BEFORE THE ARBITRATOR

In the Matter of the
Arbitration between

Hennepin County

BMS Case No. 12-PN-0697

And

Minnesota Public Employees Association.

INTEREST ARBITRATION AWARD

Appearances:

Gregory L. Failor, Labor Relations Representative, on behalf of the County.

Attorneys Robert Fowler and Jonathan Kesselman, Fowler Law Firm LLC, on behalf of the Association or MNPEA.

Authority of the Arbitrator:

Hennepin County is the largest local unit of government in Minnesota, employing nearly 7,200 employees. The Minnesota Public Employees Association (MNPEA) represents a bargaining unit of approximately 192 employees employed by the Hennepin County Sheriff's Office, 135 of which are non-licensed civilian Detention Deputies, 49 are Telecommunications or 911 operators, 7 are Detention Technicians and one is an Evidence Specialist. The parties have negotiated a series of collective bargaining agreements throughout the years. They were able to reach settlement of all issues for a 2012-2013 agreement, including wages for 2013, but could not agree on wages including salary adjustments based upon merit wage step increases for the first year, 2012, of the agreement. Only three issues were submitted to arbitration: (1) step increases for 2012; (2) wages for 2012 on wage schedule; and (3) retroactivity

The parties selected the undersigned from a panel provided by the BMS. Hearing was held in Minneapolis, Minnesota on October 4, 2012. No issues of negotiability were raised. All parties had the opportunity to appear, to present testimony and evidence, and to examine and cross-examine witnesses. The parties completed their post-hearing briefing schedule on October 25, 2012, and the record was closed. Now, having considered the evidence adduced at the hearing, the arguments of the parties, and final offers proposed, and the record as a whole, the undersigned issues the following Award.

FINAL POSITIONS OF THE PARTIES

Union's Position

Wages – Article 17

1.5% general increase for 2012, consistent with and equal to our agreement on the general wage increase for 2013.

Also, a one time, 1.5% market adjustment increase for 2012.

Reinstate Steps
MNPEA seeks to have the former step system, which was frozen for 2011, reinstated for 2012. The Union seeks to have each member receive one full step (a whole number, not a half step) level increase on their anniversary date for 2012. Attached is the county's provided step payroll system chart, as well as an exhibit listing the step amounts per hour. These are incorporated by reference. The Union's position is that if any wage increase is awarded in 2012, all step levels will be increased by the award percentage consistently throughout the step levels (and obviously again in 2013, although that is not at issue in this arbitration). The Union seeks to have the step chart added as an Appendix to the contract reflecting the final step rates.

Retroactivity to January 1, 2012
MNPEA is seeking that the 2012 contract go into effect January 1, 2012. The general wage increase, wage market adjustment, step movement and other financial benefits will be earned retroactively from January 1, 2012 and paid to each member of the bargaining unit.

County's Position

Wages 2012 Wage Schedule, Article 17
No general adjustment or COLA increase to the wage schedule, but that employees in the bargaining unit receive a $500 cash lump sum payable the first full payroll period in 2012 that follows the execution date of the Agreement.

Steps 2012 –First Year Steps, Article 17
Wage step freeze for 2012 and No wage steps be administered between January 1, and December 31, 2012.

Retroactivity
Moot, given proposals on first two issues

APPLICABLE LEGAL STANDARDS

Arbitrators in interest arbitrations in Minnesota generally consider the following factors: (1) internal pay equity, (2) external market comparisons, (3) the employer's ability to pay, (4) the cost of living and purchasing power, and (5) other economic factors

such as the difficulty in hiring, turnover, retention rates, state of the national, state, and local economies, etc.

BACKGROUND

The County, in addition to this bargaining unit has 8 other non-essential bargaining units and 7 other essential bargaining units. All of the non-essential bargaining units containing 4,107 of the County's employees have accepted the County's final offer for 2012. In addition, the Adult Corrections Officer Unit and the Legal Essential Unit, both represented by AFSCME, have also settled their contracts accepting the County's Final Offer. This is also the case with respect to the Correctional Unit represented by the Teamsters and the First Line Supervisor Unit. At the time of the hearing in this matter, in addition to the unit before me, only the Law Enforcement Unit, the Sheriff Supervisors Unit and Social Service Supervisors Unit were not settled. In other words, 12 of the 16 bargaining units representing 4,614 employees or 88.4% of all represented employees, settled for 2012 with 0% GSA and no step increases, and only the $500 lump sum offered by the County.

