STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Metropolitan Alliance of Police, Chapter #228, Charging Party and Chief Judge of the 12th Judicial Circuit (River Valley Juvenile Detention Center), Respondent	)	Case No. S-CA-11-055

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On September 23, 2010, Metropolitan Alliance of Police, Chapter #228 (Charging Party or MAP) filed a charge with the Illinois Labor Relations Board's State Panel (Board) in the above-referenced case, alleging that Chief Judge of the 12th Judicial Circuit (Respondent or Chief Judge) engaged in unfair labor practices within the meaning of Section 10(a)(4) and (1) of the Illinois Public Labor Relations Act 5 ILCS 315 (2010), as amended (Act). The charge was investigated in accordance with Section 11 of the Act and on January 19, 2011, the Board's Executive Director issued a Complaint for Hearing.

A hearing was conducted on July 11 and 12, 2011, in Chicago, Illinois, at which time MAP presented evidence in support of the allegations and all parties were given an opportunity to participate, to adduce relevant evidence, to examine witnesses, to argue orally and to file written briefs. On August 23, both parties submitted post-hearing briefs. After full consideration of the parties' stipulations, evidence, arguments and briefs, and upon the entire record of the case, I recommend the following:

I. PRELIMINARY FINDINGS

The parties stipulate and I find that:

1. Respondent is a public employer within the meaning of Section 3(o) of the Act.
2. Respondent is subject to the jurisdiction of the Board's State Panel pursuant to Section 5(a) of the Act.

3. On or about March 31, 2005, in Case No. S-RC-05-005, the Board certified a unit consisting of Respondent's seven shift supervisors and four non-line supervisory employees holding the titles of Technical Coordinator, Training Supervisor, Court Liaison and Programs Manager.
4. MAP and Respondent are parties to a collective bargaining agreement for a unit consisting of Respondent's seven shift supervisors and four non-line supervisory employees holding the titles of Technical Coordinator, Training Supervisor, Court Liaison and Programs Manager, which expired on November 30, 2009.
5. Since November 2009, the parties have been negotiating a successor agreement.

II. ISSUES AND CONTENTIONS

The issue is whether the MAP shift supervisors and non-line supervisory employees at River Valley Detention Center (RVDC) are security employees, entitled to interest arbitration under the Act.

MAP contends that its members supervise and control juvenile inmates at RVDC, a correctional facility. MAP argues that the juveniles at RVDC are inmates because they are confined, secured and deprived of their liberty. MAP further asserts that RVDC is a correctional facility because its characteristics match the dictionary definition of that term and because it shares similarities with other alleged correctional facilities. MAP also states that its members are not probation officers because they do not perform all the statutory duties of such employees, as set forth in the Probation and Probation Services Act. Finally, MAP states that it did not waive its right to interest arbitration by trying to bargain its inclusion in the contract.

The Respondent contends that MAP bargaining unit members do not supervise and control juveniles at RVDC and that the juveniles held there are not inmates under the statutory definition in the Unified Code of Corrections. Further, Respondent argues that RVDC is a juvenile detention facility under the Juvenile Court Act, 705 ILCS 405/5-105 (2010), rather than a correctional facility under the Unified Code of Corrections, 730 ILCS 5/3-1-2(d) (2010), and that it is different in character from established correctional facilities. In addition, the Respondent argues that MAP employees are probation officers, not entitled to interest arbitration based on the plain language of the Act and its legislative history. Finally, the Respondent states

that MAP waived its right to interest arbitration by seeking to bargain the issue before pursuing the unfair labor practice charge at issue here.[1]

III. RELEVANT STATUTES

Probation and Probation Officers Act, Section 9b(3):

> "Probation Officer" means a person employed full time in a probation or court services department providing services to a court under this Act or the Juvenile Court Act of 1987. A probation officer includes detention staff, non-secure group home staff and management personnel who meet minimum standards established by the Supreme Court and who are hired under the direction of the circuit court. These probation officers are judicial employees designated on a circuit wide or county basis and compensated by the appropriate county board or boards.
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> 730 ILCS 110/9b(3) (2010).

