

Table of Contents

Witness and Exhibit List	i
I. Proceedings.....	1
II. Parties' Final offers on wages and insurance	1
A. Employer's Final Offer	1
1. Wages:	1
2. Article 10.1 and 10.1.1-Medical Insurance Premiums:	2
3. Deferred Compensation	2
4. Article 5.3 Definition of Overtime.....	2
5. Article 15.1 and Article 16.1.1-Employee Rights-Code of Conduct:.....	3
B. Union's Final Offer	3
1. Wages:	3
2. Article 10.1 and 10.1.1-Medical Insurance Premiums:	4
3. Deferred Compensation:.....	4
4. Article 5.3 - Overtime:	4
5. Article 15.1 and Article 16.1.1-Employee Rights-Code of Conduct:.....	4
III. Background: Snohomish county and its corrections department.....	4
IV. Statutory Authority and Criteria.....	5
V. Arbitrator's Discussion and Determination	8
A. Wages and Deferred Compensation	8
1. "The Constitutional and Statutory Authority of The Employer"	8
2. Stipulations of the Parties	8
3. Comparison With "Like Personnel of Like Employers of Similar Size ...".....	8
a. Selection of Comparators	8
b. Wages Paid by Comparators.....	12
c. Comparable Jurisdiction Increases for 2006 and 2007	15
4. The "Average Consumer Prices for Goods and Services, Commonly Known as the Cost of Living".....	16
5. "Changes In Any of the Foregoing Circumstances During the Pendency of the Proceedings".....	17
6. "Such Other Factors" ... that are Normally or Traditionally Taken into Consideration in the Determination of" Compensation.....	17
a. County's Fiscal Outlook.....	17
b. Internal Equity	17
c. Recruitment and Retention.....	18
7. Arbitrator's Determination of Wages and Deferred Compensation	18
B. Article 10.1 and 10.1.1-Medical Insurance Premiums	22
C. Article 5.3, Overtime Definition.....	31
D. Article 15.1 and Article 16.1.1-Employee Rights-Code of Conduct:.....	34
VI. Summary of the Arbitrator's Award	38
A. Wages and Deferred Compensation	38
1. 2005 Wage Award	38
2. 2006 Wage Award	38
3. 2007 Wage Award	38
B. Medical Premium Sharing.....	39
1. Employee Contribution.....	39
2. Retroactivity	39
C. Overtime Calculation.....	39
D. Code of Conduct.....	39
Attachment A Code of Conduct	
Attachment B Comparison of Job Descriptions, Comparable Jurisdictions	

WITNESS LIST

For the Employer:

Deanna Dawson, Executive Director for the Executive's Office
Steve Thompson, Director of the Department of Corrections
Cabot Dow, Labor Consultant
Dave Ellgen, Human Resource Analyst
Susan Clawson, Deputy Director, Department of Corrections

For the Union:

Steve Thompson, Director of the Department of Corrections

EXHIBIT LIST

Employer Exhibits:

1. Introduction to Snohomish County packet
2. Introduction to the Corrections Department
3. Documents pertaining to the County's comparables
4. Documents pertaining to the County's position on Wages
5. Collective Bargaining Agreements of five of County's proposed comparators
6. Documents pertaining to Skagit County, including collective bargaining agreements
7. Documents pertaining to Whatcom County
8. Corrections Supervisors Job Descriptions of County proposed comparators
9. Documents pertaining to sick leave usage and overtime responses, County proposed comparators
10. 2005 and 2006-2008 Master Agreement between Snohomish County and Washington State Council of County and City Employees
11. 2007-09 Collective Bargaining Agreement between Snohomish County and Teamsters 763 (Corrections Support Services bargaining unit)
12. TA'd items in parties 2005-2007 Collective Bargaining Agreement
13. Exempt (Management) Pay Plan
14. Clark County Commander job description
15. Documents pertaining to County's proposal on medical premium sharing
16. Rates for Payroll System Medical Premiums
17. Documents pertaining to County's overtime proposal
18. Documents pertaining to County's proposed Code of Conduct
19. Snohomish County Sheriff's Office Policy and Procedures Manual
20. Snohomish County Corrections Policies

Union Exhibits:

(Exhibit Book 1)

1. May 21, 2007 Letter to Arbitrator Wilkinson
2. CPI-W Statistics
3. "Like-Employers"
4. Population and Assessed Valuation (2005)
5. Population and Assessed Valuation (2006)
6. Population and Revenue 2005-06
7. Population and Revenue 2006-07
8. Median Home Prices

9. Per Capita Personal Income (Oregon — Washington)
10. (withdrawn)
- 11a "Distressed" counties
- 11b Supporting data, distressed counties
12. Growth in Assessed Valuation (Map)
13. 2007 Snohomish Council Member, Management & Exempt, Prosecuting Attorney and Elected Officials Salary Schedule
14. 5 Year Sergeant Exhibit (2005, 2006, 2007)
15. 10 Year Sergeant Exhibit (2005, 2006, 2007)
16. 10 Year Captain/Lieutenant Exhibit (2005, 2006, 2007)
17. Code of Conduct Exhibit
18. Sick Leave as "Hours Worked" for OT — Comparables
19. Sick Leave as "Hours Worked" for OT — Snohomish County Units
20. Comparison of Snohomish County Employee Contributions for Medical Plans
21. Snohomish County Comprehensive Annual Financial Report (FY 2005)
22. Snohomish v. Yakima, 1995-2006
23. Mileage Exhibit
24. Local 763 Seniority List
25. Snohomish County Job Description for Corrections Sergeants
26. Snohomish County Job Description for Corrections Captains
27. State of Washington Data Book for 2005, from State of Washington, Office of Financial Management
28. Certification of Integrity Administrator Guidebook
29. Snohomish County Corrections Ethics and Professionalism Committee

(Exhibit Book 2)

- 1) SNOHOMISH COUNTY
 - a) 2003-04 Collective Bargaining Agreement
- 2) CLARK COUNTY
 - a) Custody Officers and Sergeants Collective Bargaining Agreement, 2005-07
 - b) Breanne Thornsbury e-mail May 17, 2007 (giving Commander pay \$5827-\$8298 monthly)
 - c) Exempt (Management) — Pay Plan — Internet (showing Commander range)
- 3) KING COUNTY
 - a) Correction Sergeants Collective Bargaining Agreement 2004-06
 - b) Correction Sergeants Pay + Incentives 2004-2006
 - c) Captain Collective Bargaining Agreement 2006-08
 - d) Captain Pay Spreads 2005 (Lauri Nelson e-mail June 1, 2007, 11:33 a.m.) 2.19% *Cola*
 - e) Captain Pay Spreads 2006 (Lauri Nelson e-mail June 1, 2007, 11:38 a.m.)
 - f) Captain Pay Spreads 2007 (Lauri Nelson e-mail June 1, 2007, 11:40 a.m.)
- 4) KITSAP COUNTY
 - a) Correction Sergeants Collective Bargaining Agreement 2003-05
 - b) Correction Officers/Sergeants Salary Schedule 2005, 2006 (2 pages)
 - c) Lieutenants Collective Bargaining Agreement January 1, 2005-December 31, 2006
 - d) Lieutenants Collective Bargaining Agreement January 1, 2007-December 31, 2009
 - e) Wage Schedule Lieutenants, 1/10/2005-1/09/2006 (2 pages)
 - f) Letter, May 17, 2007, Susan R. Smith to Ellen Beck
- 5) PIERCE COUNTY
 - a) Correction Sergeants and Officers Collective Bargaining Agreement January 1, 2004-December 31, 2006
 - b) Correctional Lieutenants Collective Bargaining Agreement January 1, 2002-December

- 31, 2004
- c) Correctional Lieutenants Collective Bargaining Agreement January 1, 2006-December 31, 2008
- d) May 21, 2007 e-mail from Brent Long to Ellen Beck (Wages 2004 Captain; 2007 Lieutenant; 2006 Sergeant
- e) June 1, 2007 e-mail from Brent Long to Ellen Beck (Additional Captain and Lieutenant data) (1 page)

(Exhibit Book 3)

- 6) SPOKANE COUNTY
 - a) Collective Bargaining Agreement January 1, 2005-December 31, 2007
 - b) Salary Tables 2005, 2006, 2007
- 7) THURSTON COUNTY
 - a) Officers, Sergeants, Lieutenants Collective Bargaining Agreement, 2005-07
 - b) Monthly Salary Tables 2005, 2006, 2007
- 8) YAKIMA COUNTY
 - a) Officers, Corporals, Sergeants Collective Bargaining Agreement 2003-05
 - b) Officers, Corporals, Sergeants Collective Bargaining Agreement 2006-07-08
- 9) CLACKAMAS COUNTY
 - a) 2003-05 Collective Bargaining Agreement (including Sergeants, no Lieutenants)
 - b) 2005-08 Collective Bargaining Agreement (including Corrections Sergeants)
 - c) 8-01-2005 Clackamas Job Code Report
 - d) 8-03-2006 Clackamas Job Code Report
- 10) MULTNOMAH COUNTY
 - a) Correction Officers and Sergeants Collective Bargaining Agreement, 2004-2010
 - b) 2004-2010 Wages — 2005 Sergeants
 - c) Sheriff's Office Fiscal Year Budgets — 2005, 2006

I. PROCEEDINGS

This dispute, between Snohomish County (the County or Employer) and Teamsters Local 763 (the Union), concerns certain terms of a three-year labor agreement covering the calendar years 2005, 2006 and 2007. The Union represents a bargaining unit of corrections Sergeants and Captains. Although the parties tentatively agreed to many provisions of their new contract, they reached an impasse in their negotiations on wages, deferred compensation, medical premiums, overtime calculation and a code of conduct. Pursuant to RCW 41.56.450, those issues were certified for interest arbitration by the Public Employment Relations Commission (PERC) and submitted to neutral Arbitrator Jane R. Wilkinson for resolution. The parties waived the RCW 41.56.450 provisions for a tri-partite panel. The Arbitrator conducted evidentiary hearings, in Everett, Washington, on June 5 and 6, 2007. Each party had the opportunity to present evidence, examine and cross-examine witnesses and argue its case. The Arbitrator received the parties' post-hearing briefs on August 3, 2007, and thereupon closed the hearing.

II. PARTIES' FINAL OFFERS ON WAGES AND INSURANCE

A. Employer's Final Offer

1. Wages:

The County proposed to increase wages as follows. The 2006 and 2007 proposals equate to 90% of the CPI-W (June-June).

Wages 2005:

Effective January 1, 2005, the monthly rates of pay in effect for employees covered by this Agreement and working in bargaining unit classifications on the date of signing, shall be increased by 2.5%:

Wages 2006:

Effective January 1, 2006, the monthly rates of pay in effect for employees covered by this Agreement and working in bargaining unit classifications on the date of signing, shall be increased by 2.07%:

Wages 2007:

Effective January 1, 2007, the monthly rates of pay in effect for employees covered by this Agreement and working in bargaining unit classifications on the date of signing, shall be increased by 4.14%:

2. Article 10.1 and 10.1.1-Medical Insurance Premiums:

The County proposed to provide the same indemnity and HMO plan designs, e.g. co-payments for hospital stays, office visits and prescription drugs, as for the majority of other County employees who are bargaining unit members under the terms of labor agreements between the Employer and other unions representing County employees, as follows:

Effective upon the date of signing, the Employer shall place a cap on employee medical insurance premium contributions, whereby such contributions will not exceed the following amounts each month:

Employee Premium Contribution	Regence Selections
Employee Only	\$43
Employee and Spouse	\$166
Employee and Children	\$74
Employee and Family	\$196
Employee Premium Contribution	Regence PPO
Employee Only	\$58
Employee and Spouse	\$195
Employee and Children	\$98
Employee and Family	\$235
Employee Premium Contribution	Group Health Options
Employee Only	\$0
Employee and Spouse	\$79
Employee and Children	\$0
Employee and Family	\$79

10.1.1 Employees shall pay any difference between the Employer's contribution and the actual rate through payroll deduction.

3. Deferred Compensation

The County opposes the Union's proposal to increase the County's match from 1% to 2%.

