external comparison

supports them. If these changes are to be made, they should be made in the give and take of bargaining.

ISSUE 9: UNIFORM ALLOWANCE FOR 2006  
ISSUE 10: UNIFORM ALLOWANCE FOR 2007  
ISSUE 11: UNIFORM ALLOWANCE FOR 2008  
ISSUE 12: PROVISION OF INITIAL ISSUE  
UNIFORMS FOR NEW EMPLOYEES  
ISSUE 20: UNIFORMS - PERSONAL ITEMS DAMAGED  
IN LINE OF DUTY

Sections 16.1, 16.3 and 16.5 of the current labor agreement are set out below:

16.1. The Employer will provide deputy sheriffs and sergeants an allowance of Five hundred twenty-five dollars (\$525.00) in 2003, Five hundred forty dollars (\$540.00) in 2004, and Five hundred fifty dollars (\$550.00) in 2005 for the purchase, maintenance and cleaning of uniform articles and equipment required by the Employer.

16.3. New employees shall be allowed uniform allowance credit for the fraction of a year worked (full monthly allowance if the starting date is prior to the 16th day of the month, no monthly allowance if the starting date is on the 16th day of the month or later).

16.5. Uniforms damaged in the line of duty through no fault of the employee shall be replaced by the Employer.

The Union's Position.

The Union proposes that the uniform allowance be increased to \$600 for 2006, to \$650 for 2007 and to \$700 for 2008. It also proposes that the Employer provide the initial uniform to a newly hired employee. The Union opposes the addition to Section 16.5 that the Employer proposes, as noted below.

The Employer's Position.

The Employer proposes that, during the new contract term, there be no change in the amount of the annual uniform allowance.

The Employer opposes the Union's proposal to have the Employer pay for the initial uniform of a newly hired employee. In addition, the Employer proposes that the new labor agreement be amended by adding the following sentence to Section 16.5:

Personal items damaged in the line of duty, such as eyeglasses, wristwatches, gloves, etc. are the responsibility of the Employee.

Decision and Award.

During the term of the current labor agreement, from 2003 through 2005, the annual uniform allowance increased from \$525 in 2003, to \$540 in 2004 and to \$550 in 2005. The uniform allowance for employees in the Sheriff's Essential Supervisors Unit has increased from \$525 in 2003, to \$530 in 2004 and to \$535 in 2005. For employees in the Non-licensed Essential Staff Unit, the uniform allowance has increased from \$350 in 2003 and to \$400 in 2004 2005. The Union argues that Deputies and Sergeants must have, not only clothing but the equipment needed for patrol duties, and that, therefore, their annual allowance must be larger than that of the Supervisors, Dispatchers and Jailers, who work in office positions.

In the Union's Comparison Group, the average annual uniform allowance was \$655 in 2005 and increased to \$699 in 2006. In the Employer's First Comparison Group, the average uniform allowance for 2006 is \$800. In the Employer's Second Comparison Group, two counties provide the uniform in kind, and the average 2006 uniform allowance for the other nine counties is \$745.

With respect to the Union's proposal that the Employer provide newly hired bargaining unit members with the initial issue of their required clothing and equipment, the Union makes the following arguments. The cost of the equipment and clothing needed to outfit a newly hired Deputy can exceed \$2,500. Five of the six counties in the Union's Comparison Group provide the initial uniforms and equipment to newly hired Deputies, though some have limitations. In Washington County, the remaining county of the six in the Union's Comparison Group, the language of the labor agreement, after stating the amount of the annual allowance, provides that "[t]he Employer will pay an amount equal to one year uniform allowance toward the initial purchases."

The Employer argues that the Union's estimate, at \$2,500 or more, for the cost of an initial outfit of uniform and equipment is inflated and that the real cost is nearer to \$1,000. As noted above, two of the counties in the Employer's comparison groups provide both initial and replacement uniforms in kind to all Deputies. Of the remaining counties in the Employer's comparison groups, most provide uniforms in kind during the first year of employment and an annual allowance thereafter. The Employer argues that this proposal of the Union would make a major change in the agreement -- one that should not be made in arbitration.

The Employer proposes to add a sentence to Section 16.5 that would make it the responsibility of the employee to replace personal items damaged in the line of duty. The Employer cites

one other county, Sherburne County, that has such a contract provision. The Union opposes any change in the current language of Section 16.5, which has been in the agreement since 1991.

I award an increase in the uniform allowance to \$600 in 2006, to \$625 in 2007 and to \$650 in 2008. These increases are justified by external comparisons -- not only those of the Union, but those of the Employer as well. I also award some relief to the newly hired employee, who must undertake the extra expense of providing all of his or her first outfit of uniform and equipment and do so, ordinarily, while being paid only at the lowest salary step.