Unified Code of Corrections, Section 3-1-2(b-d):

> b) "Commitment" means a judicially determined placement in the custody of the Department of Corrections on the basis of delinquency or conviction.
> c) "Committed Person" is a person committed to the Department....
> d) "Correctional Institution or Facility" means any building or part of a building where committed persons are kept in a secure manner.
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> 730 ILCS 5/3-1-2 (b-d) (2010).

Unified Code of Corrections, Section 5/3-4-4(d):

> d) "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.
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> 730 ILCS 5/3-4-4(d) (2010).

Juvenile Court Act of 1987, Section 405/5-105:

> 5. "Detention" means the temporary care of a minor who is alleged to be or has been adjudicated delinquent and who requires secure custody for the minor's own protection or the community's protection in a facility designed to physically restrict the minor's

[1] As demonstrated by my reasoning below, it is unnecessary to address the waiver issue.

movements, pending disposition by the court or execution of an order of the court for placement or commitment. Design features that physically restrict movement include, but are not limited to, locked rooms and the secure handcuffing of a minor to a rail or other stationary object. In addition, "detention" includes the court ordered care of an alleged or adjudicated delinquent minor who requires secure custody pursuant to Section 5-125 of this Act.

7. "Juvenile detention home" means a public facility with specially trained staff that conforms to the county juvenile detention standards promulgated by the Department of Corrections.

705 ILCS 405/5-105 (2010).

Juvenile Court Act of 1987, Section 405/5-710:

(1) (a) [A] minor…may be

v. Placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older….

(b) A minor found to be guilty may be committed to the Department of Corrections, Juvenile Division, under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Corrections, Juvenile Division, shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent….

705 ILCS 405/5-710 (2010).

IV. FINDINGS OF FACT[2]

1. General Background

MAP represents a bargaining unit comprised of shift supervisors and non-line supervisory employees at Respondent's River Valley Detention Center (RVDC). The parties' initial contract expired in November 2009. Since November 2009, MAP and Respondent have

[2] In the interests of thoroughness, I have included some descriptive facts that are not essential to my final determination.

been negotiating a successor contract. MAP initially sought to bargain for interest arbitration while maintaining its position that bargaining unit members were entitled to interest arbitration under the Act. Specifically, MAP proposed to forego or defer a 2.5% wage increase in exchange for an interest arbitration contract provision. Respondent rejected MAP's proposal. On or around August 25, 2010, MAP filed a demand for compulsory interest arbitration. On or around September 2, 2010, the Respondent contested MAP's demand for interest arbitration on the basis that the unit was not entitled to it.

2. Oversight and Accreditation

The Department of Corrections, Juvenile Division, operated RVDC prior to 2006. In June of that year, the legislature abolished that division and transferred its duties and functions to the newly-created Illinois Department of Juvenile Justice (IDJJ). 730 ILCS 5/3-2.5-5 (2010). The IDJJ was created to "provide [juveniles with] treatment and services" which would "enable [them] to avoid delinquent futures and become productive, fulfilled citizens." Id. The Department adopted a "philosophy of balanced and restorative justice" and promoted its goals by imparting juveniles with "individualized educational, vocational, social, emotional, and basic life skills." Id. RVDC is now inspected by the IDJJ and operates under its rules; RVDC still conforms to the Illinois Department of Corrections' juvenile detention standards.

The Administrative Office of the Illinois Courts (AOIC) oversees probation and court services of Illinois' judicial circuits. Its oversight encompasses the Will County Probation Services Department which includes RVDC. AOIC provides funding for RVDC.[3] In turn, AOIC requires RVDC to report its statistics, an annual plan, general information about its operations and a budget. AOIC also promulgates hiring and promotion standards for court services personnel which apply to the employees of RVDC.[4] RVDC is the ultimate hiring authority for RVDC employees, but the Chief Judge, The Honorable Gerald Kinney, must finalize any candidate's appointment by issuing an administrative order, pursuant to the Probation Officers Act, 730 ILCS 110/15 (2010).

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[3] AOIC is required to fund one hundred percent of RVDC's $5.9 million budget, but does not meet its statutory obligation. The $3.8 million–balance of AOIC's financial obligation, including salary expenditures, is met by Will County. The Department of Corrections provides no funding for RVDC.

[4] For example, all candidates for hire must possess a bachelor's degree.