Insofar as the external market comparisons for compensation purposes are concerned, the parties are in disagreement as to the appropriate comparables. The MNPEA claims that the only fair comparable to Hennepin County is Ramsay County, which includes the City of St. Paul. It stresses that even much smaller counties such as Carver and Scott County have outpaced Hennepin in wage increases. Given the contrasts in the populations of these much smaller counties as compared to Hennepin, it cannot seriously be argued that they are comparable according to the MNPEA. In its brief, the County does refer to the Met Council 7 County Metro counties as comparables with the exception of Ramsey County. These are Anoka, Scott, Dakota, Washington, and Carver counties as applicable external comparables. The County has argued that State Correctional Officers and non-metro Sherburne County, which operates a good-sized jail, should be included as appropriate comparables. It would exclude Ramsay County as an aberration.

While both parties acknowledge the dramatic recession that has impacted the entire country since 2008, with respect to economic conditions going into 2012 and 2013, the County has provided source material from economists projecting worse economic conditions, while the MNPEA has provided source material suggesting that economic conditions in Minnesota, and Minneapolis in particular, are on the upswing and that the economy is in recovery.

While, the County acknowledges that it has the ability to pay, it argues that it should not have to pay given the state of its finances and the economy. The MNPEA argues that the County cannot use the excuse of a weak economy to justify its zero percent offer when it weathered the recession with a budget surplus and growing cash reserves. The previous history of wage freezes has moved Hennepin County to the lowest starting wage of any metro area county and it now ranks dead last compared to the

Met Council 7 County Metro counties in starting detention wages. The other conditions affecting the determination of which final offer is selected are discussed below.

Summary of County's Arguments:

The County insists that its goal in negotiations is to treat every employee fairly and equally, union or non-union, unless there is a compelling internal or external market-based reason to do otherwise. According to the County, any deviation from the settlement pattern needs to be based upon a compelling and substantial reason that can be explained satisfactorily as to why one group of employees was treated more favorably than another. It is not asking MNPEA's 192 members to sacrifice or do more than other units.

Stressing that all eight non-essential units representing 4,107 employees have agreed to accept its offer and that 1,950 non-union employees will also be treated the same, the County points out that only the 606 unionized employees in four small essential bargaining units have not reached a 2012 wage settlement with the County. The County sees no reason to treat these four small units differently than the rest of its employees. It is not fair to grant this particular bargaining unit any general wage increase and merit step increase in 2012 when other employees will not receive these wages.

The economic climate during the 2012-2013 round of bargaining is rough. While admitting that the state and the country are slowly emerging from the worst economic downturn since the Great Depression of the 1930s, the County notes that interest arbitrators have addressed the poor state of the current economy when fashioning awards. Since the recession began in 2008, public employers, including Hennepin County, have experienced significant budgetary pressures due to the economic downturn including work force cuts, decline of real GDP for the government sector of 4% between 2007 and 2011 compared to a 2.4% increase nationally. It has argued that the state funds normally received have been cut or declined severely and that any budget surpluses are dedicated to repaying the school aid shift used to balance the current budget. Referring to a decline in the taxable market value of property in the County and other economic pressures, the County has been extremely reluctant to raise property taxes. These economic conditions are unlikely to improve in the near future and the anticipated recovery may be losing steam. As a result the County's operating budgets for 2012 and 2013 are flat with very little revenue growth. Under these circumstances it would be imprudent for the County to grant the 3% wage increase and merit wage step increases in 2012. The County's other bargaining units understand this but MNPEA's wage demands are unrealistic.

The County's bargaining position with all of its bargaining units has been to seek to preserve the status quo until the economy improves. The County does not believe that an essential unit like the current one should receive more than a non-essential unit could have achieved by striking. The arbitration process should not give essential units more than non-essential units could achieve if they had exercised the right to strike. Because the internal pattern is set and supportive of the County's final offer, MNPEA bears an

extremely heavy burden of demonstrating why the arbitrator should deviate and accept its offer.

