
In Re the Arbitration Between:

BMS File No.15-PN-0673

Ramsey County, Minnesota,
(Sheriff's Department)
Employer,

and

**INTEREST ARBITRATION
OPINION AND AWARD**

Law Enforcement Labor Services, Inc.,
Local 322, Deputies

Union.

Pursuant to **Minn. Stat. Section 179A.16 subs. 2** and **Minn. R. 5510.2930** the Minnesota Bureau of Mediation Services certified the above matter to arbitration on September 14, 2015.

The Bureau certified the following issues:

1. Wages: General wage adjustment for 2015, 2016, 2017. What should the general wage adjustment be? Article 25/ Appendix.
2. Wages: Should there be a market adjustment in 2015, 2016, or 2017. If so, how much? Article 25/Appendix.

The parties selected James A. Lundberg to serve as their neutral arbitrator from a Minnesota Bureau of Mediation Services list of arbitrators.

A hearing was conducted on March 30, 2016 at the Bureau of Mediation Services, St. Paul, Minnesota.

Briefs were submitted by e-mail transmission on April 18, 2016.

The record was closed on April 18, 2016 upon receipt of the briefs.

APPEARANCES:

FOR THE EMPLOYER

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Ramsey County Human Resources
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St. Paul, MN 55101

FOR THE UNION

Kim Sobieck, Business Agent
LELS, Inc.
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OVERVIEW:

Ramsey County and the Sheriff's Deputies have been unable to agree upon an acceptable wage increase for the Deputies unit for the years 2015, 2016 and 2017. The Union is asking for a general wage increase that is greater than the Employer's wage proposal or, alternatively, the Employer's proposed wage increase plus compensation by means of a "market adjustment" that will result in a wage increase of the same magnitude as the Union's proposed general wage increase.

The final positions submitted by the Union to the Bureau of Mediation Services are:

- 1. Wages: General Wage adjustment for 2015, 2016 and 2017 should be 2%, 2.5% and 2.6% respectively, unless a market differential is not awarded. If a market differential is not awarded, the general wage increase should either be 2% plus \$0.46 per hour for 2015; 2.5% plus \$0.46 per hour for 2016; and 2.6% plus \$0.46 per hour for 2017; or 6.9% for 2015.*
- 2. The market differential for 2015, 2016 and 2017 should be \$0.46 per hour, \$0.46 per hour, \$0.46 per hour respectively. In the alternative, the market differential should be 4.9% for 2015.*

The final positions submitted by the Employer to the Bureau of Mediation Services

are:

- 1. General wage increase: for 2015 at 2%; for 2016 at 2.5%; for 2017 at 2.6%.*
- 2. Market differential should not be awarded for: 2015, 2016, 2017.*

SUMMARY OF UNION'S ARGUMENT:

The Union argues that the following four factors normally relied upon by interest arbitrators support its' position:

- The Union's proposed wage increases would not take the Employer out of compliance with pay equity.
- The internal wage settlement pattern should not be the sole or controlling factor in determining wages for the Deputies bargaining unit.
- The Union's proposed wage increases are supported by external wage comparisons that demonstrate that Ramsey County Deputies are paid far less than Deputies in surrounding counties.
- The Employer has the ability to pay the Union's wage proposal.

The Union also argues that the arbitrator should consider two issues unique to the Ramsey County Sheriff's Department. First, the most recent pay equity report for Ramsey County shows that Deputies wages are even farther below predicted pay than the Sheriff's Commanders, who received a market adjustment of 3.2% in 2015. Second, the Union believes that the lower wages being paid to Ramsey County Deputies is creating problems for attracting new employees and for retaining existing employees.

Pay Equity:

In all interest arbitrations involving a class other than a balanced class held under **Sections 179A.01** and **179.25**, the arbitrator shall consider the equitable compensation relationship standards established under this section [**471.992**] and standards established under **Section 471.993**, together with other standards appropriate to interest arbitration.

The arbitrator shall consider both the results of a job evaluation study and employee objections to the study. **Minn. Stat. Sec. 471.992, Subd. 2 (2010)**

The Employer is in compliance with the Pay Equity Act. At hearing the parties agreed that the Union's proposal would not cause the County to be non-compliant with the Pay Equity Act.