4. Article 5.3 Definition of Overtime

The County proposed a change to Article 5.3 as follows:

Delete reference to "Non-Exempt" and last two sentences in prior contract language, to reflect elimination of the Work Release Supervisor classification. Amend to read:

Employees shall be paid overtime pay at the rate of one and one-half (1-1/2) times the employee's regular rate of pay for all hours worked in a week in excess of forty (40) hours. For the purposes of calculating overtime pay, all compensated hours (with the exception of sick leave) shall be considered time worked.

5. Article 15.1 and Article 16.1.1-Employee Rights-Code of Conduct:

The County proposed adding the following language as Section 15.1

15.1 All employees within the bargaining unit shall be entitled to the protection of what shall hereinafter be termed the "Employees Bill of Rights" as set forth below. The wide ranging powers and duties given to the Department and its employees involve them in all manner of contacts and relationships with prisoners and the public. From time to time, questions arise concerning actions of employees. These questions often require immediate investigation by the Employer. Consistent with Article 16.1.1, Management Rights and Protections, the attached Code of Conduct shall be applicable to all employees. Such Code of Conduct shall be included as part of this Agreement. See Attachment 1.

The County's proposed Code of Conduct is annexed to this Opinion and Award as Attachment A.

B. Union's Final Offer

1. Wages:

Wages 2005:

Effective January 1, 2005, the monthly rates of pay for employees covered by this Agreement shall be as follows. These rates include a 7.5% increase for 2005 and a salary adjustment to reflect the current market.

Classification	Step 1	Step 2	Step 3	Step 4
Captain		\$5994.95	\$6328.02	\$6661.05
Sergeant	\$4588.18	\$4858.08	\$5127.97	\$5397.85

Wages 2006:

Effective January 1, 2006, the monthly rate of pay for employees covered by this Agreement shall be as follows. These rates include a 5.5% increase for 2006 and a salary adjustment to reflect the current market.

Classification	Step 1	Step 2	Step 3	Step 4
Captain		\$6324.67	\$6676.06	\$7027.41
Sergeant	\$4840.53	\$5125.27	\$5407.16	\$5694.73

Wages 2007:

Effective January 1, 2007, monthly rates of pay set forth above within Section A.1 shall be increased by one hundred percent (100%) of the percentage increase in the Seattle-Tacoma-Bremerton Area Consumer Price Index for June 200X to June 200X; provided however, in no event shall the increase be less than two point five percent (2.5%) nor greater than six percent (6%). The Index used shall be the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items, Revised Series (1982-84=100) as published by the Bureau of Labor Statistics.

The Union proposes the wage increases to be effective as indicated with the appropriate retroactivity.

2. Article 10.1 and 10.1.1-Medical Insurance Premiums:

The Union proposes the Employer pay 100% of the premiums for health insurance retroactive to March 1, 2005.

3. Deferred Compensation:

The Union proposed the following language:

Effective January 1, 2005, the County will match one hundred percent (100%) on the dollar toward county sponsored deferred compensation plan up to two percent (2%) of the employee's monthly base wage, toward county sponsored deferred compensation in accordance with IRS regulations.

4. Article 5.3 - Overtime:

The Union opposes the County's proposal and would bring forward Article 5.3 unchanged.

5. Article 15.1 and Article 16.1.1-Employee Rights-Code of Conduct:

The Union seeks to maintain the status quo of not having an employee code of conduct part of the Collective Bargaining Agreement.

III. BACKGROUND: SNOHOMISH COUNTY AND ITS CORRECTIONS DEPARTMENT

The bargaining unit comprises approximately seven Captains and 15 Sergeants. Until 2004, the Captains were called Lieutenants. Department of Corrections Director Steve Thompson changed their designation to Captain that year, but did not change their job description, responsibilities or pay. The sergeants are first-line supervisors for approximately 214 corrections

custody officers working at the County's jail in Everett, Washington. According to the union, the bargaining unit numbers are "supervisors" within the meaning of the Public Employment Collective Bargaining Act, RCW 41.56.

The County's Department of Corrections manages the County's correctional facilities, which provide secure units for the prisoner housing as well as alternatives to incarceration. Persons detained in the County's jail include those awaiting trial and those sentenced to serve one year or less. The jail has minimum, medium, and maximum-security facilities. Alternative correctional programs managed by the Department of Corrections include work release, electronic home detention and various work crew programs. The jail, located in downtown Everett, consists of two high-rise buildings. One building has a 505-bed capacity, and the other has a 770-bed capacity. The 2007 operating budget for the Department of Corrections is \$37.7 million. This includes funding for 367 full-time equivalent positions.

The fiscal outlook for the County government is favorable and the County itself is enjoying a healthy economy. Its revenues, however, are constrained by property tax increase limitations. Nevertheless, the County Council elected to forego a one percent increase in property taxes in 2005, 2006 and 2007. A growing share of the County's budget is being devoted to law enforcement and corrections, a trend that is probably true everywhere in Washington State, particularly in rapidly growing areas such as Snohomish County.

Geographically, Snohomish County lies just north of King County. Snohomish County's population is not concentrated around Everett, the County seat, nor is it very evenly distributed. The more densely populated areas of Snohomish County, including Lynnwood, Edmonds, Mountlake Terrace and surrounding communities, lie just north of the Snohomish/King County line and are part of the Seattle metropolitan area. Everett, where the jails are located, is located about 16 miles north (measured along Interstate 5) of the Snohomish/King County line. Population densities to the north and east of Everett tend to thin out. (Puget Sound lies to the west).

IV. STATUTORY AUTHORITY AND CRITERIA

RCW 41.56.030(7), read in conjunction with RCW 41.56.430-.450, states that unresolved disputes concerning the terms and conditions of a collective bargaining agreement must be settled by interest arbitration when the affected bargaining unit is composed of "uniformed personnel," including

correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates;

RCW 41.56.030(7)(b).

RCW 41.56.450 specifies the powers and duties of the interest arbitration panel:¹

Uniformed personnel--Interest arbitration panel--Powers and duties--Hearings--Findings and determination. If an agreement has not been reached following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then an interest arbitration panel shall be created to resolve the dispute. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director.

.... A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chairman of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute.

The neutral chairman shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chairman shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute. [1983 c 287 § 2; 1979 ex.s. c 184 § 2; 1975-'76 2nd ex.s. c 14 § 2; 1975 1st ex.s. c 296 § 29; 1973 c 131 § 4.]

¹ The parties herein agreed to extend RCW 41.56.450's 30-day statutory deadline for the award by approximately two weeks.

RCW 41.56.452 states that an interest arbitration panel is a state agency and specifies

An interest arbitration panel created pursuant to RCW 41.56.450, in the performance of its duties under chapter 41.56 RCW, exercises a state function and is, for the purposes of this chapter, a state agency. Chapter 34.05 RCW does not apply to proceedings before an interest arbitration panel under this chapter. [1983 c 287 § 3; 1980 c 87 § 19.]

In RCW 41.56.465, the Washington Legislature specified that the interest arbitrator must apply the following criteria over the terms of a new collective bargaining agreement:

(1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

- (a) The constitutional and statutory authority of the employer;
- (b) Stipulations of the parties;
- (c) (i) For employees listed in RCW 41.56.030(7)(a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;
.....
- (d) The average consumer prices for goods and services, commonly known as the cost of living;
- (e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and
- (f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

In resolving the issues in this dispute, whether or not fully articulated herein, the undersigned Arbitrator has been mindful of these criteria and has given consideration to all of the evidence and arguments presented by the parties relative to these criteria.

V. ARBITRATOR'S DISCUSSION AND DETERMINATION

A. Wages and Deferred Compensation

As set forth in full above, RCW 41.56.465 requires the Arbitrator to set wages after considering the legislative purpose of the statute, the compensation paid by comparators, employees' cost of living, any stipulations and legal concerns over the employer's authority, and "other factors ... that are normally or traditionally taken into consideration in the determination of wages, ..." Such "other factors" typically include turnover, increased duties, the fiscal health of the employer, general economic considerations, and considerations relating to internal parity or equity. The statute does not specify the relative weight to be assigned to each consideration, nor how they are to be measured. These matters are left to the determination of the arbitrator.

1. "The Constitutional and Statutory Authority of The Employer"

No issues arose concerning this criterion.

2. Stipulations of the Parties

The parties agreed the contract duration is three years (2005-2007) and that all issues have been settled except for those addressed herein in arbitration. Other points of agreement are noted below.

3. Comparison With "Like Personnel of Like Employers of Similar Size ..."

a. Selection of Comparators

The Employer proposed using the comparator group selected in 1996 in an interest arbitration proceeding (for the rank-and file corrections officers unit) conducted by Arbitrator Gary Axon (which the Employer refers to as the "Axon Six"): Clark, Kitsap, Pierce, Spokane, Thurston and Yakima counties.

The Union proposed a comparator group composed of Clark, Spokane, and Pierce counties in Washington State and Clackamas and Multnomah counties in Oregon. It also included Kitsap County in its analysis even though it has a population and assessed valuation of less than half of Snohomish County.

Arbitrators traditionally look at population and assessed valuation to screen comparators. I find it also helpful to consider assessed valuation per capita, but not as the exclusive screening

criterion. Rather, I use it to gauge the appropriateness of including a proposed comparator that is a close question. I agree with the Union that focusing on assessed valuation per capita exclusively is inappropriate. As the Union pointed out, San Juan County, with its many vacation homes but relatively low permanent population, has a high assessed valuation per capita. But no one would seriously suggest it is comparable to Snohomish County.

The following shows the population, assessed valuation, and assessed valuation per capita of the proposed Washington comparables.

**Table 1
Proposed Washington Comparables, Demographic Data**

Jurisdiction	Population 2005	A/V 2005 (millions)	A/V Per Capita
Snohomish County	655,800	\$61,838	\$94,294
-50%	327,900	\$30,919	\$47,147
+50%	983,700	\$92,757	\$141,441
Clark County	391,500	\$30,225	\$77,203
Kitsap County	240,400	\$19,448	\$80,899
Pierce County	755,900	\$54,043	\$71,495
Spokane County	436,300	\$23,269	\$53,333
Thurston County	224,100	\$17,748	\$79,197
Yakima County	229,300	\$11,249	\$49,058

I agree with the Union that Thurston and Yakima counties are not appropriate comparables. Their population and total assessed valuation are well below the traditional 50% cutoff. Although Arbitrator Axon used those counties in 1996 when determining the wages of the rank and file custody officers unit, I cannot endorse them. Certainly Snohomish County has made considerable gains in population and assessed valuation that Yakima County, and perhaps Thurston County, have not. Kitsap County does not meet the population and assessed valuation -50% bandwidth. However, given that the Union is willing to consider Kitsap County, a comparable proposed by the County, I will consider it also. As the Union noted, it is relatively close geographically to Snohomish County. I also note that the Bureau of Labor Statistics groups Bremerton, the largest city in Kitsap County, with Seattle and Tacoma in providing certain consumer price and other economic data. (It also has economic data that groups

Everett with Seattle and Bellevue). See the BLS website at www.bls.gov. Kitsap County's assessed valuation per capita is the closest of any proposed Washington comparator to Snohomish County's. The inclusion of Pierce, Spokane and Clark counties are not in dispute, and I will include these counties in my analysis. I note, however, that Spokane County does not have a total assessed valuation within range, is not geographically proximate and is not part of a larger metropolitan region. (The Union, I suspect, is willing to use Spokane County because it pays its correctional officers fairly well). Clark County meets the population but its assessed valuation is a shade lower than 50% of Snohomish County's. Its assessed valuation per capita is relatively high and it is part of the Portland, Oregon, metropolitan area, where wages tend to be higher than the less populous areas of Washington and Oregon.

The Union also proposes Clackamas and Multnomah counties in Oregon as comparables. Portland, Oregon, lies in Multnomah County. Clackamas County and the more populous Washington County are adjacent. The Union dropped Washington County because neither its sergeants nor Lieutenants/Captains are represented and the Union had difficulty obtaining good data from that county.

This Arbitrator prefers Washington jurisdictions to those from other states because of the difficulty of comparing collective bargaining laws, statutory benefits, labor markets, and cost of living. Also, there sometimes is a problem gathering complete data.