The County cites arbitral precedent to support the proposition that the internal settlement pattern is the single most important factor in interest arbitration maintaining that most arbitrators will place greater weight on the internal pattern of voluntary settlement than external market factors unless there is a compelling reason to deviate. The MNPEA is claiming that its members are more deserving than anyone else and that they can be paid more from the financial savings resulting from the sacrifice of other employees. Under the MNPEA's offer, Detention Deputies at the top step, Step 8, would receive $1,704 for 2012 while other County employees will receive a one-time lump sum amount of $500 not permanently added to the employees' bases salary. Those not at the maximum will receive over a 10% wage increase due to the combination of a 3% general wage adjustment and the Union step increase demands along with a 3% COLA increase for 2012 in the base wages year after year. The County would never agree to any of these unrealistic wage demands in light of the settlement pattern.

In the County's view, MNPEA offered no compelling, different or special circumstances that would justify the MNPEA's offer and granting the MNPEA's offer would destroy the internal wage relationship that has existed for years with the County's other correctional officers not represented by the MNPEA, such as the Juvenile Correctional Officers represented by the Teamsters and Correctional Officers at the Adult Correctional Facility in Plymouth represented by AFSCME. The County avers that MNPEA misrepresents the freeze in merit wage steps. Steps were not frozen until 2011 and will be restored in 2013 for this bargaining unit. This symbiotic wage relationship between the County's three different correctional classifications has been maintained voluntarily by the County and the different unions for many years.

In the County's opinion, the pay of the Detention Deputies and 911 Operators is market competitive and will remain so under its offer. Resorting to external market analysis is irrelevant when there is a strong and overwhelming internal wage settlement pattern. Even assuming the arbitrator does look to the external market wage data, there is no showing that the bargaining unit is substantially under paid so as to warrant a deviation from the internal wage pattern.

The County has no difficulty attracting and retaining employees in this bargaining unit at the wages it is currently offering. It points out that MNPEA has not included Hennepin's or the comparison counties' longevity pay programs in making its comparisons. When that is included, Hennepin's top wage rate with longevity is $27.83 per hour. Excluding Ramsey County, only Anoka and Scott County have Detention/Correctional Officers that earn slightly more, the former being 3 cents higher and the later being thirty-seven cents more per hour. For Telecomminicators, only two counties pay more than the Hennepin top rate, Anoka and Dakota. Including longevity pay, the top 911 operator at Anoka earns twelve cents more than a Hennepin County Telecommunicator while a 911 Operator in Dakota earns 53 cents more than his Hennepin County counterpart. These wage differences do not justify breaking the

internal wage pattern. A 911 operator earns almost $4 more than a similar operator at both Ramsey and the state of Minnesota.

It is inappropriate to rely on the top published rates where other employers have pay for performance based compensation systems because the top rates in many of these systems are phantom rates that no one achieves. The County has provided exhibits as to what employees in such systems are actually paid and these wages support the County's offer. The County also notes that many of the other counties are settling for 0% for 2012 or a lump sum much smaller than the $500 proposed here. As of the date of the brief, only Anoka has offered a 1.5% wage increase in 2012 to its detention deputies. These actions on the part of other public employers make the point that no wage increase in 2012 is the norm because of the recession.

In the County's view, the wages paid to Hennepin County Detention Deputies far exceed the wages paid to the most significant marketplace participant, the state of Minnesota Correctional Officers which employs more than 1600 Correctional Officer Is and IIs. Based upon the number of Correctional Officers that it employs, from a prevailing wage perspective, the state of Minnesota is the labor market, with Hennepin County as the next most significant. The state Correctional Officer II range is $34,389 to $49,715 while for a Hennepin County Detention Deputy if is $35,604 to $56,688 based upon the current 2011 wage step structure.

The County alleges that Ramsey County is an anomaly in the Correctional Officer labor market and should not be considered by the arbitrator as an appropriate market comparison noting that top-ranked civilian non-licensed Correctional Officer II's there earn almost $450 per month at the top rate more than their counterpart in Hennepin County. Noting that in 1970 Ramsey County made the internal decision to pay its civilian Correctional Officer II's the same pay rate as a licensed Sheriff's Deputy while no other public employer made that decision. Hennepin County wage position vis-à-vis Ramsey County has and should remain relatively unchanged because there is no justifiable or compelling reason to disturb the relationship. Furthermore, this relationship will improve slightly even under the County's offer.

Hennepin County's wage structure is market competitive and it has no difficulty recruiting qualified applicants. Hennepin's very low rates of job turnover are only slightly above the countywide rate.