Internal Wage Settlement Pattern:

The internal wage settlement pattern for this Employer is a 2% general wage increase in 2015, a 2.5% general wage increase for 2016 and a general wage increase of 2.6% for 2017.

However, the internal wage settlement pattern should not be the Arbitrator's sole consideration. Arbitrator Richard Anderson has said:

[T] his Arbitrator does not believe that simply cashing in awards solely for the purpose of maintaining internal consistency in wage increases is appropriate in all circumstances. Wage equity goes beyond giving the same wage increase to all employees if compelling reasons exist to deviate from general wage increases established for other employees. This is especially true where the group in question is being left behind in the external market place, *Cottage Grove and the Federation, BMS No. 10-PN-1602 (Anderson 2011)*.

The Union also cites Arbitrator Bard in *Duluth Police Union v. City of Duluth, BMS No. 07-PN-0383 (Bard 2007)*, where he notes that rigidly following the internal wage settlement pattern taken to its logical conclusion "effectively eliminates collective bargaining and locks every Union in a city to the pay raise negotiated by the first Union to settle..."

The Union contends that there is compelling evidence to support deviation from the internal wage settlement pattern and the evidence should lead the Arbitrator to award one of the Union's wage proposals.

The wages for Ramsey County Sheriff's Deputies should be compared with wages paid Sheriff's Deputies in the seven county metropolitan area. The comparable counties are Anoka, Carver, Dakota, Hennepin, Scott and Washington. As recently as 10 years ago the wages for Ramsey County Sheriff's Deputies were above the average wages paid within the comparison group. Beginning in 2007 wages for Ramsey County Sheriff's Deputies began falling relative to the comparison group. In 2014 the wages for Ramsey County Sheriff's Deputies were 4.7% below the average wages paid Sheriff's Deputies within the comparison group. If the Employer's proposal is accepted, the wages for this bargaining unit will fall to 4.9% below the average wages paid within the comparison group.

Because only three of the six counties in the metropolitan area settled contracts, the Union has "assumed" that the last offers made to Hennepin, Anoka and Washington County Deputy units will be ratified and has used the last offers for comparison. If the last offers made to Hennepin, Anoka and Washington County Deputies are ratified, and the Ramsey County proposal is adopted by the Arbitrator, wages for Ramsey County Deputies will drop to 6.4% below the average. If a downward adjustment is made to Dakota County's top wage to reflect the highest wage actually being paid, Ramsy County Deputies' wages will be 5.4% below the adjusted average.

In 2004 Ramsey County Deputies wages ranked #1 within the seven county comparison group. In 2014 the ranking had fallen to #6 within the group. If the internal wage pattern is

adopted, the wages for Ramsey County Deputies will continue to fall relative to the comparison group.

Wages for Hennepin County Sheriff's Deputies appear to be lower than those paid by Ramsey County. However, using the wages for Hennepin County Deputies as the sole comparison ignores some important factors. First, the comparison is being made between the top wages paid by each Employer. Hennepin County Deputies reach their top wage in five (5) years, while Ramsey County Deputies do not reach top wage, until 20 years of service. At five (5) years a Ramsey County Deputy makes \$400.00 less per month than a Hennepin County Deputy. Moreover, the Hennepin County wage scale provides for an annual lump sum stability payment, similar to longevity, which increases the disparity between wages paid Hennepin County and Ramsey County Deputies.

Attraction and Retention:

The lower wages being paid to Ramsey County Deputies is impacting recruitment of new Deputies. Sergeant Ken Mueller, whose responsibilities include recruiting new Deputies, cited situations where candidates have chosen other departments because the starting wage has been \$5.00 per hour higher than Ramsey County's starting pay. Sergeant Mueller also testified that recruits always note the \$5.00 per hour wage discrepancy between Ramsey County and St. Paul.

Within Ramsey County, Corrections Officers are paid at the same rate as Deputies. There is no motivation for a Corrections Officer to move to a Deputy position, when the rate of pay is the same. However, the wages paid Deputies in surrounding counties and cities are higher, which gives incentive for Ramsey County Corrections Officers to seek employment outside the County.

The wage disparity also makes recruitment of experienced officers difficult. Sergeant Mueller said that experienced St. Paul officers sometimes inquire about Deputy positions but he

does not hear back from them once they learn they will have to take a significant pay cut to change departments.