For the new contract term, the text of Section 16.1 and 16.3 shall be as set out below:

16.1. The Employer will provide deputy sheriffs and sergeants an allowance of six hundred dollars (\$600.00) in 2006, six hundred twenty-five dollars (\$625.00) in 2007, and six hundred fifty dollars (\$650.00) in 2008 for the purchase, maintenance and cleaning of uniform articles and equipment required by the Employer.

16.3. New employees shall be allowed uniform allowance credit for the fraction of a year worked (full monthly allowance if the starting date is prior to the 16th day of the month, no monthly allowance if the starting date is on the 16th day of the month or later). In addition, as a contribution toward the cost of the initial purchase of uniforms and equipment, the Employer shall pay newly hired employees an amount equal to 150% of the annual uniform allowance stated in Section 16.1.

Finally, because there is almost no support in the evidence for the change in Section 16.5 that the Employer proposes, I award no change in its language. For the new contract term, the current language of Section 16.5 shall continue unchanged.

### ISSUE 13: SHIFT DIFFERENTIAL

The current labor agreement does not provide for a shift differential.

#### The Union's Position.

The Union proposes that the new labor agreement establish a shift differential of \$0.50 per hour for all hours worked between 6:00 p.m. and 6:00 a.m.

#### The Employer's Position.

The Employer opposes the Union's proposal to establish a shift differential.

#### Decision and Award.

The Union argues that all six of the counties in its comparison group pay a shift differential, averaging about \$0.625 per hour and that of the eighty-seven counties in the state, fifty-one pay a similar shift differential. The Union cites studies that conclude that night work is highly stressful.

The Employer argues that an award of this proposal would be very costly, increasing the County's expenditures by more than \$30,000 per year. It also argues that, because no other law enforcement employees of the County receive a shift differential, internal comparison does not justify such an award. In addition, the Employer argues that the Union has previously proposed the addition of a shift differential in a 1995 interest arbitration (Law Enforcement Labor Services, Inc., and Wright County, BMS Case No. 94-PN-2072, Berquist, 1995) and

that the arbitrator in that case rejected the proposal, indicating that its high cost made it appropriate for bargaining by the parties as part of a "wage package."

I do not award the Union's proposal to add a shift differential to the labor agreement. I adopt the reasoning given by the arbitrator in the previous interest arbitration proceeding -- that the cost of this item makes it appropriate for the give and take of bargaining.

ISSUE 14: COURT TIME - MINIMUM COMPENSATION  
ISSUE 15: COURT TIME - CANCELLATION NOTICE

Article XIII of the current labor agreement is set out below:

An employee who is required to appear in court during the employee's scheduled off-duty time shall receive a minimum of two (2) hours' pay at one and one-half (1-1/2) times the employee's base pay rate. Pay at one and one-half (1-1/2) times the employee's base pay rate shall also be paid to the employee if the court appearance scheduled during the employee's off-duty time is cancelled after 10:30 a.m. on the date of the scheduled court appearance. An extension of or early report to a regularly scheduled shift for court appearance does not qualify the employee for the two (2) hour minimum.

The Union's Position.

The Union proposes that the minimum payment for a court appearance scheduled during an employee's time off duty be increased from two hours at time and one-half to three hours at time and one-half. The Union also proposes that the Employer should be obliged to make the minimum payment if such a court appearance is cancelled within twenty-four hours of the time of the scheduled appearance.

### The Employer's Position.

The Employer opposes the changes sought by the Union.

### Decision and Award.

The Union argues that in recent years the trend among other counties is to increase the court-time call-back minimum from two hours to three hours. Of the six counties in the Union's Comparison Group, two have a two-hour minimum, three have a three-hour minimum and one has a four-hour minimum. The Union argues that, because court-time interrupts valuable time off, compensation for it should be increased.

The Union also proposes that the minimum should be payable unless at least twenty-four hour notice of cancellation is provided to the Deputy, thus compensating him or her for the inability to schedule other activities on a day off that has been previously reserved for court time. One other county in the Union's Comparison Group, Sherburne County, requires twenty-four hour notice of cancellation.

The Employer argues that many of its other employees are subject to call back -- those in the Highway Unit, the Human Services Unit, the Courthouse Unit and the Non-licensed Essential Staff Unit. None of them receives a three-hour minimum for call-back and none has a twenty-four hour cancellation period. Of the six counties in the Employer's First Comparison Group, five provide a minimum call-back of two hours or less, and three have no cancellation minimum. Of the eleven counties in the Employer's Second Comparison Group, six provide a minimum call-back of two hours or less, and seven have no cancellation minimum.