In Oregon, the Public Employment Collective Bargaining Act excludes supervisors. ORS 243.650(19). This may be why the Washington County comparable positions are unrepresented, as are Captains (or equivalents) in Clackamas and Multnomah counties. Further, Cabot Dow, the County's witness, testified he could not find job descriptions for potentially comparable positions in Multnomah and Clackamas counties. The Union did not place any in the record. He also could not determine whether they are exempt or non-exempt employees. I note that Sergeants are in the rank and file bargaining units in Clackamas and Multnomah counties; thus, under Oregon law, they should not be supervisors. The record evidence was that Sergeants in Snohomish County are first-line supervisors and the Union's brief stated they are supervisors within the meaning of

Washington's PECBA, RCW 41.56. I could not locate a definition of "supervisor" in Washington's PECBA and PERC's administrative rules. However, PERC's web page glossary, found at <http://www.perc.wa.gov/glossary.asp#s>, states, with respect to the term "supervisor:"

Defined more specifically by both PERC and NLRB case law, a supervisor generally has the authority to hire, fire, transfer, suspend, promote, layoff, recall, discharge, assign, reward, or discipline other employees.

This is the gist of the commonly accepted labor definition of "supervisor," and is similar to the definition set forth in Oregon's PECBA, ORS 243.650(23):

"Supervisory employee" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection therewith, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

Thus, an argument can be made that if the Sergeants in the two Oregon counties are not supervisors, they have lesser responsibilities than the Sergeants in Snohomish County, making them not "like personnel" within the meaning of RCW 41.56.465(1)(c)(i).

The evidence shows that both Oregon counties pay relatively well. If they did not, but the Employer had proposed them as comparators, the Union doubtlessly would have lodged a strenuous objection over their inclusion. An arbitrator must use neutral selection criteria, and not one that is driven by pay considerations.

Oregon presents a particular problem with making comparisons at the Captain/Lieutenant level. This classification is not represented and Union counsel admitted he had difficulty obtaining reliable data for that classification. In this Arbitrator's experience, unions have objected to using unrepresented comparable employees.

Finally, Clackamas County does not meet the -50% population band; it is four percentage points below. Absent a stipulation from the parties, I avoid including jurisdictions that do not meet this cut-off point.

I recognize the reasonable minds can differ over whether or not to include Oregon, particularly Multnomah County. As the Union argued, the interest arbitration statute permits an

arbitrator to do so. Nevertheless, for the reasons set forth above, I am declining to use the Oregon comparators proposed by the Union.

Although I have identified only four Washington comparables, I believe this is a minimally sufficient number. I note, however, that of these comparables, Snohomish leads the pack in population, assessed valuation, assessed valuation per capita and other helpful demographic indicators, and will keep these in mind when making my award.

b. Wages Paid by Comparators

The County urged me to use the 15-year Sergeant and 25-year Captain benchmarks because they reflect the average longevity in Snohomish County of employees at those respective ranks, and I agree they are appropriate.² Although there are various starting points for a pay analysis, I prefer comparing the subject jurisdiction's pay for the expired contract year (here, 2004) to the comparable jurisdiction's pay for the first year of the new contract (2005, in this case). I also look at both parties' figures to see if they match. If they do not, I review the pertinent collective bargaining agreements to determine the correct numbers.

I had difficulty verifying the parties' figures for several reasons. First, the Union used five and ten-year benchmarks for Sergeants and a ten-year benchmark for Captains, while the County mainly relied on greater longevity benchmarks. The County's principal wage exhibit, Exh. C-4, only presented total compensation data for 2007. In its brief, however, it presented total compensation data on the comparators for 2004 at the ten-year Sergeants benchmark, as well as the 15-year benchmark. I used these 2004 figures, adjusted by the respective wage increases granted by the comparables in 2005, in order to compare the County's figures with the Union's, as shown on Exh. U-15, which contains a 2005 comparable analysis at the 10-year Sergeants benchmark. I found discrepancies in their figures for every jurisdiction.

² According to Exh. C-4, at 10-11, average longevity for bargaining unit Sergeants is 14.82 years and for bargaining unit Captains is 23.57 years.

Two differences in methodology account for some of the discrepancies. The County included the employers' deferred compensation contribution, but the Union did not, arguing that its inclusion is not appropriate. I disagree with the Union; it is an objectively measurable component of compensation available to all. The fact that some employees may not elect to take advantage of the benefit (because it requires matching), does not detract from its value, in my opinion. More troublesome was the County's inclusion of a holiday premium, whose calculation was based on certain assumptions. The basis for this calculation was too complex and hypothetical, in my opinion, for ready acceptance. Cabot Dow's explanation spanned a number of pages of testimony (as measured by the transcript). Furthermore, in my experience, it is an unusual component of compensation. Although the numbers do not affect the bottom line significantly, I elected not to include them in my own analysis.

The two methodology differences reconciled discrepancies in the parties' figures for Snohomish County. In Clark County, the Union used a total work year of 2080 hours, the same as the other counties. The correct annual hours worked, however, as identified by the County, is 2190 gross hours, which includes a paid lunch during each shift.³ However, the wage attachment to the Clark County Collective Bargaining Agreement presents its Sergeants' pay as an hourly rate (\$29.91). This means that in computing the base monthly wage, one should use 2190 as the multiplier, not 2080 as the County did.⁴ In Kitsap County, the Union's figure matches that shown in that jurisdiction's labor agreement. The County, in addition to including the calculated holiday premium, also included a longevity figure of \$96.50 monthly for 2004. I

³ All four comparators include a paid lunch in the regular shift schedule. Spokane County's CBA, Article 4.3 guarantees an uninterrupted lunch. Pierce County's CBA, at Article 5, Section 3, states that if feasible, the lunch period may be extended if interrupted. In Clark County and Kitsap County, the CBAs do not specify whether the lunch may be interrupted, but it does not prohibit bargaining unit members from leaving their station. Regarding the bargaining unit at issue here, I read the following contract as giving a paid, interruptible lunch to Sergeants and an unpaid lunch to Captains, although this is not entirely clear as to the latter. Article 5.2 states:

Sergeants shall be assigned to an eight (8) hour shift inclusive of the meal period and shall remain on the premises and be on call during their meal period. All other employees assigned to a shift exclusive of the normal thirty (30) minute meal period may leave the premises during the meal period.

⁴ The Union calculated the hourly rate for a 10-year Sergeant in Clark County as \$34.56; the hourly rate for the 15-year Sergeant happens to be the same. The Union used a multiplier of 2080 hours for the total annual wage, and annual gross hours work to be 2080 hours. The hourly rate calculated by the Union was virtually identical to the one I calculated, only I used 2190 hours as the annual hour base and multiplier.

could not locate any longevity pay in Kitsap County's contract for Sergeants (but I did find one in the Lieutenant's contract); therefore, I find the Union's lower base figure to be the correct one. For Pierce County, the underlying figures matched, except that the Union gave that county's correctional employees 240 hours of vacation, where the correct figure should be 160 hours. For Spokane County, the Union's monthly figure is about \$57 higher than the County's adjusted figure. The County's figure (adjusted to 2005) matches the top step of the salary schedule appearing at the end of the Spokane County Collective Bargaining Agreement, and includes the specified longevity premium of 4% for the 10-year employee. (This premium goes to 6% at 15 years and 10% at 25 years). On the other hand, the Union's figure of 144 vacation hours is correct. See Spokane County CBA, Article 6.1.2. The County's brief showed 168 hours for 2004 and Exh. C-4 showed 112 hours for 2007. I don't know whether the 2004 figure is correct (the current CBA began in 2005 and ends in 2007), but the 2007 figure is not correct.

Because of the above discrepancies, I verified the suspect figures at the respective 15-year and 25-year benchmarks for Sergeants and Lieutenants (the Captain equivalent) in each comparable jurisdiction.

The tables below show my calculations of what the comparables employers paid Sergeants and Lieutenants on a net hourly basis in 2005, using a benchmark of 15 years for Sergeants and 25 years for Captains/Lieutenants. The pay for Snohomish County is for 2004. The figures include deferred compensation and longevity pay. For Clark County, which does not have a position equivalent to the Snohomish Captain, I used the same method as did Cabot Dow, which was to increase the equivalent (25-year) Sergeant wage by 20%. Mr. Dow testified that there typically is about a 20% wage differential between the Sergeant and the next higher classification. The Union did not object to this methodology.⁵

⁵ The Union agreed with the County that the Clark County Commander classification is not the same as the Snohomish County Captain position.

**Table 2
Comparator Analysis, Sergeants, 15 yrs**

Comparables (2005)	Net Hrly Pay
Clark County	\$ 34.58
Kitsap County	\$ 33.31
Pierce County	\$ 37.25
Spokane County	\$ 35.79
SNOHOMISH (2004)	\$ 33.83
<i>Comparator Average</i>	<i>\$ 34.92</i>
<i>Snohomish to Ave</i>	<i>-4.2%</i>

**Table 3
Comparator Analysis, Capts/Lts, 25 yrs**

Comparables (2005)	Net Hrly Pay
Clark County	\$ 40.26
Kitsap County	\$ 48.14
Pierce County	\$ 47.44
Spokane County	\$ 50.02
SNOHOMISH (2004)	\$ 42.73
<i>Comparator Average</i>	<i>\$ 46.47</i>
<i>Snohomish to Ave</i>	<i>-8.7%</i>

If one is to target the average for Sergeants, then the comparator figures would indicate that Snohomish Sergeants' wages should be increase by more than 4%. For Captains, the figures point to a substantial lag of -8.7%. The lag in Captain wages at the 20-year level is a little less.

Regarding deferred compensation (the Union has proposed a 1% increase for this bargaining unit), I note that none of the comparables have a deferred compensation plan.

c. Comparable Jurisdiction Increases for 2006 and 2007

Although my analysis first will target the appropriate adjustment for 2005, the years 2006 and 2007 are in dispute also, making the comparable jurisdiction increases relevant. These increases were as follows:

**Table 4
Comparator Wage Increases, 2006 and 2007**

Comparable	2006	2007
Clark County	3.50%	3.50%
Kitsap County	2.07%	4.14%
Pierce County	2.50%	4.14%
Spokane County	2.75%	2.50%
<i>Average</i>	<i>2.71%</i>	<i>3.57%</i>

I will keep the above considerations in mind when rendering my final wage award.

4. The "Average Consumer Prices for Goods and Services, Commonly Known as the Cost of Living"

The parties agree that the applicable CPI index showed the following changes for the years at issue:

**Table 5
CPI-W Increases**

Year	Amount
2005	2.5%
2006	2.3%
2007	4.6%

The County presented evidence that bargaining unit wages have outpaced changes in the CPI over the past ten years, as follows:

**Table 6
10-year Cumulative Increases**

Year	CPI-W% (ending June of prior year)	Top Step Sgt % Incr	Top Step Capt % Incr
1997	----	----	----
1998	3.2%	3.3%	3.3%
1999	2.5%	2.25%	7.4%
2000	3.2%	4.2%	2.9%
2001	3.9%	5.5%	8.5%
2002	3.9%	3.5%	3.5%
2003	1.5%	1.1%	1.1%
2004	0.9%	2.0%	2.0%
2005	2.5%	2.5%	2.5%
2006	2.3%	2.07%	2.07%
2007	4.6%	4.14%	4.14%
<i>Cumulative (simple)</i>	<i>28.50%</i>	<i>30.56%</i>	<i>37.41%</i>
<i>Cumulative (compounded)</i>	<i>33.8%</i>	<i>35.1%</i>	<i>44.0%</i>

5. "Changes In Any of the Foregoing Circumstances During the Pendency of the Proceedings"

The parties identified no such changes.

6. "Such Other Factors" ... that are Normally or Traditionally Taken into Consideration in the Determination of" Compensation

a. County's Fiscal Outlook

The Employer has the financial resources to pay a fair and appropriate wage increase. As in all cases, however, I am mindful of the presumed taxpayer desire for prudent and responsible financial management on the part of the County.

b. Internal Equity

Internal equity is a "major concern" with the County Council, which believes a "compromise" award by the Arbitrator will set off a round of new demands from other groups. Nevertheless, I note that some employee groups of the Employer have received somewhat more generous settlements than the County's proposal here.⁶

The Arbitrator stresses that the award herein is not a compromise award, but is driven solely by the application of the statutorily specified considerations. Given that parties tend to take rather extreme positions on wages in an interest arbitration proceeding, it is not surprising that arbitration awards appear to be "splitting the baby," even though analysis shows that not to be the case.