Disputing the MNPEA's argument that the increase in the Consumer Price Index (CPI) justifies its offer, the County notes that these arguments are applicable to all County employees. None of the other settled units will receive relief from the inflationary pressures during 2012 nor will the non-union workforce. It avers that this bargaining unit's wages have kept up with inflation during the past several years.

While acknowledging that it can afford to pay the MNPEA's offer, The County asserts that this is really not the issue. The proper question is whether the County would be willing to do so given the internal wage settlement pattern reached. Simply because a

public employer can pay a requested increase does not mean that it should. The best evidence of the current financial condition of the County and its ability to pay employees is reflected in the voluntary settlements with the County largest unions, AFSCME Council No. 5, Teamsters Local #320, and the Operating Engineers Local #49.

The attempt to compare Detention Deputies to Senior Correctional Officers and Licensed Deputies is inappropriate and self-serving. The Senior Correctional Officer job is a lead-worker job and the appropriate comparison is to the Correctional Officer position. Detention Deputies do not perform the same work as Senior Correctional Officers. MNPEA's attempt to compare civilian non-licensed Detention Deputies to a licensed Sheriff's Deputy is also misplaced. The two jobs are not internally comparable and do not have the same job responsibilities.

With respect to the MNPEA's claim of an improving economy, the County avers that the recovery may be losing steam and that many economists are pessimistic about the near future of the nation's economy. Underlying revenues for the County are unlikely to improve in the near term and the County's Board of Elected Commissioners has been extremely reluctant to raise taxes for the past three years. The best view is cautious optimism which reflects the adjusted wages for 2013.

The cost savings of shifting to more Detention Deputies at the expense of the Licensed Deputies is not as great as the MNPEA claims and its analysis is fatally flawed because it assumes that the Sheriff completely removes all licensed deputies from the jail.

Because the Union's amended position on the 2012 step increase was not included in the Union's original final position dated September 24, 2012 nor certified as a final issue by the Commissioner of the BMS on April 2, 2012, it should not be granted on procedural grounds and for sound public policy reasons as well.

If the arbitrator adopts the County's offer, the issue of retroactivity is moot. The County requests that its position be accepted on each and every issue.

Summary of MNPEA's Arguments:

The essence of the MNPEA"s argument is that the economy is recovering and that this bargaining unit's employees are entitled to a small, but reasonable wage increase. With no wage increases since 2009 and no steps, many employees have been close to the starting wage for almost 4 years and Hennepin County has the lowest starting wage of any metro area county, ranking dead last compared to the Met Council 7 counties starting detention wages. The County also ranks third to last compared to the 7 County Metro counties in top wage pay. Looking at its only true arbitration award comparable, Ramsey County, the Hennepin Detention Unit is $5.62 per hour behind the Ramsey County Detention unit at the top hourly wage.

Arguing that despite the County's claims, an economic recovery is underway with Minnesota being in a much better position that the rest of the country, the MNPEA notes

that the state's labor market is stronger than the national labor market with Minnesota revenue having exceeded its forecast by $338 million as of July 2012. Hennepin County posted the second-highest increase in home prices among twenty major cities in July of 2012 and home values have increased resulting in millions more in revenue from property taxes for the County. Noting that the County did not dispute the MNPEA's financial calculations of its expenses or budget, the MNPEA notes that in 2011, the County ran a budget surplus of $17.8 million and that it increased its unallocated unreserved government fund balance by $25.5 million. It stresses that the 2012 and 2013 budget figures are simply predictions and should not be used as an indication of financial health or distress. Pointing out that if meaningful negotiations had taken place, 2011 would have been the last available budget utilized to calculate financial status of the County.

MNPEA asserts that the County has incorrectly costed its proposal and that its proposal involves only the 192 bargaining unit employees at issue here and has no impact on the rest of the thousands of County employees. In its view, the County analysis is faulty, the assumptions wrong, and the math incorrect as well. Taking the number of employees at each job class and step multiplied by 2080 hours and then the 1.5% general increase (i.e. .015) for each job class and step and then adding the subtotals will result in the actual cost of living increase proposed by the Union. For 2012, this is $143,298 as contrasted to the County's claimed $167,115. Therefore, the MNPEA's Market Adjustment is $143,298. The 2013 general increase is the same dollar amount as the parties have already agreed to a 1.5% increase yielding a new total cost of 2013. The two-year cost of the Union's proposed wage increase is about one half the costs claimed by the County due to their faulty analysis.