The qualifying standards for Ramsey County Deputies are more stringent than Hennepin County and St. Paul. By imposing higher qualifying standards and paying lower wages, Ramsey County is creating a much smaller pool of candidates from which they can recruit. Other Counties in the seven county area have recognized the need to pay a more competitive wage and have adjusted their wage scales accordingly.

Since 2006 almost 25 deputies have left Ramsey County to take law enforcement positions in other municipalities. The Union contends that retention and recruitment is suffering due to the low wages being paid to Ramsey County Deputies.

The Recent Ramsey County Commanders Arbitration Award:

The Ramsey County Sheriff's Commanders unit recently sought and received a wage increase that was greater than the internal wage pattern of 2%, 2.5% and 2.6%. A 3.2% market adjustment was awarded for 2015. The Arbitrator found:

There is compelling evidence that wages of the Sheriff's Commanders bargaining unit are too low. Hence, there is a basis for some departure from the established wage settlement pattern. If the wages for Sheriff's Commanders are brought up to predicted pay within the County, they will also not lose ground within the external comparison group. Consequently, a one-time market adjustment in 2015 to the wages of Sheriff's Commanders of 3.2% should be awarded in addition to the wage increases proposed by the Employer.

The Union contends that the Commander's arbitration award, on its own, justifies a one-time market adjustment of 4.9% in 2015.

Predicted Pay:

The Union argues that predicted pay is a reasonable and reliable basis for making a market adjustment. The Union notes that the Employer cited differences in predicted pay in lower end job classifications. Predicted pay is defined in **Minnesota Rule 3920.0500, subd. 4** and the statistic tends to be less stable for the job classifications in the lower end of job classifications. However, predicted pay for the Deputy's job class tends to be quite stable. For example, the 2015 and 2016 Ramsey County predicted pay reports show Deputy predicted pay at \$6,142.23 and \$6,186.17 per month respectively.

Over the past twenty-five (25) years, the County has required the use of predicted pay for the purpose of setting wages for new classifications and amending wages for existing classifications. Hence, the Employer's contention that predicted pay is unreliable is disingenuous.

Cost of Living:

The Union asks the Arbitrator to consider increases in the cost of living. In the last 12 months the CPI increased by only 1 percent. However, the modest increase was affected by the drop in gasoline prices. The index for shelter has risen 3.3 percent in the past twelve months and medical index has increased 3.5%. The County's wage proposal does not keep pace with increasing costs.

Comparisons with St. Paul:

The County regularly uses St. Paul employee wages to set new wages and amend wages for various job classifications. From 2008 to 2014 the wage disparity between St. Paul officers and Ramsey County Deputies has grown from \$308 per month to \$713 per month. The 2015 wage proposal will increase the disparity to \$777 per month. Hence, the proposed market adjustments should be adopted.

Ability to Pay:

The County has the ability to pay the Union's proposed wage increases. The unrestricted fund balance for the General Fund was at 50% of the General Fund expenditures in 2014, which is the ideal position recommended by the State Auditor. The County has a AAA bond rating by S&P and a Moody's rating of Aaa. Unemployment is below both state and national averages. The financial condition of the County is excellent.

The Union's largest proposed wage increase, using the County's cost analysis, would cost approximately \$800,000. Based on the 2014 Comprehensive Financial Report, the cost of the Union's proposal would be about 1% of the unassigned General Fund balance.

The Union demonstrated that the County has the ability to pay any of the proposed wage increases. It also established that the wages for Ramsey County Deputy Sheriff's have fallen significantly far behind the wages of other similarly situated Deputies within the seven county metropolitan area. The wages of this bargaining unit should be increased to keep pace with the external market.

SUMMARY OF EMPLOYER'S ARGUMENT:

The Employer argues that its' wage proposal, which reflects the internal wage settlement pattern, should be awarded. The number and variety of bargaining units that have settled with the Employer for general wage increases of 2% in 2015, 2.5% in 2016, and 2.6% in 2017 should weigh heavily in this decision. Both essential and non-essential bargaining units have settled with the Employer. The range of bargaining units that have settled include: Assistant County Attorneys, Operating Engineers Local 70 and Local 49, Correctional Officers, Residential Counselors at the Lake Owasso Residence, Nurses, Employment Guidance Counselors, Chief Correctional Officers, Emergency Supervisors, Technical Employees, Professional Employees,

Community Human Service providers, Ramsey County Care Center workers, Park and Recreational workers and others.