On internal parity, the County also was concerned that a wage increase that exceeds its proposal will exceed the historical wage differentials between Custody Officers and Sergeants-- and between Sergeants and Captains.

Although the Arbitrator understands the County's concern with internal parity, she notes that it is not one of the specifically mentioned statutory criteria. Unless an employer has a significant inability to pay an amount indicated by the enumerated considerations, arbitrators tend to give lesser weight to

⁶ The County's proposed three-year increase for this bargaining unit totals 8.71%. For jail support staff, it totaled 8.96% (but 8.46% for supervisors). The AFSCME unit and Sheriff's support unit received 9.08%, Firefighters agreed to a 10.46% increase.

internal equity. Neutrals understand that over time, various classifications in any jurisdiction may tend to lead or lag the market in pay. Therefore, some classifications may enjoy market adjustment increases that exceed those in other classifications. Identical across-the-board increases are not desirable when they simply perpetuate a below (or above) market wage in any given classification. The same considerations apply to the historical wage differential between the rank-and-file custody officers and the next level up. Moreover, I understand that the contract for the correctional custody officers has not been settled, so I do not know what their wages will be for the years in question.

c. Recruitment and Retention

The County does not have difficulty recruiting corrections Sergeants and Captains because it follows a policy of promoting from within. Director of Corrections Steve Thompson testified, however, that there is a shortage of correctional officers in Washington, Oregon and Idaho. The Union pointed out that lateral moves at the supervisory level are difficult because other corrections departments also promote mainly from within their organizations.

7. Arbitrator's Determination of Wages and Deferred Compensation

After evaluating the above factors, I have determined that a fair and reasonable bargaining base pay increase for the bargaining unit is as follows:

2005	4.5%
2006	2.7%
2007	4.6%

I am rejecting the Union's proposal for an increase in deferred compensation. It is not supported by a comparable analysis—indeed, none of the comparable jurisdictions offer deferred compensation, nor is it supported by any of the other statutory factors.⁷

⁷ In its post-hearing Brief, the Union suggested the Arbitrator fashion an award that grants the bargaining unit a deferred compensation increase tied to increases that other County employee groups might receive. The County objected to this suggestion, contending it was a position advanced for the first time after the hearing. The Union responded that the Arbitrator is free to fashion whatever award she deems appropriate. Any complaint over the timing of the suggestion should be taken up with PERC, the Union asserted.

I will not rule on the County's objection because I am unwilling to grant "most favored nation" status in any event. More generous deferred compensation arrangements in other employee groups could well be the result of a trade-off in wages or other items.

Regarding base wages, a significant concern, in my opinion, is that the demographic data indicates that Snohomish wages should somewhat exceed the comparator average. Arbitrators use population, assessed valuation, and usually geographical proximity to select comparables jurisdictions that act as a surrogate for market wages. As inexact as this method is, it has won general acceptance. Arbitrators reject those comparables not within a certain range of the subject jurisdictions based on the notion that smaller jurisdictions (in terms of assessed valuation and population) *tend* to pay less than larger jurisdictions. Geographic proximity also tends to have an effect on wages. As shown in the comparator analysis, above, Snohomish County has the highest population, highest assessed valuation, and highest assessed valuation per capita of the comparator group. Thus, one would expect Snohomish County bargaining unit wages to be above the comparator average. Other demographic information presented by the Union reinforces this expectation. According to that data, Snohomish County leads the comparators in median home prices and is second to Kitsap County in per capita personal income.⁸

⁸ The County objected to the Arbitrator considering median home prices on several grounds.

First, the Washington Legislature has only declared "regional differences in the cost of living" to be pertinent for small cities, towns, and counties. RCW 41.56.465(l)(f). Second, home appreciation and values, as depicted in Union Exhibit 8, are--for longer-term homeowners--reflective of wealth generation. The tenured Sergeants and Captains in this case must have benefited substantially from their presumed long-term home ownership. Home prices for renters and first-time buyers obviously have an impact far different than home prices--and home appreciation--for long-term homeowners. Finally, it is plain that home prices vary widely throughout any urban area, presenting choices not captured by median prices.

County's Brief at 16, fn. 10.

In response, I believe that the Legislature did not rule out considering cost of living differentials for larger areas. To me, they are logically pertinent. The historical problem, however, has been finding reliable data. Housing prices can be something of an indicator of differences in the cost of living even though they are only one component of the consumer market basket, albeit a significant one. Reliable data on housing prices, does exist. While the costs of many goods will remain more or less constant across a region, others, particularly costs involving personal services, will be higher in those urban areas having higher home prices.

The County's third point, about housing prices having a different impact on tenured Sergeants and Captains than on renters and first-time homeowners may be true, but is not a persuasive reason to ignore housing prices.

The County's final point is quite valid. In Snohomish County, it appears that the higher prices lie outside of the City of Everett, the location of the jail. I noted recently in *City of Tacoma*, PERC No 20635-1-06-0481 (Wilkinson, 2007), that the recent average home selling price in Pierce County was 76% of Snohomish County, citing WSU's Washington Center for Real Estate Research, online at <http://www.cbe.wsu.edu/~wcrer>. The data, however, also indicated that the more expensive housing in Snohomish County is located outside the City of Everett, while the more expensive Pierce County housing is located inside the City of Tacoma:

According to the Puget Sound Report, Pierce County's average new prices during the last quarter were \$368,853 (detached) and \$277,022 (attached). The higher priced units were located in the City of Tacoma (\$400,626 detached, \$335,581 attached). Snohomish County's figures were \$457,869 detached, \$275,768 attached, with prices lower in the City of Everett (\$354,292 detached, \$237,353 attached). See, <http://www.cbe.wsu.edu/~wcrer/cpsS07.asp>.

Id., at 20, fn. 12.

Although I find the consideration of home prices useful, given the identified drawbacks, I am not giving that consideration great weight.

Militating against an award that places the bargaining unit wage well above the average are the considerations relating to changes in the cost of living, recruitment and retention, and internal equity. In addition, I also have considered the County's evidence that the job responsibilities of Captains in Snohomish County are not as great as those of the three comparators with the equivalent position, something discussed further below. (The fourth, Clark County, lacks an equivalent position). The County also asserted that the job responsibilities of Clark County Sergeants are greater than those in Snohomish County, but my review of the job descriptions did not persuade me.

This comparator analysis, considered in the demographic context, leads me to conclude that the County's offer of a 2.5% wage increase for 2005 is too low. The Union's 7.5% demand is too high for Sergeants, but not for Captains. The 4.5% increase I have awarded for 2005 will bring Sergeants to a pay rate that is slightly above average for the comparators and the 2.7% 2006 increase maintains that position. (The average increase of the comparables for 2006, as shown on Table 4, *infra*, was 2.71%). The 2007 increase is the same as the CPI increase for the year. The Employer argued that a award based on the CPI should be pegged at 90%, I am awarding an increase for 2007 that equals the percentage change in the CPI-W in order to improve the bargaining unit wages against the average. My award of 4.6% exceeds the average comparable increase by .6%. I also note that Table 6, *infra*, which was taken from a County exhibit and sets forth 10- year cumulative increases, shows no past practice of agreeing to increases equal to 90% of the CPI-W.

Captains will continue to lag the average, but the gap will be reduced. I considered, but rejected, awarding differential increases in part because neither party proposed a differential. Although the Union's proposal for a 7.5% increase in 2005 might be justified for Captains, it is not for Sergeants. There are 17 Sergeants and only seven Captains; thus, my award gives the Sergeant classification more weight. More importantly, however, the County presented evidence that the Captain responsibilities in Snohomish County are not as broad or comprehensive as the Lieutenants in the three comparable jurisdictions with the equivalent position. Although the County did not analyze that evidence in detail, I did so, and produced a chart, which is Attachment B to this award, comparing the

duties and responsibilities of the Snohomish Captain to the comparable jurisdiction's Lieutenants. This analysis is based solely on the job descriptions found in Exh. C-8. I recognize that job descriptions usually do not fully show the duties of the position. I also strove to avoid attaching undue significance to what might be serendipitous language choices in these documents. Nonetheless, I found that I agreed with Mr. Dow's testimony that the Kitsap County Lieutenants, in particular, have more responsibility than the Snohomish County Captains. For example, the position reports directly to the Corrections Superintendent and can act in that capacity. It is designated and described as a mid-management position, and responsibilities include budgeting and policy development, things not mentioned in the Snohomish County job description. The minimum qualification for the Snohomish position is only six months as a corrections supervisor, plus prior experience in corrections. The minimum qualification for the Kitsap position is two years as a Kitsap Sergeant and an AA degree, with a Bachelor's degree preferred. Both Pierce and Spokane counties require more experience as a sergeant than does Snohomish County (both require three years). Both have some budgeting and policy development responsibilities. The Pierce position may report directly to the Corrections Bureau Chief. Accordingly, the consideration pertaining to job duties leads me to conclude that with my award, the Snohomish Captain's pay probably is where it should be vis-à-vis the comparable jurisdictions.

The Arbitrator's calculations show that with her award, the 2005, 2006 and 2007 wages of the bargaining unit will line up against the comparators as follows:

Table 7
Award Effect Vis-à-Vis Comparables, Sergeants

Sergeant, 15 year	2005	2006	2007
Snohomish County	\$ 35.35	\$ 36.30	\$ 37.97
Clark County	\$ 34.58	\$ 35.79	\$ 37.05
Kitsap County	\$ 33.31	\$ 34.00	\$ 35.41
Pierce County	\$ 37.25	\$ 38.18	\$ 39.76
Spokane County	\$ 35.79	\$ 36.78	\$ 37.70
Average	\$ 35.42	\$ 36.19	\$ 37.48
Snohomish to Average	0.3%	0.3%	1.3%

**Table 8
Award Effect Vis-à-Vis Comparables, Captains**

Captain, 25 year	2005	2006	2008
Snohomish County	\$ 44.65	\$ 45.86	\$ 47.97
Clark County	\$ 40.26	\$ 41.67	\$ 43.13
Kitsap County	\$ 48.14	\$ 49.14	\$ 51.17
Pierce County	\$ 47.44	\$ 48.63	\$ 50.64
Spokane County	\$ 50.02	\$ 51.40	\$ 52.68
Average	\$ 46.47	\$ 47.71	\$ 49.41
Snohomish to Average	-3.9%	-3.9%	-2.9%

Thus, by 2007, the Sergeant's wages will rank second, between Pierce County and Spokane County. Wages will be 1.3% over the average, which is appropriate, in my view. Captains' pay will continue to lag, but the gap will be reduced to 2.9% by 2007. Captains' ranking will be fourth. Given the differences in duties, particularly with respect to Kitsap County, this result also is within the range of reason.

B. Article 10.1 and 10.1.1-Medical Insurance Premiums

The County proposed to provide the same indemnity and HMO plan designs that it offers most other County employees, both represented and unrepresented. This proposal would cap the employee's contribution to premiums as follows:

**Table 9
County Proposal**

Employee Premium Contribution	Regence Selections
Employee Only	\$43
Employee and Spouse	\$166
Employee and Children	\$74
Employee and Family	\$196
Employee Premium Contribution	Regence PPO
Employee Only	\$58
Employee and Spouse	\$195
Employee and Children	\$98
Employee and Family	\$235
Employee Premium Contribution	Group Health Options
Employee Only	\$0
Employee and Spouse	\$79
Employee and Children	\$0
Employee and Family	\$79

The County's has stressed that its proposal is not retroactive. (During mediation, it proposed retroactivity to April 1 2006, but the offer was tied to the Code of Conduct. The Union rejected the offer).

The Union proposed that the Employer pay 100% of the premiums for health insurance retroactive to March 1, 2005. At hearing, the Union indicated its willingness to accept County's premium sharing proposal, but it still wants full retroactivity.

The status quo ante under the expired Collective Bargaining Agreement between these parties contains an Employer cap on contributions. Thus, the County's proposal is a net gain for bargaining unit employees, who currently pay \$389 a month for full family coverage under the Regence Selections plan. Depending on the number of dependents and the choice of plans, the County's proposal equals between about .5% and 3.5% of the Arbitrator's 2007 wage award.