Noting that the cost of one step movement for each member of the bargaining unit would be, on average, about 6.8% of his or her current base salary, the MNPEA notes that 90 of the 192 employees are at the top of the step schedule and would be ineligible for a step increase, MNPEA points out that there is no increase in step costs for almost half of the unit. Furthermore, since the MNPEA's position has been clarified so that there is no question of a double step increase being included in its final offer, the County's calculations are no longer accurate.

In the Association's view, a step increase which employees receive as a means of advancing through the pay ranges should not be viewed the same way as a cost of living increase or a market adjustment. The County's projections involving all County employees should not be considered as they are just an attempt to shock the arbitrator and are not relevant to the issue before her. The additional costs cited for the MNPEA's position with regard to 2013 are not more than double the cost for 2012 and because the parties have reached agreement for that year are not relevant to the discussion. MNPEA's offer would cost the County a few hundred thousand dollars for each increase –nowhere close to the $2 million figure that the County is claiming for 2012 and 2013.

With respect to wages, put simply, Hennepin County Detention Deputies are paid the lowest starting wage among the 7 Metro counties, and low, even relative to non-metro

counties. If the County's wage proposal is selected, the problem will only be exacerbated. While Ramsey County is the only true comparable to Hennepin County, even the smaller metro counties have outpaced Hennepin. Carver County with only 90,000 residents paid $1.99 more an hour to its jail staff than Hennepin County. Thus its employees earn almost 12% more for a job in a significantly less dangerous environment than that posed by Hennepin County. The difference between Hennepin and Ramsey is even more dramatic. Ramsey employees earn about $5.32 an hour or 31.1% more than employees in Hennepin County. The difference at the top wage range for Detention employers is $5.62 or 20.6%. Ramsey's wages have continued to increase since 2005 while Hennepin's have stagnated. Even if the MNPEA's 1.5% general wage increase and 1.5% market adjustment are factored in Hennepin County still ranks last among the seven Metro Counties for starting wages, even if no other county gave a wage increase for 2012. The disparity in Detention Deputy wages between Hennepin County and the rest of the metro counties represents a compelling reason for the arbitrator to provide this unit with a modest adjustment.

Citing arbitral precedent where at least one arbitrator has refused to include large cities such as Minneapolis or St. Paul police departments as comparable to Hennepin County, the MNPEA argues that state correctional employees are not comparable for the same reason. The State of Minnesota has never been found to be an external comparable of any county by any arbitrator in the past.

MNPEA disputes the County's argument that if it granted wage increases to this unity, it would have to give employees in the other settled units a raise also. Addressing the County's argument that non-essential units chose to accept the County's offer rather than to strike, MNPEA points out that strikes are very rare in Minnesota and that when presented with an employer's final offer or the option to strike, the bargaining units almost always take the offer. These non-essential bargaining units have much less power than do the essential units which have the power to force the public employer to binding arbitration. Of the essential groups, a majority of the bargaining units have rejected the County's final offer and are awaiting arbitration for 2012 wages.

Internal settlement patterns dominating public sector arbitration cases were never the intent of PELRA Bargaining has to be unit specific and PELRA does not mandate that all union groups need to negotiate as a group, not that the County negotiate exactly the same economic offer with all groups. Here the internal pattern has led to vastly inequitable external market comparisons. For wages, internal consistency is not the overriding compelling factor for several reasons. Different groups do different jobs requiring different skill sets. There may also be glaring deficiencies in a particular class of employees with the external market comparisons and industry standards for wages within the profession. Requiring complete internal consistency would eliminate the need to bargain.

Pointing to two decisions by Arbitrator Jacobs essentially concluding that internal pattern of settlement should be the determinative factor because it best reflects what the parties would likely have been able to negotiate by themselves, the MNPEA argues that

the observations reached apply only if the County negotiates with all units in good faith, independently and with a willingness to compromise and look at each unit. The standard set forth by Arbitrator Jacobs does not work in the real world and his awards serve to dissuade groups from trying to negotiate and taking cases to arbitration because employers, knowing that they only need to adopt a rigid identical stance can manipulate internal consistency. Detention Deputies and Telecommunicators should not be punished just because other union groups have settled for less than their employees deserved.