RVDC is voluntarily accredited by the American Correctional Association (ACA) to ensure the highest quality of service. Such accreditation is available to both State Departments of Correction and youth service providers.[5] The ACA does not consider RVDC to be a correctional facility. Instead, the ACA deems RVDC a juvenile detention facility and accredits it according to juvenile detention standards.

3. Admission

RVDC is a maximum security facility that provides temporary custody for juveniles alleged to be delinquent minors who are a danger to the community/ themselves or likely to flee the jurisdiction of the Court. RVDC houses males and females[6] between the ages of 10 and 16, and 17-year-old alleged misdemeanor offenders.[7]

A juvenile may be detained at RVDC upon arrest and held there until adjudication.[8] Alternatively, a judge may sentence a minor delinquent to up to 30 days of detention at RVDC, under the Juvenile Court Act. Finally, a juvenile may be held very shortly, post-adjudication, but only while awaiting placement elsewhere. The vast majority of juveniles at RVDC have not yet been adjudicated. Some have awaited adjudication for as long as 493 days. The RVDC handbook states that the facility is used solely for pre-trial holding.

4. The Facility

RVDC is housed in the River Valley Justice Center, a two-story brick building which is divided into a secure section and a non-secure section. The non-secure section holds the Juvenile Probation Division which is comprised of offices, conference rooms for attorneys and two court

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[5] As long as a single administrative officer is responsible for the agency's operations, an agency may seek accreditation if it meets one of the following criteria: it "(1) hold[s] under confinement pretrial or presentenced adults or juveniles who are being held pending a hearing for unlawful activity; (2) hold[s] under confinement sentenced adults or juveniles who are being held pending a hearing for unlawful activity; (3) supervise[s] in the community sentenced adult or adjudicated juvenile offenders, including youth placed in residential settings."

[6] For ease of reference, I refer to juveniles in the masculine.

[7] A judge may detain juveniles at RVDC who are between the ages of 18 and 21 under limited statutory circumstances, but RVDC has never housed such individuals.

[8] A juvenile attends a probable cause hearing within 40 hours of his detention at RVDC. The judge determines whether there is probable cause to believe the juvenile is a delinquent minor and whether to uphold the juvenile's detention pending adjudication. Where the judge finds no probable cause, the juvenile is released from custody.

rooms.[9] The secured portion houses only RVDC. The two sections have separate entrances. Fire doors separate RVDC internally from the unsecured portion of the building.[10]

The perimeter of RVDC is monitored by staff members 24-hours a day through video surveillance. All of RVDC's exterior and interior doors are secured to prevent escape of juveniles and to prevent unauthorized public access to the facility. RVDC has interlocking doors that prevent egress to the outside world unless the door behind it is shut and locked. Not even staff can leave the facility without the knowledge and permission of other staff at the master control center. RVDC uses a key-control lockbox in which the keys are password-protected and their use is monitored.[11]

RVDC was designed for direct supervision of juveniles.[12] Under direct supervision, staff members monitor the juveniles' movement at all times to ensure they are safe and secure. Every juvenile in the facility is always accounted for; their locations are noted on the computer. Staff members monitor and regulate all movement of residents within the facility. Traffic of juveniles between the different secured sections of RVDC is radioed to the next responsible staff member. All areas in which juveniles move unescorted are locked down, are under video surveillance and are in the line of sight of those individuals on post. Juveniles are not permitted to wander freely, without supervision. Staff members conduct headcounts at least two times per shift and observe juveniles in person every thirty minutes.

RVDC is a 102-bed facility, comprised of two housing units (the "green pod" and the "blue pod") with 51 beds each. Those housing units are themselves divided into five smaller units: two 15-bed units, one 13-bed unit and two four bed units. A programs common area connects the two main housing units. It is comprised of three classrooms, a library, a kitchen, a cafeteria, the shift supervisors' offices, timeout rooms for misbehaving juveniles and indoor/outdoor recreation areas. The outdoor recreation area has high walls and is covered overhead by a chain link fence. RVDC also has medical facilities, laundry facilities, a control

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[9] The juvenile public defender, the juvenile state's attorney, court-appointed special advocates and two judges have offices in the non-secure portion of the Justice Center.

[10] These doors can be shut down in case of emergency.