The Employer's proposal is identical to the one contained in its Master Agreement with AFSCME, which became effective on April 1, 2006.

The Employer argued that its proposal, which actually reduces the employee's contribution to premiums, is strongly supported by internal equity. The other two Teamsters bargaining units in the Corrections Department have embraced this premium schedule, as have other County employee groups (in addition to the AFSCME units). No other employee group has 100% of employee and dependent medical premiums paid by the County. The Union's "me too" proposal with respect to Sheriff's Department supervisors is unsupported.

According to the County, the Union's proposal on retroactivity poses a tax problem and accounting problem, since the reimbursement that the County would have to give employees would be subject to income and FICA tax payments, and they would not be a "before tax" employer medical premium contribution. Retroactivity amounts to another wage increase, in the County's view. Specifically, the County asserts in Exh. C-15:

It is not legal for an employer to make payment to employees for medical insurance premiums already paid and thereby treat such payments as non-wages for tax purposes. Medical premiums paid by employees are normally paid in pre-tax dollars. Under the Union's proposal, any "reimbursements" would have to be paid as wages, subject to payroll taxes Because such payments are wages, they would also affect the County's FLSA overtime liability. Any "reimbursements" as proposed by the Union would also raise reporting question with the State Department of Retirement Systems (DRS) as well as the Internal Revenue Service (IRS). In summary, "reimbursement" of medical premiums paid by employees, as proposed by the Union, is not doable.

An analysis of comparators shows a hodge-podge of plans, making a comparator analysis difficult when it comes to an appropriate employee premium contribution. the County stated. Nevertheless, the Union's demand for a retroactive reimbursement is not supported by a comparable county analysis.

The County expressed its belief the parties should endeavor to reach timely agreement on new contracts and they should not delay or stall. It asserted that the Union has engaged in tactics promoting delay, and awarding retroactive reimbursements would reward this tactic. The County also averred that it has never paid premium adjustments retroactively, except on a limited, one-time basis for the two Teamsters 763 units in Corrections (2007-09) and the Teamsters 763 unit in the Sheriff's Office, also for 2007-09. These payments were made to produce a peaceful settlement with trade-offs.

The Union argued that in the comparable jurisdictions; medical premium contributions are very generous, relative to Snohomish County,.

Since it is willing to accept the County's proposal on premium sharing, the Union focused its argument on the retroactivity issue.

It noted that when parties seek binding interest arbitration under Washington law, there can be a delay between the expiration of the prior contract and the decision of the interest arbitrator. For that reason, wage awards are retroactive. Denying retroactive effect to wage increases would encourage delays by employers. The Union argued that the County essentially froze its maximum contribution at \$502.26 between the beginning of 2005 and the present date for

“employee plus family” coverage. In the meantime, the employee cost for that coverage has escalated to \$421.00 monthly. The County has had the advantage of lower premiums than it could reasonably have expected to pay during that period. The Union concluded its argument by stating, “It is absolutely critical that it be obligated to reimburse bargaining unit members for their out-of-pocket costs above and beyond those paid by members of the AFSCME bargaining unit for the same period.” Union’s brief at 22-23. The Union believes that an award of some retroactivity, but not full retroactivity, as suggested by the Arbitrator at hearing, is nothing more than a “half a loaf” suggestion having no reasonable justification.

Finally, the Union cited this Arbitrator’s award in *City of Redmond*, PERC Case No. 16791-5-02-00387 (Wilkinson, 2004), where employees were ordered to pay 10% of dependent premiums, retroactive to the start of the contract (as the employer proposed) rather than one year later, as the union preferred. I wrote:

As to whether it [ten percent cost sharing] should begin in 2003 or 2004, I have determined that 2003 is appropriate. Just as wage awards are generally retroactive – so as not to penalize bargaining unit members for delays in obtaining a new labor agreement, then other provisions should be also – to the extent proposed. Since the ten percent for 2003 (and for 2004 to the date this award is implemented) will come out of the back pay award, the retroactive imposition of the ten percent contribution to premium will not cause financial hardships to union members.

The Union argued that for the same reasons, the Arbitrator’s medical premium award should be retroactive to 2005.

I note that a comparator analysis shows that the premium sharing arrangements of the comparable jurisdictions vary:

Clark County: For 2005 and 2006, Clark County paid 100% of the premium for both employees and dependents. For 2007, “any cost over a 10% increase on the composite budget shall apply to dependent coverage, to be paid by the employee,” to a maximum of \$100 per month. See Article 13.1 of the Clark County Collective Bargaining Agreement.

Kitsap County: For Sergeants in 2005 and 2006, Kitsap County paid 100% of employee-only coverage, offering two PPO plans and a Group Health plan. For dependents, the County paid 10% of premium increases for each year, with the employees picking up the rest. Employees who elect a Group Health Plus Plan paid the excess premiums. Bargaining unit members agreed to work with a Joint Labor-Management Medical Benefits Committee and to possible reopeners. See Kitsap County Contract Amendment #2, appended to 2003-05 Collective Bargaining Agreement. For 2007, the Sergeants have agreed to abide by the proposals made by a Joint Labor-Management Medical Benefits Committee. I note that the Lieutenant's 2007 agreement, discussed next, state that the rates therein are those proposed by the same committee.

For Kitsap Lieutenants, the 2007 the maximum employer contribution is \$1016 monthly, according to Article II.H. of the 2007-2009 Collective Bargaining Agreement. In 2005, the maximum employer contribution was \$944.10 and the maximum employee contribution was \$160.38. Under certain plans, the employer's contribution covered the employee entirely, and in one PPO plan, it also covered all dependent coverage. For 2006 the employer agreed to continue 100% employee coverage under three of the four plans offered, and agreed to pay 10% of the premium increases for dependent coverage. See Article II.H. of the 2005-06 Collective Bargaining Agreement.

Pierce County: Under Article 14 of the 2004-2006 Correctional Officers' and Sergeants' labor contract, the employer paid a max premium amount in 2005 of \$710.93; the employees' share topped out at \$60.89 for the Regence Preferred Plan. They agreed to reopeners negotiating the 2005 and 2006 contributions. The 2006-2008 Lieutenants' agreement, at Article 14, caps the employer's contribution at \$807.51 per month for the

Regence Selections Plan. The employee pays the remaining amount of \$76.22. The parties agreed to reopeners on the subject in 2007 and 2008.⁹

Spokane County: For 2005 through 2007, the employer paid 100% of employee coverage. The maximum employee contribution for dependent insurance was \$45.00 monthly. See Article 14.1.1 of the Corrections Supervisors' Collective Bargaining Agreement.

An analysis shows that the comparator plans are significantly more generous to employees than what the bargaining unit has been paying. The following table shows the maximum employee contribution and the maximum employer contribution for each comparator and Snohomish County for 2005, the only year where relatively complete figures could be derived from the evidence. The maximum corresponds to the costliest plan offered. For Snohomish County, I used the Regence Selections plan because the record does not show what bargaining unit members pay for the more costly Regence PPO plan. As to the County's contribution, under the status quo, the contribution remains the same, regardless of the plan selected for comparison.

Table 10
Comparison of 2005 Contributions to Medical Premium
(Status Quo Ante)¹⁰

	Employee Max	Employer Max
Snohomish (Regence Selections)	\$ 421.00	\$ 502.26
Clark-Sergeant	\$ 0.00	none given
Kitsap-Lieutenant (Sgts unknown)	\$ 160.38	\$ 944.10
Pierce-Sergeant	\$ 60.89	\$ 710.93
Pierce-Lieutenant	\$ 76.22	\$ 807.51
Spokane-Sergeant & Lieutenant	\$ 45.00	none given
Average	\$ 68.48	\$ 820.85
Snohomish to Average	615%	61%

⁹ A 2002-04 and a 2006-08 Collective Bargaining Agreement for Pierce County were placed into evidence, but no agreement for 2005, which presumably does not exist.

¹⁰ I used the average Pierce County contribution before calculating the comparator average. The exact amount Clark and Spokane counties contributed in 2005 were not in evidence; therefore the average employer contribution is of the remaining known comparables only.

This evidence shows that in 2005, bargaining unit members on a full family plan (Regence Selections) were paying over six times what their colleagues in comparable jurisdictions paid for their top-priced plan (in terms of the employee contribution). Indeed, this figure is a little low, because as I stated above, I do not have employee contribution figures for the most costly plan. The percentage difference in the employer contribution is not as dramatic, but it is still significant, with Snohomish County paying in only 61% of what the comparable jurisdictions pay.

I realize that the County's proposal is not retroactive and its agreement with the AFSCME bargaining units began in April 2006. However, were the County's proposal retroactive to 2005, as the Union seeks, the employee contribution comparison would be as shown on the next table. No Snohomish cost figures for 2005 are of record; therefore I could not do an employer cost comparison. Because the cost of the highest priced plan for Snohomish employees is in evidence, I have used that figure.

Table 11
Comparison of 2005 Employee Contributions to Medical Premium
(Union Demand on Retroactivity)

	Employee Max
Snohomish (Regence PPO)	\$ 235.00
Clark-Sergeant	\$ 0.00
Kitsap-Lieutenant (Sgts unknown)	\$ 160.38
Pierce-Sergeant	\$ 60.89
Pierce-Lieutenant	\$ 76.22
Spokane-Sergeant & Lieutenant	\$ 45.00
Average	\$ 68.48
Snohomish to Average	343%

Thus, the Union's position still would result in the bargaining unit paying 3.4 times what the comparable jurisdiction average pays. A separate comparison (not shown here) using cost of the Regence Selection plan in Snohomish County results in the multiple being reduced to about 282%.

The County asserts that its proposal has strong internal equity support. In my view, although internal equity considerations cannot be the main driver of premium issues, it is an important consideration. I agree with Arbitrator Axon, in a quote provided by the County:

There is no statutory obligation to award what the other bargaining units in the County have negotiated in the way of insurance benefits. In the judgment of this Arbitrator, an award for one group of employees should not be so different as to be out of touch with the other bargaining units. The goal is to provide consistency, not complete uniformity.

Mason County (Axon, 2001) (no PERC case number shown on the award). Here, however, the County's own evidence shows that different employee groups have divergent employee and employer contributions:

Table 12
Employer & Employee 2007 Premium Costs
Various County Employee Groups—per Exh. C-16

<i>(Regence Selection Plan)</i>	Employee Cost	Employer Cost
AFSCME & non-represented	\$ 196.00	\$ 665.33
Teamsters Law Enforcement Support	\$ 296.50	\$ 584.57
Teamsters Corrections Support	\$ 205.93	\$ 654.89
Sheriff Deputies through Captains	\$ 55.00	\$ 714.02
Clerk's Association	\$ 421.00	\$ 540.17
Corrections Guild	\$ 447.00	\$ 508.88
International Association of Fire Fighters	\$ 75.00	\$ 687.64

I realize that AFSCME and the County's unrepresented employees together comprise the largest employee group, so in that sense, there is support for the County's proposal in terms of internal equity. But its position is not as strong as would be the case if all employee groups, or at least all groups not subject to interest arbitration, had identical premium allocations.

The Union's proposal that the employer pay 100% of both employee and dependent coverage has no comparator (save for Clark County Sergeants in 2005 and 2006) or internal support, but, as it stated at hearing, it will accede to the County's proposal. Accordingly, I will award the County's proposal on premium sharing. Because of the Union's modified position, the above analyses may seem unnecessary. Nevertheless, I included it because it informs the Arbitrator's award on retroactivity, discussed next.

As the Union pointed out, in a City of Redmond interest arbitration, I ordered that the *increase* in the employee's contribution be retroactive to the first day of the contract. There is strong logic then to having it cut both ways, with a decrease in the employee's contribution also being retroactive.

I am not able to give the County's tax argument and practicality arguments much weight since tax implications generally are not part of an interest arbitrator's consideration. Bargaining unit employees will be the brunt of the taxation on any reimbursement, and they are willing to do so. While the County asserted that reimbursement for medical premiums is not "doable," Exh. C-15, it also conceded it has made an exception for three Teamster units. I will attempt to formulate an award for a lump sum payment that is considered a present wage, similar to a cash bonus. My intent is not to require the County to recalculate past wages paid for the purpose of past overtime, etc.