The MNPEA makes an additional argument about internal comparability. In its view, a better indicator of internal arbitrability is what other employees working for the employer doing the same or nearly identical work are being paid in comparison. It refers to two other groups of employees who perform corrections work: Licensed Deputies and Juvenile and Workhouse Correctional Officers. Noting that the Sheriff has chosen to increase the number of licensed deputies in the jail between 2007 and 2012, MNPEA points out that this 54.7% increase has cost the County an additional $927.912 each year, or about $11,316 per Deputy. Since most new Deputies start their careers at the jail and ultimately bid out to road positions, this is a waste of almost a million dollars which could be spent on Detention Deputies, who are specifically selected to work in the jail, enjoy the work, and want to make a career there. The County continues to increase the number of Licensed Deputies while claiming that it cannot afford to pay wage or step increases to Detention Deputies. Senior Corrections Officers in the Workhouse perform a substantially similar function to that of a Detention Deputy but earn a maximum base wage of almost $2000 per year more. Their wages are higher than that of Detention Deputies despite the fact that the jail (where Detention Deputies work), presents a busier, more dangerous environment.

According to the MNPEA, Detention Deputies have the lowest number of employees at top pay of any other group in Hennepin County, e.g., 41.5% Detention Deputies as contrasted to the County average of 64.8%. Thus Detention Deputies are hurt more by continued step freezes. Part of the implicit bargain between the County and its employees is that new employees will eventually reach the top salaries after a certain number of years of service. That understanding has broken down and Detention Deputies have suffered more than any other group as a result. No other counties have taken the drastic approach of freezing steps—even the counties that use "pay for performance." Step movement is viewed as a given in external market comparison and is not regarded as a bargaining issue. Continued step freezes only exacerbate the ongoing retention problems that the bargaining unit is experiencing. The County's own exhibits demonstrate that this bargaining unit's turnover rate is higher than the County average especially the turnover rate for Telecommunicators. There is a clear retention problem with this group. While the turnover rate fell when the economy was worse, now that it is improving, the turnover rate is becoming higher.

Inflation and the CPI are rising. Inflation has outpaced the sum of the County's increases in 2011. Detention Deputies have also been working more days a year since 2009 without a wage increase due to a switched schedule. All Sheriff's Office staff now work an additional 15 days a year for the same amount of money. This involves the

expenditure of more money for street parking, for commuting, and for work-associated expenses like child care.

The Minnesota Public Employees Association respectfully asks the Arbitrator to award its position on all the issues. The Union's positions are reasonable and supported by ample justification and evidence. The County's financial health is very good and 2011 ended with a large budget surplus. Recent economic data is also very positive, suggesting recovery and an increase of forecasted tax revenue.

A clear internal pattern has not been set among the essential units in Hennepin County, and a majority of them are still actively fighting to end years of frozen wages. County employees who perform substantially similar duties are also better paid. The County has made the choice to spend almost $1 million additional dollars each year to staff the jail with licensed deputies, yet it is unwilling to entertain even a modest wage increase for this group.

Starting wages of Hennepin Detention Deputies rank last among metro area counties, even among those with 1/12th the population. Ramsey County, the only historical comparable, pays between 20%-31% more to its jail staff. Hennepin continues to fall further and further behind smaller counties. All the Detention Deputies and Telecommunicators are asking for is a modest wage increase to compensate for inflation and to be somewhat consistent with market wages, and to have their steps restored.

Opinion and Discussion:

The discussion of wages and the step increases will be combined inasmuch as the arguments of the parties were similar with respect to both issues.

Ability to Pay

There is no question that the County has the money to meet the MNPEA's requested increases inasmuch as it would constitute a minor percentage of the County's overall budget. There is also no question that Hennepin County is in much better shape financially than the national economy as a whole. The undersigned agrees with the MNPEA's characterization that the economy is improving slowly. Furthermore, it appears that the parties have recognized this fact with their agreement on the wages for 2013. The real issue here is whether this slowly improving economy justifies a wage and step increase, as MNPEA maintains, for 2012.