[11] The lockbox monitors the use of keys by indicating the key's user and by setting off alarms for keys that are not returned on time.

[12] The Respondent calls these individuals residents; MAP refers to them as inmates. Here, I will use the term "juvenile," until I make a determination as to their status as inmates under the Act. I note that neither party's appellation at hearing has bearing on that outcome.

room, intake areas, mental health staff offices, a visitation area, and a garage (sally port) with gun lockers, all of which are secured.

Males and females are segregated to different living areas and are supervised in the classroom. Each juvenile is assigned a separate room, about 8x10 ft, constructed of bricks and cinder block, with one institutional-style, stainless steel sink and toilet[13] and a cinderblock bed frame. The doors are heavy steel with a small rectangular window. The windows are glass, designed to withstand a certain amount of force before breaking. Exterior windows are reinforced with a bar.

The items in the rooms, ordered from venders who sell products designed for use in correctional facilities, are designed so that they cannot be used as weapons.[14] They include tamper resistant and/or unbreakable toothbrushes, spoons, combs, mattresses, pillows and food trays. Many of the facilities' tables are bolted to the floor.

RVDC also has padded cells/rooms, restraint chairs, cuffs, shackles, and weight chains which are sometimes used for the juveniles.

5. Intake

Upon admission, a juvenile is strip searched, directed to shower and given a bin containing a uniform, linens, a washcloth, toiletries and toilet paper. The juvenile is medically screened, questioned regarding gang affiliation, and classified by level of violence. The information is noted in a computerized inmate management system called the juvenile detention catalogue (JDC) which also tracks the juveniles' demographic and educational data, the nature of their alleged offense, names of their visitors and general case notes.[15] The juveniles are then shown the orientation video[16] and escorted to an assigned housing unit.

6. Rules and Discipline

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[13] Water may be shut off, externally to each individual room to prevent flooding. The showers are single stalled, outside the juveniles' rooms but are not communal.

[14] There have been attempts by juveniles to mold or carve weapons out of different objects including toothbrushes.

[15] The information is accessible as "read-only" to individuals in the non-secure part of the facility.

[16] The video states that juveniles may not write letters to individuals in "other correctional facilities" during their stay. The RVDC Policies and Procedures Manual on the other hand states that detained juveniles are not allowed correspondence with "other incarcerated individuals."

RVDC has a rewards-based behavior management system which assigns points to tasks juveniles must complete. Juveniles earn points when they complete those tasks, follow facility rules and exhibit pro-social behaviors.[17] As they accrue points, they gain privileges associated with the different point levels. If juveniles do not complete those tasks, they do not accrue points and may lose privileges.

RVDC also metes out discipline for misbehavior. Lower level discipline includes 10-minute time outs from class and "behavior orientation" which limits a juveniles' privileges to school attendance and one hour outside the room on the weekend. RVDC may impose these punishments for horseplay, talking in class, or use of profanity towards a staff member. Higher level discipline includes 23-hour room detention and segregation. 23-hour room detention is imposed for gang activity. Segregation is imposed when the juvenile has made physical contact with the staff or other juveniles, intends to do them harm, makes verbal threats, engages in sexual misconduct, demonstrates a pattern of serious negative behavior and rule violations, or otherwise threatens the safety of juveniles or staff. A juvenile in segregation is placed in a separate housing unit and is held in a more austere cell for 23 hours a day where all the furniture is bolted down and all games have been removed; the cell doors have slots near the bottom through which RVDC staff can cuff the juveniles or pass them food. Unlike room detention, segregation is imposed for three days or longer.

RVDC staff may order shakedowns, extractions and lockdowns to enforce security and maintain order. A shakedown is an extensive search of the facility for contraband.[18] Contraband includes all objects which have not been issued by RVDC or which juveniles are not expressly authorized to possess. These may include even innocuous items such as books, pens, pencils and spoons. Extractions occur when a juvenile refuses to voluntarily leave a location, program or activity, and must be forcibly removed. Lockdowns are ordered by staff usually in response to fighting between juveniles. The lockdowns limit all movement in the facility; juveniles are either secured in their rooms or are instructed to go to the closest wall, kneel down, face the wall and cross one foot over another.