Similarly, I am not giving weight to the County's argument that retroactivity encourages delaying tactics and discourages the timely resolution of contract issues. First, I note that retroactive wage awards are the norm in interest arbitration, and the County has not opposed wage retroactivity here. Second, I have yet to consider, in an interest arbitration proceeding, evidence concerning the good or bad faith of a parties' bargaining. Evaluating a parties' conduct during bargaining is the domain of the Public Employment Relations Commission. I am not aware of any interest arbitration award where the interest arbitrator has received and evaluated this kind of evidence (which, if the PERC experience is typical) can extend a hearing for a day or more. I might consider PERC's finding that a party bargained in bad faith, but such a finding was not offered in this case—to my knowledge, the Employer did not file unfair labor practice charges with PERC.

Ultimately, I have concluded that a retroactive date of January 1, 2006, is fair and reasonable, and will be awarded. The comparable jurisdiction analysis strongly supports retroactivity. The fact that in 2005, a Sergeant or Captain having full-family coverage paid over

six times what a similarly ranked colleague paid that year. I could not produce comparison figures for 2006 and 2007, but it is fair to assume that the difference is similarly large. I picked January 1, 2006, because that was the date the revised premium-sharing schedule went into effect for the AFSCME unit. See Exh. C-10, the AFSCME Collective Bargaining Agreement, Article 29, Section 1.A. Given that the County's proposal is tied to its agreement with that unit, this seems fair. There was no evidence of internal support for retroactivity back to April 2005, as the Union seeks, however.

Accordingly, I order the County to pay each bargaining unit member a lump sum cash payment that is equal to the difference between his or her maximum premium contribution shown on Table 9, *supra*, and the amount that such employee has contributed to medical premiums since January 1, 2006, less appropriate deductions for payroll taxes. It is the Arbitrator's intent that this lump sum cash payment shall constitute present wages, and it should not be construed as a past wage so as to require the recalculation of past base wages, overtime, PERS, deferred compensation payments or other such items of compensation.

C. Article 5.3, Overtime Definition

The County proposed changing Article 5.3 so that when an employee takes sick leave during any given week, those sick leave hours will not figure into the 40-hour threshold that triggers overtime. Thus, the language of Article 5.3 would read:

Employees shall be paid overtime pay at the rate of one and one-half (1-1/2) times the employee's regular rate of pay for all hours worked in a week in excess of forty (40) hours. For the purposes of calculating overtime pay, all compensated hours (with the exception of sick leave) shall be considered time worked.

By comparison, the language in the expired contract stated:

Non-exempt (FLSA) employee's [*sic*] shall be paid overtime pay at the rate of one and one-half (1-1/2) times the employee's regular rate of pay for all hours worked in a week in excess of forty (40) hours. For the purpose of calculating overtime pay, all compensated hours shall be considered time worked. . . .

The Union opposed the language change and would retain the status quo.

The County made the proposal because there is a high absentee rate in the bargaining unit. The County believes the use of sick leave would decrease if bargaining unit members had a disincentive. As it stands, employees can take a day of sick leave, and have it still count towards fulfilling the 40 hours needed before overtime rates are triggered. It noted that wage and hour laws do not require that unworked sick leave time count for overtime pay purposes.

The County argued that several of the comparable counties have contract language or policies similar to its proposal. Of the jurisdictions selected for comparison herein, Clark County Sergeants and Kitsap County Lieutenants are subject to a similar provisions.

Internally, the County noted, employees covered by the 2007 Management & Exempt Salary Schedule, with pay similar to that of Sergeants and Captains, are exempt from overtime pay altogether.

Mr. Thompson explained that with the relatively high absenteeism among Sergeants and Captains, they are not setting the proper tone for their subordinates. He suspects one Sergeant in particular of abusing sick leave. He conceded on cross-examination that exploring other options for reducing sick leave usage makes sense and that perhaps a sick leave incentive program would have merit.

The Union contended that the right to have sick leave counted as "hours worked" in the calculation of weekly overtime was a previously negotiated benefit. Under the County's proposal, it would be eliminated and bargaining unit members overtime entitlement reduced to near statutory minimums.

The Union disagreed with the County on comparable jurisdiction practice, noting that in Clark, Kitsap, Pierce and Spokane counties, sick leave is included as "hours worked" in the calculation of weekly overtime. Further, it observed, Director Thompson testified that he was unaware of any other represented groups in Snohomish County subject to a provision like the one the County proposes. (The County noted, however, that non-uniformed Corrections Supervisors are overtime exempt).

Article IX, Section 9.2.3 of the Collective Bargaining Agreement states:

Whenever in the Employer's judgment an employee's attendance record is unsatisfactory, the Employer may, either during or following an employee's sick leave, require the employee to provide a physician's statement setting forth information requested by the Employer and/or may require the employee to be examined by one or more physicians retained by the Employer.

Mr. Thompson testified that he has not utilized this provision because the "language was trumped by the practice in the department where it has not done so." Tr. 294. The Union therefore noted that the County has not made use of already available tools to combat absenteeism. Nor has it considered implementing a sick leave buy-back program, even though Clark, Pierce and Spokane counties maintain such a program, which can curb excessive sick leave use.

As the Union pointed out, the County's sick leave proposal is not supported by any of the explicit statutory criteria. The majority of comparable positions in comparable jurisdictions do not have similar contract language or practices. According to the County's post hearing brief, a comparable jurisdiction analysis shows the following:

Table 13
Overtime Threshold Practices, Comparators

	Position	Overtime Threshold Includes S/L	Position	Overtime Threshold Includes S/L
Clark	Sergeant	No	Commander	Exempt
Kitsap	Sergeant	Yes	Lieutenant	No
Pierce	Sergeant	Yes	Lieutenant	Yes
Spokane	Sergeant	Yes	Lieutenant	Yes

This shows that only two of the seven comparable positions (the Clark Commander is not comparable, the parties agreed), exclude overtime from the threshold for sick leave. It also is not supported by internal equity. No other represented employee groups of the County are subject to the kind of language that the County proposes. While there may be a meritorious aspect to it—it probably would reduce the use of sick leave—there are other, more targeted ways of reducing sick leave usage. The County's proposal would penalize the bargaining unit member who is truly ill, along with those who are abusing sick leave. I believe the County

should explore other options for reducing the use of sick leave before this one is seriously considered. Therefore, its proposal is denied.

D. Article 15.1 and Article 16.1.1-Employee Rights-Code of Conduct:

The County proposed adding language (as Section 15.1) that would make all bargaining unit members explicitly subject to a written Code of Conduct, which is reproduced as Attachment A to this award. The Union opposed this proposal.

Corrections Director Thompson testified that he believes every corrections agency should have a Code of Conduct in order to set the tone for their responsibilities. He wants to do everything possible to encourage professionalism among the corrections employees. He has introduced an ethics campaign in the department and called it the "cornerstone" of the department. Tr. 304. He stressed the need for greater professionalism. When he was offered the job of Corrections Director, he conducted some research, and the number of incidents reported in the news media of misconduct by jail employees struck him. A change was and remains necessary to secure the confidence of the public and of public officials, Director Thompson stated. The County averred that the failure of two operating levies for the jail can be attributed to the erosion of public confidence.

The County pointed out that provisions found in the Code of Conduct are grounded in common sense and some are addressed in other County procedures that would be consolidated into a single place. See Exh. C-18.

The County contended that all of the comparable counties have a code of conduct in place for Corrections Sergeants and Lieutenants. Those rules are either part of the labor agreement, incorporated by reference into the labor agreement, or apply by virtue of the applicability of the County Sheriff's Department code.

The proposed Code of Conduct, according to Mr. Thompson, is part of the Teamsters' Support Services agreement and is currently "on the table" for Correction Custody Officers new agreement. Tr. 333.

The Union pointed out that for contract language changes, arbitrators place the burden of persuasion on the party advocating the change.

It first argued that the County's proposal has little support among the comparison jurisdictions. Neither Clark, Pierce, nor Spokane has incorporated anything like a "Code of Conduct" in their collective bargaining agreements. Kitsap County has a provision for its Lieutenants, but its Sergeants' agreement does not.

It is true, the Union stated, that Snohomish corrections support personnel and supervisors have Codes of Conduct in their contracts. But these units are not subject to binding interest arbitration; in any event, this evidence should not trump the comparator evidence. None of the Snohomish units that are subject to binding interest arbitration have a Code of Conduct incorporated into their collective bargaining agreements.

The Union is concerned that inserting a Code of Conduct into the collective bargaining agreement represents an effort by the County to define "just cause" or discipline in a favorable way to the County, and hence to tie the hands of future arbitrators considering disciplinary grievances under the contract. It maintained that in future arbitrations, the County would contend that the arbitrator must uphold the disciplinary decision so long as a violation of the code was established.

The Union found the County's justification for the code unconvincing. The parties' management rights clause, Article XVI, § 16.1.4, which will carry forward into the new agreement, "recognizes the right of the Employer to establish reasonable work rules, make facility changes and modify training." The County can implement the code under this provision, while the Union retains the ability to bargain its provisions and to challenge it as unreasonable in an appropriate forum.

The parties vigorously dispute whether there is comparator support for the County's proposal. My review of the record shows the following:

Clark County: The County stated that corrections employees are part of the County Sheriff's Office and covered by its Code of Conduct. It cited Article 20.1 of the Clark County agreement, which states:

The Employer agrees to provide each employee access to Sheriff's Office Manual(s) by placing copies in strategic locations in the Sheriff's Office.

It also cited six different pages of that agreement, but only to show that covered employees are part of the Sheriff's Office. The Union contended that there is no code of conduct for these employees and I note that no such document for Clark County was placed in evidence.

Kitsap County: The County asserted that the Kitsap County Sheriff's Office policies, which include a Code of Professional Ethics and Responsibility cover its corrections supervisors. Specifically, one applicable to "Kitsap County Peace Officers" is included in the Lieutenants' agreement as Appendix B. The Sergeant's agreement, Article I, Section H, incorporates the same by reference, the County averred. That provision, however, does not specifically reference a Code of Professional Ethics and Responsibility, but it does indicate that Sheriff's Rules and Regulations will be used to "resolve matters not covered by the Agreement or for elucidation of matters covered by this Agreement." It also specifies a bargaining requirement for changes to those rules, except in emergencies.

Pierce County: Pierce County corrections also falls under the county Sheriff's department. The evidence shows that there is a "Law Enforcement Code of Ethics" (§3.01.020) for all Sheriff's Department employees, including corrections. This

document is only about a page long, however. It is not incorporated by reference into the collective bargaining agreement.

Spokane County: Similarly, the Spokane County Sheriff's "Code of Ethics" applies to its corrections employee, according to the County. This document was placed in evidence. It also is only a page long, and has not been incorporated by reference into the collective bargaining agreement.

Thus, I would conclude that comparator support for a written ethical code is mixed.

The Employer's proposal has been agreed to by the corrections support personnel and support supervisors, both represented by Teamsters Local 763. There has been no settlement with the Corrections Custody Officers.

There was some confusion and dispute about whether the County has the right to unilaterally implement a code of conduct, subject to the Union's challenge on the reasonableness or application of its various provisions. It would not be appropriate for me to take a position on that point, given that it would not bind either the Public Employment Relations Commission or a later grievance arbitrator. In any event, I can appreciate why the Employer is reluctant to unilaterally implement its proposal. A challenge from the Union could take a year or longer to resolve. Moreover, I note that the County's efforts to engage the Union in the development of ethical standards by establishing an integrity committee were thwarted by the Union. Director Thompson testified that he disbanded the committee after the Union threatened to file an unfair labor practice.

Ultimately, I am convinced that the County's proposal is fair and reasonable, so long as it is accompanied by qualifying language that meets the objection of the Union. The Union will continue to resist the County's proposal if it is not granted, and the County could face a legal challenge with unilateral implementation (which would result in it not being part of the CBA, but a stand-alone document). With such language, I believe it makes little practical difference from

the standpoint of the bargaining unit whether it is incorporated by reference into the Collective Bargaining Agreement or exists as a stand-alone work rule. I will award the County's proposal, but with the following qualifying language:

Nothing in this Code of Conduct shall be construed to abridge the just cause language found in Article XIII of this Agreement or other provisions of this Agreement. Its incorporation into this agreement shall not be deemed a waiver of the Union's right to challenge the reasonableness, appropriate application or the County's interpretation of any of the provisions of the Code of Conduct.