The financial health of the Employer is sound. Hence, the County is not arguing that it lacks the ability to pay for the Union's wage proposal. However, the County's excellent financial condition has been achieved by carefully managing its expenditures and living within its means. In the long term, departures from the approved budgets could seriously impact the financial well being of the County.

Ramsey County has the highest property tax rates in the seven county metropolitan area. The tax rates are twice as high as those of Dakota County. The County relies more heavily on property taxes than other counties in the seven county metropolitan area. Reasons for the heavy reliance on property taxes include small geographical size, high population density, higher expenditures for human services and a lower ability to generate funds from the tax base because 25% of the land within the County is tax exempt. Parks, government buildings and churches are all tax exempt. Only by carefully balancing moderate increases in expenditures with moderate tax increases has Ramsey County been able to maintain excellent financial health.

The financial health of Ramsey County residents compares poorly to residents in the Metro area. Nearly thirty percent (30%) of Ramsey County residents live in areas of concentrated poverty, compared with 13.8% within the Metro area. Ramsey County is the only metro county in which the median income is less than the median cost of living. The County has the lowest percentage of high school graduates in the metropolitan area. Within the seven county region the County has the lowest eighth grade reading and math proficiency rates. Additionally, the number of subsidized housing units per 1,000 acres is greater in Ramsey County than in any other jurisdiction in the region.

The Sheriff's Office budget has increased more rapidly than other County departments but does not include enough money to meet the wage increases proposed by the Union. At the end of 2014 an appropriation of \$900,000 was needed to fund Sheriff's Office cost overruns. The proposed wage increases will upset the financial balance that the County and the Sheriff's office has achieved.

The proposed wage increases are significantly greater than those achieved by other Ramsey County employees. The wage increases should be comparable to those received by other bargaining units.

The Employer does not think that the Arbitrator should use predicted pay to determine an appropriate wage increase. Predicted pay numbers will vary significantly, without changes being made to the job, to working conditions or the skills and abilities required by employees to perform their jobs. The Employer contends that "predicted pay numbers are only used for determining whether a jurisdiction's entire compensation system is in compliance with the Minnesota Pay Equity Act." Setting compensation for a single job classification is not the intended purpose of "predicted pay." The Arbitrator should weigh the Employer's ability to pay, internal equity, relevant external comparisons and other economic and non-economic factors but not predicted pay, as it is unreliable.

The differences in compensation structures across jurisdictions make wage comparisons within the seven county metropolitan area difficult. Scott County and Dakota County use merit pay systems. Other counties use longevity pay systems and some counties use a combination of merit pay and longevity. Because of the different compensations systems being used, it is impossible to make precise wage comparisons. The most reliable comparison that can be made is the internal wage pattern established between Ramsey County and its' work force.

Ramsey County has had no difficulty recruiting and retaining qualified candidates for the Deputy Sheriff's position. All vacant Deputy positions have been filled and only one or two in recent years have failed to pass the probationary period. Few Deputies have left since Sheriff Bostrom has been in office, to work for other jurisdictions. Of seven Deputies who have left for reasons other than retirement, only two have left to work in other jurisdictions.

Ramsey County is compliant with the Minnesota Pay Equity Act and it will continue to comply with the Pay Equity Act, if the Employer's wage proposal is adopted.

The Employer notes that the parties have no history of negotiating a "market differential". The Deputy contract contains a compensation structure that is based entirely upon length of service. There are no merit based compensations structures in the contract. Adding a market differential creates an entirely new category of pay that the parties have not negotiated. The arbitrator should leave it to the parties to negotiate a markedly different compensation plan.

OPINION:

The wage dispute between Ramsey County and the Sheriff's Deputies closely resembles the wage dispute recently reviewed by this Arbitrator in **BMS Case No. 16-PN-0020** between Ramsey County and the Sheriff's Commanders bargaining unit. The same internal and external relationships are present, the County's financial circumstances are the same and the County is in compliance with pay equity. The most significant difference between the two bargaining units is size. The Deputy Sheriff's bargaining unit is roughly eleven (11) times the size of the Sheriff's Commanders unit.