I do not award the changes in Article XIII proposed by the Union. They are not supported either by internal or external comparison. The language of Article XIII as it appears in the current labor agreement shall continue for the new contract term.

ISSUE 16: SICK LEAVE -- HOURS EARNED IN  
EXCESS OF MAXIMUM ACCUMULATION

Sections 19.1 and 19.5 of the current labor agreement are set out below:

19.1. All permanent employees shall be allowed to accumulate sick leave to a maximum nine hundred twenty (920) hours. This sick leave for permanent employees shall be computed at the rate of 3.69 hours per pay period.

19.5. When an employee has nine hundred twenty (920) hours accumulated in the regular sick leave bank, he/she shall accumulate additional leave in the catastrophic leave bank at the rate of four (4) hours for each full month of service. Sick leave in the catastrophic leave bank may be utilized for serious illness or injury when the regular sick leave bank has been completely exhausted. Sick leave in the catastrophic bank shall not be included in severance pay.

The Union's Position.

The Union proposes that, after an employee has accumulated the maximum of 920 hours of regular sick leave, as permitted by Section 19.1, he or she should then accumulate additional leave, "at the rate of four (4) hours for each full month of service," in accord with Section 19.5, but that only two hours of that additional leave should be placed in a catastrophic leave bank, with the other two hours to be made available to the employee to take as additional vacation.

The Employer's Position.

The Employer opposes the changes sought by the Union. The Employer does propose a different change to Section 19.5; it would change the wording that describes the amount of catastrophic leave that may be accumulated -- from "four (4) hours for each full month of service" to "1.85 hours per pay period."

Decision and Award.

The parties agree that the change in the wording of Section 19.5, as proposed by the Employer, would make no substantive change in the amount of catastrophic leave permitted to be earned, i.e., that "four (4) hours for each full month of service" is the equivalent of "1.85 hours per pay period." Accordingly, I award that change.

The Union argues that the additional vacation that this proposal would provide is justified by external comparison -- that the average maximum vacation provided by the six counties in the Union's Comparison Group is 21.8 days, whereas the maximum permitted under the current labor agreement is twenty days. The Union argues that two of those counties, Anoka and Washington, have provisions similar to the one proposed here, allocating half of excess sick leave earned over the maximum permitted accrual to be used as additional sick leave and half as additional vacation.

The Employer argues that its other employees all receive the same amount of catastrophic leave after reaching the maximum accumulation of 920 hours of sick leave, and that none of them receives additional vacation in lieu of such catastrophic leave.

I do not award the change in Section 19.5 that the Union proposes. That change would provide vacation benefits different from those received by other employees of the County. Article XVIII of the current labor agreement sets the maximum vacation for bargaining unit members at 168 hours for those with twenty or more years of service -- the equivalent of twenty-one eight-hour days. That amount of vacation is not substantially different from the average of 21.8 days that are provided by the six counties in the Union's Comparison Group.

ISSUE 17: INVESTIGATOR - COMPENSATION FOR STANDBY HOURS  
ISSUE 18: INVESTIGATOR - COMPENSATION FOR HOURS ON CALL

The parties agree that Issues 17 and 18 refer to the same subject matter and were inadvertently listed as two items at impasse.

I have set out above the Salary Appendix to the current labor agreement, Section D of which I repeat here:

Investigators required to be on standby by the Employer for a 24-hour period for investigative duty during the investigator's scheduled off-duty time shall be paid \$40.00 for each such 24-hour period.

On October 14, 2004, the parties executed a Memorandum of Agreement that changed Section D of the Salary Appendix, thus:

. . . the parties agree as follows:

1. The Salary Appendix, Section D, shall be amended to read:

"Investigators assigned to be on standby for a 7-day week will receive \$30 per day as standby pay for those days that the employee is scheduled to work (Monday through Friday), and \$40 per day for each day of the weekend." . . .

The Union's Position.

The Union proposes that the per diem pay for a Deputy who is assigned to be on standby, i.e., who is subject to call-back as an investigator, should be increased by \$5 per day to \$35 per workday. As I interpret this proposal, it seeks that increase for weekdays, but would leave the standby pay for weekend days at \$40 per diem.

The Employer's Position.

The Employer opposes the change sought by the Union.

Decision and Award.

The Union's proposal would raise the total standby pay for a Deputy assigned to investigation work from \$230 per week to \$255 per week. The Union argues that many jurisdictions have a separate Investigator's classification as a promoted position, with a substantially higher salary than that of the Deputy's classification. It also notes that some other jurisdictions that do not have a separate Investigator's classification, as the Employer does not, pay a higher differential to Deputies who are assigned to investigation work.