I am reluctant to draft qualifying language to a party's proposal in order to award that proposal in an interest arbitration proceeding. I am making an exception here because I believe the County's proposal is important and of great merit, but it requires qualifying language in order to protect the right of bargaining unit members. The parties should bear in mind that they are free to agree to different qualifying language if they are dissatisfied with my efforts.

VI. SUMMARY OF THE ARBITRATOR'S AWARD

A. Wages and Deferred Compensation

1. 2005 Wage Award

The Arbitrator awards an across-the-board wage increase of 4.5%.

2. 2006 Wage Award

The Arbitrator awards an across-the-board wage increase of 2.7%.

3. 2007 Wage Award

The Arbitrator awards an across-the-board wage increase of 4.6%.

These wage awards are retroactive to January 1st of each year designated.

The Arbitrator rejects the Union's proposal for an increase in the County's contribution to the deferred compensation plan applicable to the bargaining unit.

B. Medical Premium Sharing

1. Employee Contribution

The Employer's proposal to match the premium sharing provisions found in the AFSCME Master Agreement is awarded.

2. Retroactivity

The award is retroactive to January 1, 2006, meaning that the Employer will reimburse bargaining unit members for excess premiums paid since that date.

To implement this award, the Arbitrator orders the County to pay each bargaining unit member a lump sum cash payment that is equal to the difference between his or her maximum premium contribution shown on Table 9, *supra*, and the amount that such employee has contributed to medical premiums since January 1, 2006, less appropriate deductions for payroll taxes. It is the Arbitrator's intent that this lump sum cash payment shall constitute present wages, and it should not be construed as a past wage so as to require the recalculation of past base wages, overtime, PERS, deferred compensation payments or other such items of compensation.

C. Overtime Calculation

The County's proposal not awarded. The language of the expired Collective Bargaining Agreement will be carried forward into the parties' new Collective Bargaining Agreement

D. Code of Conduct

The Employer's proposal to incorporate a Code of Conduct into the Collective Bargaining Agreement is awarded, but qualifying language addressing Union concerns. The new language shall read:

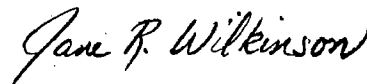
15.1 All employees within the bargaining unit shall be entitled to the protection of what shall hereinafter be termed the "Employees Bill of Rights" as set forth below. The wide ranging powers and duties given to the Department and its employees involve them in all manner of contacts and relationships with prisoners and the public. From time to time, questions arise concerning actions of

employees. These questions often require immediate investigation by the Employer. Consistent with Article 16.1.1, Management Rights and Protections, the attached Code of Conduct shall be applicable to all employees. Such Code of Conduct shall be included as part of this Agreement. See Attachment 1.

Nothing in this Code of Conduct shall be construed to abridge the just cause language found in Article XIII of this Agreement or other provisions of this Agreement. Its incorporation into this agreement shall not be deemed a waiver of the Union's right to challenge the reasonableness, appropriate application or the County's interpretation of any of the provisions of the Code of Conduct.

This Code of Conduct is appended to this award as Attachment A.

Date: September 10, 2007



Jane R. Wilkinson
Labor Arbitrator

ATTACHMENT A

EMPLOYEE CODE OF CONDUCT

MISSION STATEMENT: The mission of every employee is to promote, preserve and deliver security, safety and quality services to the community. Each employee must do their part to guarantee that our detention facilities, and programs and services are secure, safe, humane and efficient. Employees have an obligation to ensure a safe environment for their colleagues, co-workers, and the inmates they supervise.

B.005

PURPOSE/POLICY STATEMENT:

To establish and provide guidelines and instructions concerning employee conduct and responsibility of all, personnel who work in any capacity in SCC detention facilities.

Employees shall:

- a) conduct themselves in a manner that creates and maintains respect for the County and the Department. They should always be mindful of the high standards of professionalism and integrity expected of them by the public, the Department and the County in their official activities.
- b) avoid actions which might result in adversely affecting the confidence of the public in the integrity of the County government or the Department;
- c) promptly discuss with their supervisors any problems arising in connection with matters within the scope of this policy;
- d) perform all duties in a professional and competent manner;
- e) strive to achieve excellence in learning and implementing the necessary knowledge and skills associated with their duties.

Action may be taken against an employee due to a failure of the employee to meet the requirements of the position. Such action may be either disciplinary or non-disciplinary in nature.

B.010

KEY WORDS AND DEFINITIONS:

For the purpose of this document, the term, "employee" shall include individuals 1) employed by Snohomish County Corrections; 2) assigned by other County or outside agencies to work in Corrections facilities or programs, 3) performing work under contract, and 4) individuals who perform volunteer services for the department or who spend a portion of their work day in an SCC Detention Facility.

B.015

CONFORMANCE TO LAWS AND REGULATIONS:

Employees shall abide by federal and state Laws and applicable local ordinances, County and department policies and procedures, and Snohomish County's Code of Ethics. Penalties for violating the County Code of Ethics may include but are not limited to:

- Employment termination
- Criminal sanctions
- Civil remedies
- Discipline as approved by the Director

B.020

OFF DUTY INVOLVEMENT:

There is no provision in this section that requires any employee during off duty hours to be involved in any law enforcement action. Employees should contact the appropriate law enforcement agency having jurisdiction.

B.025

PUNCTUALITY:

Employees shall be punctual when reporting for duty at the time and place designated by their supervisors. Employees shall remain on their post at all times until properly relieved from duty.

B.030

ABSENCE WITHOUT LEAVE (AWOL)

Regular attendance is essential to meeting the department's mission and is expected of every employee.

1. Employees shall not be absent from duty except for:

- a. Sickness
- b. Family care or family sick Leave
- c. Injury/disability
- d. Suspension from duty
- e. Approved jury duty
- f. Approved military leave
- g. Scheduled furlough days
- h. Approved holiday or vacation days
- i. Approved compensatory days
- j. Other approved absences

2. All absences for any reason must be authorized by the Department. The Department may or may not authorize leave without pay for employees who do not have the appropriate leave time on their books. Unless the Department has authorized unpaid Leave for such individuals, they are required to report to work.

3. Employees shall provide verification of absence, at the request of the department, in accord with collective bargaining agreements and County policy.

**B. 035
IDENTIFICATION AS AN EMPLOYEE**

1. Acceptable identification is the Department authorized badge or ID card as issued without any Alteration.

2. Employees shall provide their name and badge number, if applicable, upon citizen request, unless circumstances surrounding the request might tend to hinder, obstruct or endanger the employee during the performance of their duties.

3. When on duty, all employees shall prominently display their authorized identification so it can be seen and/or read by others.

**B.040
USE OF AUTHORITY:**

Employees shall not use their position, or authority, department credentials, identification cards or badges for any reason or purpose not directly associated with the performance of official duties, nor shall aforementioned be used to coerce, intimidate or deceive others or to obtain any privilege or article not otherwise authorized in the performance of official duties.

**B.045
SPECIAL PRIVILEGE CREDENTIALS:**

Unless approved by the Director or designee, employees shall not issue any device, credentials or identification to persons other than employees that presume to grant a special privilege or consideration relating to Department business. All provisions of the Snohomish County Code of Ethics shall apply.

**B.050
GRATUITY:**

Employees shall not:

1. Use their position to solicit or accept anything of value that would not be accorded to a private citizen. Included are free rates for anything whatsoever.

2. Employees shall not inappropriately give or accept any gift or favor from an inmate, ex-inmate, their family or friends.

**B.055
NAMES OR PHOTOGRAPHS, USE OF:**

Employees shall not allow the use of their name or photograph for any commercial advertising purpose connected with work without the permission of the Director.

**B.060
RECOMMENDING EMPLOYMENT, PERSONS OR FIRMS:**

Employees shall not:

1. Make recommendations to any detainee, their family or friends, regarding an attorney, bail bondsman, individual or firm for services that may be required as the result of an action, incident or condition with which the Department is concerned as an investigative or public service agency. This does not include the family members of employees.

2. State or imply, either orally or in writing, that the Department or any representative endorses any product or service. Vendors or business representatives who request that the Department evaluate a product or service shall be advised to forward an appropriate written communication to the Director for consideration.

B.065

OBEDIENCE TO ORDERS:

Employees shall obey lawful and reasonable orders.

B.070

CONFLICTING ORDERS:

1. Should any conflict arise with any previous order, or with an order from another supervisor, the employee shall promptly and respectfully call attention to such conflict. If the supervisor does not change the order, it shall be immediately followed

2. The supervisor giving the conflicting order shall:

a. Take the necessary action to correct the conflicting orders.

b. Assume full responsibility for the subordinate's action in obedience to the order.

B.075

GROOMING

Uniformed staff are to dress in accordance with applicable regulations. Staff are to maintain proper personal hygiene and grooming.

B.080

FITNESS FOR DUTY:

1. Employees are expected to maintain physical and psychological fitness sufficient to perform the essential functions of their jobs.

2. If the Department has reason to believe an employee may be psychologically and/or physically unfit to perform their duties, the Director may require the employee to undergo a physical and/or psychological examination(s) to resolve any questions regarding fitness for duty.

3. Examinations ordered by the Department shall be performed by Department approved practitioners at the Department's expense. Employees are required to promptly appear for the scheduled examinations so as to not cause the County unnecessary expense. Employees are expected to cooperate fully with such evaluations.

4. In the event there are conflicting health care assessments, the County health care practitioner will confer with the employee's health care practitioner and they will provide a mutually acceptable list of health care practitioners qualified to provide a third opinion.

A focus on Prevention and Treatment

SCC employees participate in excellent health care plans. SCC encourages all staff to seek proactive and preventive care in matters of personal health (medical and psychological) through their individual health care providers.

Employees shall take the initiative to secure assistance before it impacts your work, family or others.

B.085

FAILURE OF MANDATORY TRAINING OR QUALIFICATION:

1. When officially assigned, employees shall attend all mandatory Department training or qualification sessions and achieve passing scores.
 - Employees scheduled shall attend at least 90% of a training session to be eligible for a passing score unless absence is authorized by the Director.
2. Failure to achieve a passing score may render an employee ineligible to hold certain positions and/or to perform certain assignments.
3. Upon failure of any mandatory training or qualification session, the Training Unit shall notify the employee and the Deputy Director and Facility Commander or designee.
4. The Deputy Director and Facility Commander or designee may schedule an appointment with the employee to discuss the reason for failure; and if warranted, provide an opportunity to the employee to retake the final examination or qualification *
 - Each instance of failure shall be evaluated on a case by case basis and appropriate action taken.
5. Probationary employees are “at will” employees and may be terminated at the discretion of the Department. Failure to successfully complete and “pass” any portion of training during the probationary period may be one of the reasons the Department decides to immediately terminate a probationary employee.

B.090

ADDRESSING EMPLOYEES:

1. Employees shall always show mutual respect and courtesy to fellow employees.
2. Employees shall observe a respectful attitude, using the individual’s proper title, as appropriate, particularly in public.

B.095

RIDICULE:

Employees shall not ridicule or make remarks that would tend to jeopardize working relationships with other public agencies or other employees.

B.100

COWARDICE:

Employees shall not display cowardice or fail to support their fellow employees in the performance of duty or fail to respond to emergency situations.

**B.105
SLEEPING ON DUTY:**

Employees shall not sleep while on duty.

**B.110
INCURRING LIABILITY AGAINST THE COUNTY:**

Employees shall not purchase anything chargeable against the Department or Snohomish County except with the knowledge and consent of proper authority.

**B.115
ON DUTY SALE OR PERSONALLY OWNED ITEMS, RESTRICTED:**

The sale or trading of items or products by employees to other employees will only occur in common employee areas during authorized breaks or rest periods.

**B.120
PERSONAL LONG DISTANCE CALL PROHIBITED:**

Employees shall not use Department telephones by direct dial, directory assistance or remote SCAN authorization to charge Snohomish County for any long distance call that is not Department business.