Ability to Pay:

Ramsey County through moderate tax increases and careful monitoring of expenditures has achieved bond ratings of AAA from S&P and Aaa from Moody's. The unrestricted fund

balance for the General Fund in 2014 was 50% for the total General Fund expenditures, which meets the State Auditors guideline of between 30% and 50%. Assets exceed liabilities by \$955,756,856 and the unrestricted net position in 2014 was \$233,316,827, an increase of \$9,784.926 from the prior statement. The County does not claim inability to pay but argues that the increases in wages proposed by the Union would be imprudent given the unique financial challenges the County faces.

Since the Sheriff's Deputies bargaining unit is roughly eleven (11) times the size of the Sheriff's Commanders bargaining unit, the impact of an upward wage adjustment over the general wage settlement pattern would have significantly greater impact upon Employer's financial condition than the same upward adjustment of wages for the thirteen (13) member Commanders unit.

Internal Wage Settlement Pattern:

The internal wage settlement pattern within Ramsey County is reflected in the County's wage proposal. The vast majority of bargaining units have settled contracts with general wage increases of 2.0% in 2015, 2.5% in 2016, and 2.6% in 2017. Generally an internal wage settlement pattern is followed unless there is compelling evidence of the need for a departure from the internal wage settlement pattern. Evidence that the wages in the subject County are lagging behind wages within the comparison group can form the basis for a wage adjustment that is not in line with the internal settlement pattern.

External Wage Comparisons:

In this case the Union has presented wage comparisons between Ramsey County Deputies and the six other counties within the seven county metropolitan area. The wage comparisons demonstrate how wages for Ramsey County Sheriff's Deputies have lagged behind

the wages of other Sheriff's Deputies within the comparison group. While the compensation systems vary between jurisdictions, it is clear that the top wages being paid Deputies in all of the Counties but Hennepin County are higher than the top wage being paid in Ramsey County. While Ramsey County's top wages are higher than those in Hennepin County, Deputies in Hennepin County reach the top of the salary schedule by year five (5), while Ramsey Deputies reach the top of the salary schedule after twenty (20) years.

In 2004 Ramsey County Deputies were paid the highest wages in the seven county comparison group. Since that time, wages for the bargaining unit have fallen relative to the comparison group. In 2014 the top wages for Ramsey County Deputies were 4.7% below the average top wage in the seven county comparison group. If the Employer's wage proposal is adopted, the wages for Ramsey County Deputies in 2015 will fall to 4.9% below the seven county average. Assuming that the most recent wage proposals made in Hennepin County, Anoka County and Washington County are accepted¹ and adjusting for the top wage actually paid in Dakota County², the wages for Ramsey County Deputies will fall 5.5% below the average wage within the comparison group under the Employer's wage proposal. The top wage for Ramsey County Deputies ranks sixth (6th) in the seven county comparison group. While Hennepin County's top wage is lower than the top wage in Ramsey County, Hennepin County Deputies reach the top wage fifteen (15) years earlier than Ramsey County Deputies.

The bargaining unit has approximately 168 employees, which makes it a fairly large unit. As noted previously, it is about eleven (11) times the size of the Ramsey County Commander's unit. Despite being paid lower wages than other Deputy units within the comparison group, the wages paid Deputy Sheriff's are still at a relatively high level. Hence, even modest attempts at

¹ The comparison offered by the Union is conservative.

² The top wage actually paid in Dakota County is lower than the highest wage under the contract.

slowing the downward movement of wages from the average wage paid within the comparison group will be quite costly.

Pay Equity:

The County is in compliance with the Pay Equity Act and none of the wage proposals will move the County out of compliance with Pay Equity.

As part of the statistical analysis that is conducted in order to determine whether a city or county is in or out of compliance with the Pay Equity Act, a job study is made to determine the comparable work value of jobs. **Minnesota Administrative Rules at 3920.0500, Subp. 4** says “Predicted pay means predicted salary for those jurisdictions which do not have different benefits for male-dominated and female-dominated classes of comparable work value.” Hence, the predicted pay reflected in the job study is a statistical, internal wage comparison.