External Market Comparisons

As Arbitrator Richard John Mueller succinctly stated, "external comparisons should be used to ascertain whether the involved bargaining unit is substantially underpaid to warrant a deviation from the internal wage increase pattern."[1] Both Ramsey County and the state of Minnesota correctional employees are appropriate external

[1] City of Mound and LELS, Local No. 266, 9/5/2012, p.9.

comparisons. These are two large public employers located within the same geographic area. They are competitors for employees in the same labor market in which Hennepin County functions. All of the Met Council 7 County Metro counties are also appropriate for comparison purposes. While Sherburne County may operate a fairly large-sized jail, it is too distant in location to serve as an appropriate external comparison. An analysis of these comparisons reveals that Ramsey pays much more to its Detention Deputies while the state of Minnesota pays much less to its Correctional Officers. It appears that Hennepin County's position vis-à-vis the smaller Met Council 7 counties has eroded over the last few years with respect to wages at both the top and the bottom of the wage schedules although this erosion is not so dramatic as the MNPEA argues if longevity pay is taken into consideration. Even assuming for the sake of argument that Hennepin has lost ground to both Ramsey and the smaller Met Council 7 counties, in light of the other factors to be considered, it must be concluded that these external comparisons alone do not constitute a sufficiently compelling reason to adopt the MNPEA's offer for the 2012 contract year.

These external comparison counties, with the exception of Anoka, have settled for a 0% increase in 2012. Ramsey County, having settled for 0% in 2012, will receive only a 1% increase in 2013 in contrast to the 1 1/2% voluntarily-settled wage increase that Hennepin County will receive. At least with regard to Ramsey County, Hennepin will make up a little ground without a wage increase in 2012. However, more significantly, the fact that these external comparison counties have agreed to 0% for 2012 is indicative of continuing concerns on the part of those public employers about the slow recovery of the local economy and caution on their part in agreeing to wage increases for 2012.

With respect to market considerations in recruiting and turnover for this bargaining unit, the MNPEA has not been able to establish that the County is having any serious difficulty in the recruiting or retention of bargaining unit employees under the current wage schedule. Of course, this may simply be the result of the still fragile economy, but the evidence does not suggest that the market requires the step and wage increase adjustments sought by the MNPEA. There may come a time in the future where the wages offered do present a significant problem which must be addressed, but the MNPEA has not been able to demonstrate on this record that problems with turnover or recruitment are so significant at this time so as to justify its proposal.

Internal Considerations

There is no question that the non-essential units representing the vast majority of the County's represented employees have voluntarily accepted the County's wage freeze and lump sum payment of $500. As Arbitrator Jacobs observed and the MNPEA stresses, "there is some difference between an essential unit, which does have access to interest arbitration, versus a non-essential unit, that does not under Minnesota Law."[2] As he observed the decision to go to interest arbitration does not carry with it the same sort of risk and potential economic upheaval as a strike does. As a result, in this economic

[2] Dakota County and Teamsters Local 320, 11/7/2011, p.10.

climate, essential units with access to interest arbitration may very well have more bargaining power than the non-essential units.

Even recognizing that four of the non-essential units have not settled for the County's offer, four other essential units represented by AFSCME and Teamsters and independent units of Sheriff's and Social Service Supervisors have accepted the wage freeze and $500 lump sum. There are correctional employees in those bargaining units whose job positions are very similar, if not identical, to those of the Detention Deputy position in this unit. It is difficult to conclude that the employees in this particular bargaining unit are entitled to more than those similarly situated from an equity standpoint. This has established, as the County argues, a strong internal pattern favoring the County's position.

This internal settlement pattern, with the attendant impact of deviating from it with respect to other settled and unsettled internal units, is a significant factor favoring the County's offer. When coupled with the fact that the majority of external comparisons are also receiving wage freezes for 2012, the evidence is compelling in favor of the County's position.

Cost of Living and Purchasing Power

The slight rise in the cost of living and purchasing power favors the MNPEA's position but is not sufficient to rebut the two factors set forth above. Moreover, there is merit to the County's contention that all of the other employees in units that have settled must face the same cost of living and reduction in purchasing power as this unit having agreed to the freeze and lump sum.

Step Increases

Virtually all of the arguments made for and against the wage increase also apply to the MNPEA's requested step increase. As observed above, the frozen schedule may present a problem at some time in the future for hiring or retention purposes: however, a compelling argument for deviating from the pattern and granting the increases has not been made at this time.

AWARD

Because the evidence as a whole supports the County's position on both the general wage increases and the step increase, the County's final offer of 0% adjustment on wages for 2012, no step increases to be administered between January 1, and December 31, 2012, and a lump sum of $500 is awarded and incorporated into the 2012-2013 collective bargaining agreement.

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Dated this 7th day of November, 2012, in Madison, Wisconsin.

Mary Jo Schiavoni, Arbitrator