**B.125
CELLULAR PHONES, PERSONAL CALLS PROHIBITED:**

Employees shall not use a Department cellular phone to make or receive calls that are not Department business except as authorized in Snohomish County Code 2.350, unless previous arrangements have been approved by the Director or designee. Employees may not carry personal cell phones within the secure perimeter of the jail unless authorized by the Director and shall use them only during authorized breaks or rest periods.

**B.130
SEARCH OR INSPECTION OF COUNTY PROPERTY**

County property, such as desks, lockers, computers or vehicles and all, building areas under the control of the Department, are subject to lawful search or inspection by authorized SCC employees

**B.135
PERSONAL USE OF DEPARTMENT ADDRESS PROHIBITED:**

Employees shall not use the Department address for personal correspondence that includes, but is not limited to items such as bills, magazines, licenses or registrations.

**B.140
CONFIDENTIALITY:**

To ensure proper use of official information, the following will apply:

1. Employees will verify the identification and authority of individuals requesting access to information prior to giving or discussing records, personnel files or other official information.
2. No employee will deny authorized persons access to official information.
3. Employees will not use, or release for use, official information for private purposes.
4. Employees will not remove from files or make copies of records or documents except in accordance with established procedures or upon proper authorization.
5. Employees will not make any statement or release official information which could breach the security of the facility or unduly endanger any person.
6. Former employees will be granted access only to information available to the general public and will have no greater standing than employees of the public, regardless of their past employment and any associations developed in the course of such employment.
7. All of the above apply to evolving technology, information systems, methodologies of communicating, transmitting, and storing data; images, pictures and other formats of information.
8. If any employee has a question regarding the above, direction should be sought from a supervisor.

**B.145
SMOKING PROHIBITED:**

Snohomish County Ordinance prohibits smoking in All County buildings and vehicles.

1. The Director or designee shall designate smoking areas outside building enclosures.
 - a. Smoking may be done only during regularly scheduled breaks and meal periods.
 - b. Those who smoke shall dispose of cigarette butts in the appropriate containers. Disciplinary action may be taken when cigarettes are disposed of on facility floors, in the parking or plaza area or in any other work area or passageway.
2. The County provides assistance to employees who want to stop smoking through the Snohomish County Employee Assistance Program.

**B. 150
INTOXICANTS:**

Employees shall not consume intoxicants when on duty. This includes during any break or meal period whether in or out of uniform.

1. Employees shall not report to work for duty with the odor of intoxicants on their breath or under the influence of intoxicants or under the influence of any controlled substance that may interfere with the employee's ability to perform their job.
 - a. All breaks are considered on duty time for this section.

b. Any supervisor who reasonably believes that an employee is under the influence of intoxicants shall comply with Snohomish County drug free workplace policies and procedures.

c. Any employee who believes medication may affect their ability to perform any element of their job must report such immediately to their supervisor.

2. The Snohomish County Employee Assistance Program is available to employees who want/need help in controlling their use of drugs and alcohol.

**B.155
DRUGS:**

Employees shall only use drugs that are legally prescribed to them by a licensed health care practitioner or purchased over the counter.

**B.160
EMPLOYEE CONTACTS:**

The public demands that the integrity and credibility of employees be above reproach. Individual employee's actions which give the appearance of conflict of interest, dishonesty, criminal activity or permitting criminal activity may impair public confidence in the employee or the Department. Therefore, employees must avoid associations with persons which might reasonably be expected to compromise the integrity or credibility of themselves or of the Department.

**B.165
INMATE CONTACT**

The following shall be the general standards for inmate contact. Any employee whose family relationship or friendship with an Individual reaches the threshold of any of these provisions shall seek the guidance and direction of their supervisor.

1. Employees shall not allow themselves to show partiality toward or against, become emotionally, physically or financially involved with inmates or the families and friends of inmates; nor shall they correspond with inmates through use of the internal or public mail systems.
2. Employees shall not offer or give to an inmate, or any member of an inmate's family or friends or to any person known to be associated with an Inmate, any article, favor or service, which is not authorized in the performance of the employee's duties.
3. Neither should the employee accept any gift, personal service or favor from an inmate or from anyone known to be associated with or rotated to an inmate.
4. Employees shall not show favoritism or give unauthorized preferential treatment to one inmate, or group of inmates, over another.
5. Brutality, physical violence, intimidation or corporal punishment of inmates by employees will not be permitted nor will force be used beyond that necessary to subdue an inmate.
6. Employees who are inappropriately contacted outside of work by an inmate, or on behalf of an inmates are required to report this contact to their supervisor.

7. Staff are not prohibited from corresponding through the U.S. mail, or visiting in accord with visiting procedures, with a member of their immediate family who is in custody.

B.170

RECOMMENDATIONS:

1. Unless assigned to the Internal or Criminal Investigations Units, employees below the rank of Facility Commander shall not recommend directly to any court or to any other agency the disposition of any:

- a. Pending investigation;
- b. Employment applicant background investigation;
- c. Criminal case involving an inmate or County employee.

2. Employees below the rank of Facility Commander, wishing to make a recommendation may forward a recommendation in writing to the Facility Commander via the chain of command.

3. Other employees authorized by the Director to conduct employment applicant background investigations shall forward the results of such investigations to the Chief of Administration.

4. Nothing in this section applies to SCC employees involved in pre/post trial services to Municipal, District or Superior Courts during their performance of their duties.

B.175

BREACH OF FACILITY SECURITY

Any breach of security may lead to administrative action. Employees shall not cause or create any breach of facility security which would endanger the integrity of the building, its employees or inmate population. Neither shall employees introduce contraband or traffic in contraband.

B.180

DUTY TO REPORT CRIMINAL ACTIVITY OR BREACH OF FACILITY SECURITY:

Employees have the duty to report, in writing, any knowledge of suspected criminal activity, violation or attempted violation of the Law, and/or suspected breach in facility security to their immediate supervisor.

B.185

CONDUCT UNBECOMING:

1. "Conduct Unbecoming" means behavior that generally tends to:
 - a. Adversely impacts respect for the Department or its employees;
 - b. Adversely impacts confidence in the operation of the Department;
 - c. Adversely influence or impair the efficiency of a Department employee;
 - d. Adversely influence the morale or discipline of the Department.

2. Conduct unbecoming includes behavior such as:

- a. inappropriate association with convicted felons, ex-inmates, their family or friends.
- b. Communicating intolerance relating to gender, race, religion, age, ethnic origin or sexual orientation.
- c. Criminal conduct
- d. Dishonesty
- e. Criminal traffic violations
- f. Fighting
- g. Insubordination
- h. Significant misuse of County property
- i. Substance abuse
- j. Verbal. abuse
- k. Use of profanity toward staff or inmates
- l. Excessive drinking or public drunkenness that leads to undue negative attention to the Department.
- m. Harassment and/or discrimination based on race, ethnic origin, gender, disability, religion, age or sexual orientation.
- n. Illegal gambling or unlawful betting.
- o. Making false statements or written reports, concealment or providing misleading information, or inducing others to do so.
- p. Failure to report arrest of oneself.

Employees should keep in mind that their conduct reflects upon the Department Conduct [and] that may tend to diminish the respect for the Department, its employees or mission, may be grounds for discipline.

B.190

INVESTIGATION OF PERSONNEL MISCONDUCT

It is the Department policy to promptly, thoroughly, fairly and objectively investigate alleged misconduct involving employees.

B.195

REQUIREMENT TO COOPERATE:

All employees shall fully cooperate in Department investigations. If an employee has a reasonable belief that they may be the subject of possible disciplinary action they are entitled to

be accompanied by a union/guild representative during any interviews. Non represented employees may have a personal representative present.

B.200

WITHHOLDING EVIDENCE:

Employees shall not fabricate, withhold or destroy evidence of any kind in any criminal or administrative investigation.

B.205

NATURE OF INVESTIGATIONS:

1. Internal investigations shall be administrative and not criminal in nature
2. Criminal Investigations shall be assigned to the appropriate law enforcement jurisdiction.
3. The Director may assign a criminal investigation to the Internal Investigations Unit (IIU).

B.210

TOPICS OF INVESTIGATION:

1. Any alleged violations of laws or ordinances.
2. Any alleged violation of Department rules and regulations.
 - a. When an alleged or observed minor infraction does not involve persons outside the Department, a supervisor may resolve these cases and immediately take the necessary corrective action without completing an IIU complaint.
 - b. Minor infractions may include behavior such as:
 - c. Tardiness
 - Uniform and equipment violations
 - Personal, appearance infractions
 - Minor omissions in assigned duties
 - Minor regulations concerned with efficiency or safety

B.215

DISCIPLINE AUTHORITY:

Except for verbal counseling and letters of corrective counseling, Departmental disciplinary actions shall be approved by the Director, Deputy Director Commander and/or Chief of Administration.

B.220

DISCIPLINARY ACTION:

Disciplinary actions should be corrective and not punitive in nature, with the concept of progressive discipline applied when appropriate.

1. Employees are subject to disciplinary actions consistent with the provisions of the following:

- a. Standard Operating Procedures
- b. Post orders
- c. Training bulletins
- d. Department directives
- e. State and federal Laws
- f. Local ordinances
- g. Snohomish County Internet Guidelines
- h. Collective bargaining agreements

2. Disciplinary actions include:

- a. Written reprimands
- b. Suspension from duty
- c. Demotion (not applicable to support services)
- d. Termination

The disciplinary action to be taken will be the action considered appropriate for that particular case. Verbal counseling and letters of corrective counseling are not considered discipline.

3. Training and professional counseling may be recommended either separately or in conjunction with the above disciplinary actions.

Rules describing misconduct are illustrative only. It is not possible to anticipate every possible act of misconduct.

[Signature Page Omitted]

**Attachment B
Comparison of Job Descriptions, Captain/Lieutenants**

Responsibility	Snohomish	Kitsap	Pierce (Lieutenant)	Spokane (Lieutenant)
Reporting hierarchy	Most report to Detention Mgr. (Jail Commander) Exh. C-2	Direct report to Corrections Superintendent, can serve as Acting Superintendent	Reports to Correction Captain or Bureau Chief	Reports to Jail Commander
Management functions specified?	No, shift supervisor is primary function; plans and coordinates daily activities	Yes, specifically mid-level management; plans and manages daily activities	Shift commander in jail; "highly responsible supervisory and division management work"	Not specific, but shift commanders report to the Lieutenant
Supervisory, daily duties	Supervises jail staff; determines staffing and scheduling	Supervises jail staff, determines staffing and scheduling	Supervises jail staff, determines staffing and scheduling	Supervises jail staff, determines staffing and scheduling
Supervisory-hiring, discipline etc.	Recommends to Jail Commander, evaluation of subordinates mentioned	Recommends to Corrections Superintendent; evaluates subordinates, does training	Recommends, evaluates subordinates	Evaluates, doesn't mention discipline etc. but presumably involved
Minimum Qualifications.	6 months corrections supervision	AA, BA preferred, 2 years as Kitsap Corrections Sergeant	3 years as Pierce Corrections Sergeant	3 years as Spokane Corrections Sergeant, pertinent college work desired
Knowledge	Criminal law & criminal justice system, principles of supervision, prison safety and security; outside resources	Management & supervisory techniques, investigative techniques, other same as Snohomish	Supervisions, criminal justice, computers, risk management, L&I issues, others similar to Snohomish	Criminal justice procedures
Outside communications	Maintains good working relationships with criminal justice system officials, community agency staff, other county employees and the general public	Represents the department in public hearings and in communications to other county departments, outside agencies, general public, testifies in court.	News media occasionally; • must maintain positive relationships with "outside agencies, courts, attorneys," etc. and the "general public."	Not mentioned
Policy development	Not mentioned	Participates; recommends changes	Mentions preparation of, recommends new programs	Participates in labor negotiations
Investigative	Not mentioned	Yes, requires knowledge of investigative techniques	Investigates personnel, public and prisoner complaints, assesses, helps resolve	IA Investigations, prepares court evidence
Jail Budgeting	Not mentioned	Participates in process; monitors	Prepare preliminary budget for area of responsibility	Participate in process, makes Budget presentation to County Commissioners
Physical system	Not mentioned	Inspects, makes recommendations	Not mentioned	Not mentioned