The Sheriff’s Deputies bargaining unit in Ramsey County is being paid below the “predicted pay” level in the job study. The Union has argued that Deputies wages are 4.9% below predicted pay. Hence, bargaining unit wages should be raised by 4.9% in a one-time market adjustment in order to move bargaining unit wages up to predicted pay. In fact, the Sheriff’s Commanders unit was given a 3.2% one-time market adjustment that moved the bargaining unit wages up to or close to predicted pay. Of course, the financial impact upon the County of a one time market adjustment for a thirteen (13) member bargaining unit is significantly less than the impact of a similar adjustment for a bargaining unit of one hundred and sixty eight (168) members. The Employer’s cost analysis indicates that the Union’s proposal would cost the County more than \$800,000. Despite the generally accepted internal wage settlement pattern, the internal comparison between “predicted pay” and actual wages indicates

that Ramsey County Sheriff's Deputies are being paid slightly less than the statistical measure indicates should be paid for comparable work.

Despite a consistent internal wage settlement pattern, there is compelling evidence that supports a wage award somewhat greater than the internal wage settlement pattern. Wages for Ramsey County Deputies dropped from a number one ranking within the seven county comparison area in 2004 to sixth position within the comparison group in 2014. The top wage for Ramsey County Deputies was 4.7% below the comparison group average and will continue to fall over the next three years to more than 5% below the comparison group average, if the Employer's wage proposal is accepted. In addition to the external wage comparisons, the wages for Deputies are below "predicted pay," an internal wage comparison, which lends support to the argument for a departure from the internal wage settlement pattern. The Arbitrator concludes that a wage award greater than the internal wage settlement pattern is appropriate in this case. However, the Employer's argument that a market adjustment of 4.9% in 2015, as proposed by the Union, would be imprudent, is well taken.

The Sheriff's Commanders unit received a 3.2% market adjustment for 2015 in order to slow the decline of the bargaining unit's wages relative to the external market. Of course, the financial impact on the County of the entire market adjustment made in year one of the contract for the thirteen (13) member bargaining unit is significantly less than a similar market adjustment would be for the one hundred and sixty eight (168) member Deputies unit. If a market wage adjustment of 3.2% is made for the Deputies bargaining unit, it would be internally consistent with the market increase awarded to the Commanders unit but the one time adjustment would very difficult for the Employer to manage.

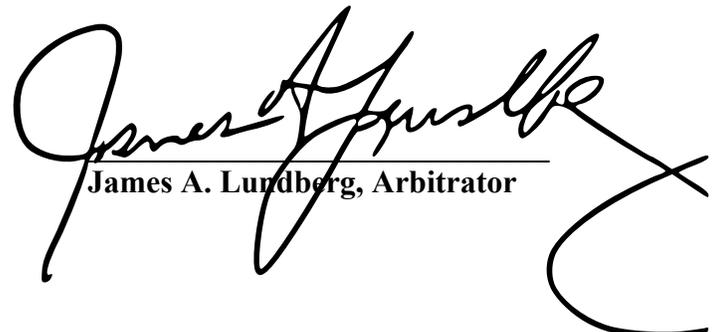
The Union has established by sufficient evidence that a market adjustment over and above the Employer's proposed wage increase should be awarded. Since a 3.2 percent market adjustment was made for the Commander's unit, a similar award to the Deputies unit is appropriate. However, the impact of a 3.2% award in the first year of the contract raises concerns for implementation. Hence, market adjustments of 1.2% in 2015, 1% in 2016 and 1% in 2017 should be awarded to slow the decline of Ramsey County Deputies' wages relative to the comparison group.

AWARD:

The following is hereby awarded:

- 1. General Wage increase for 2015 of 2% -- Article 25 Wages, Appendix*
- 2. General Wage increase for 2016 of 2.5% -- Article 25 Wages, Appendix*
- 3. General Wage increase for 2017 of 2.6% -- Article 25 Wages, Appendix*
- 4. Market Adjustment for 2015 of 1.2% shall be added to the Article 25 Wages. The following shall be added to Article 25: "In 2015 Sheriff's Deputies shall receive a 1.2% market wage increase in wages effective January 1, 2015".*
- 5. Market Adjustment for 2016 of 1% shall be added to the Article 25 Wages. The following shall be added to Article 25: "In 2016 Sheriff's Deputies shall receive a 1% market wage increase in wages effective January 1, 2016".*
- 6. Market Adjustment for 2017 of 1% shall be added to the Article 25 Wages. The following shall be added to Article 25: "In 2017 Sheriff's Deputies shall receive a 1% market wage increase in wages effective January 1, 2017".*

Dated: April 24, 2016


James A. Lundberg, Arbitrator