The Employer argues that, because the parties negotiated the appropriate pay for standby investigation status in October of 2004, the Union should be obliged to show some substantial change in the circumstances that prevailed that short time ago to justify a change in the bargain it agreed to then. The Employer argues that many of the counties in its comparison groups pay no standby pay for investigation work and that only

McLeod County pays more than is specified in the parties' Memorandum of Agreement of October 14, 2004.

I do not award the change sought by the Union. The evidence does not support a change from what the parties negotiated two years ago.

ISSUE 21: MILEAGE - REIMBURSEMENT RATE  
FOR USE OF PERSONAL VEHICLE

Section 23.1 of the current labor agreement is set out below:

Employees specifically required by the Employer to use the Employee's automobile for approved County business will be reimbursed at a rate equal to that rate paid to employees of the State of Minnesota.

The Employer's Position.

The Employer proposes that Section 23.1 as it appears in the new labor agreement be amended to provide:

Employees specifically required by the Employer to use the Employee's automobile for approved County business will be reimbursed at the mileage rate established by the Employer.

The Union's Position.

The Union opposes the change sought by the Employer.

Decision and Award.

Section 506.03(A) of the Employer's Personnel Policies provides that "[t]he County will pay the prevailing rate to employees who use their personal vehicle." The evidence shows that the "prevailing rate" it pays is the rate authorized by the United States Internal Revenue Service (the "IRS rate") and that

the rate paid to employees of the State of Minnesota is also the IRS rate. The Employer would change the contract language so that it would permit conformance to its Personnel Policies. The labor agreement between the Employer and the union representing the Essential Supervisors Unit has the same language as Section 23.1 of the current labor agreement. The labor agreement between the Employer and the union representing the Non-licensed Essential Staff Unit provides that reimbursement is to be "in accordance with County Policy."

The Union opposes the Employer's proposal to change Section 23.1 because it would leave the rate of reimbursement fully at the discretion of the Employer, with the possibility that the rate could be reduced to an inadequate amount.

I award the position of the Union, to continue the language of Section 23.1 as found in the current labor agreement -- only because the continuation of that language will give the Union peace of mind without changing substantively what the Employer intends. It appears that the parties could agree that the appropriate rate should be the IRS rate, as it is reset from time to time to reflect current costs of operating an automobile. I suggest that the parties settle the issue by agreeing to use that rate.

ISSUE 22: COMPENSATION FOR ASSIGNMENT  
TO A HIGHER CLASSIFICATION

Article XXIV of the current labor agreement provides:

Employees assigned by the Employer to assume the full responsibilities and authority of a higher job classification shall receive the salary schedule of the higher classification for the duration of the assignment.

The Employer's Position.

The Employer proposes that Article XXIV as it appears in the new labor agreement be amended by adding the language underlined below:

Employees assigned by the Employer to assume the full responsibilities and authority of a higher job classification shall receive the salary schedule of the higher classification (the next higher dollar step in the classification of that job above the Employee's own rate of pay) after five (5) consecutive work days in the higher classification for the duration of the assignment.

The Union's Position.

The Union opposes the change sought by the Employer.

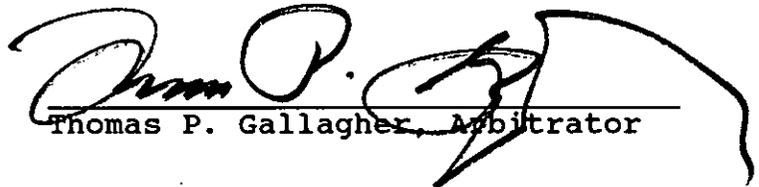
Decision and Award.

The Employer argues that the language of this provision should be amended because the language as it appears in the current labor agreement should be clarified to state at what level the employee should be paid when working out of class and to state how long the employee must work in the higher classification to be entitled to that higher pay. The Employer also argues that the employees in three other bargaining units -- the Courthouse Unit, the Human Services Unit and the Non-licensed Essential Staff Unit -- are subject to the same contract language as that proposed here. The Employer has adopted a personnel policy with identical language that covers non-union employees.

The Union argues that adoption of this provision would unfairly require that employees work in a higher classification without a corresponding increase in compensation for up to five days.

I do not award the change sought by the Employer. Though, as the Employer argues, it would clarify Article XXIV, it would also, as the Union argues, eliminate a benefit that bargaining unit employees have under the current labor agreement. The Employer should achieve this change in the give and take of bargaining.

October 20, 2006

  
Thomas P. Gallagher, Arbitrator