7. Release

[17] Good behavior might include participation in school and afternoon recreation activities, keeping personal items properly stored, maintaining good hygiene, and wearing the uniform properly.
[18] The search may, on occasion, include strip searches of juveniles.

Any juvenile charged with an adult crime who is eligible for bond may leave if he posts bond. Otherwise, juveniles may not leave the facility without a court order unless medical staff recommends removal due to sickness or injury. The court may order a furlough--short-term, limited release--from the facility for doctors' appointments, drug treatment evaluations and funerals. Under those circumstances, juveniles are transported out of the facility's secured sally port[19] by the sheriff's department, typically shackled and cuffed with weight chains. When juveniles are evacuated during an emergency, they must be chained to each other. Juveniles may also be released to the Illinois Department of Corrections at which point they are no longer considered to be in the custody of the RVDC.

8. RVDC Employees

RVDC is headed by Superintendent John Prinzi. Tad Zito, Assistant Superintendent, oversees seven shift supervisors and four non-line supervisors including a Training Supervisor, Program Manager, Court Liaison and Technology Coordinator. The shift supervisors oversee 39 juvenile detention officers (JDOs).

a. Juvenile Detention Officers

JDOs are the front-line staff members who monitor the health, safety and welfare of juveniles at RVDC. Seven to nine JDOs work on the day shift, eight or nine on the afternoon shift and four to six on the midnight shift. Most JDOs do not wear a formal uniform, but are instead subject to a dress code which requires them to wear a collared shirt and functional pants that allow freedom of movement.

The JDO position has some physical fitness requirements. All JDOs must successfully complete a physical. The job description states that on a non-routine basis, JDOs must be able to kneel, crouch, crawl, run, climb, grapple and lift/push/pull objects or people that weigh 100 lbs or more.

[19] The sally port was designed for law enforcement use: the doors close behind an entering car and the occupants of the vehicle step out into a secured area.

JDOs escort juveniles to and from their daily activities, organize their programs, and address their emotional needs. They are trained to identify juveniles who are experiencing emotional difficulty and either calm them down or refer them to RVDC mental health staff.

JDOs must also maintain the physical security of RVDC. All JDOs are trained in the use of force. They prevent and stop physical altercations between juveniles, juveniles and staff, or juveniles and volunteer workers. JDOs are also required to pat down and strip search juveniles at intake or whenever juveniles return from furlough.

Nine JDOs are members of the Critical Response Team (CRT). Unlike the other JDOs, CRT members are required to pass a physical agility test, wear a uniform, and carry pepper spray and handcuffs, concealed in their utility belt.[20] CRT members may use the pepper spray if a juvenile becomes actively resistant or refuses to stop fighting with another juvenile.

All JDOs carry a man-down switch (beeper) which they press during an attack or emergency. The switch sends out a signal to the master control room and identifies the location of the emergency. The control room operator then directs the CRT to the emergency location. During such emergencies, the Will County Sheriff may be called in to address the situation.

JDOs are trained using a manual entitled "Juvenile Justice Training for Correctional Officers." The manual distinguishes between detention and correctional facilities and appears to apply to both.[21] The manual also acknowledges that Juvenile Detention Facilities are operated by the Juvenile Probation Office of the County in which they are located.

b.Shift Supervisors

RVDC employs seven shift supervisors. They work 24 hours through their rotations, but typically only one shift supervisor is on duty at a time. All shift supervisors are present on Tuesdays.

Shift supervisors are management personnel responsible for maintaining the secured part of the detention facility, overseeing JDOs, checking in visitors, keeping an account of all people in the secured portion of the facility, and assisting the program team. They are not required to wear a formal uniform. Five of the seven carry concealed pepper spray and handcuffs because

[20] They are also issued shields and helmets.

[21] The manual states "in any detention or correctional setting, the people who have the greatest effect on inmates are the people who have the most amount of direct contact with them."

they used to be members of the CRT, but as supervisors they are not first responders in an emergency situation.

Shift supervisors may assist JDOs if they are having trouble with juveniles or if the JDOs otherwise need help. When the facility is short on CRT members, supervisors also assist in performing extractions. A shift supervisor may substitute for a JDO when he is injured, sick or on break. Supervisors regularly substitute for JDOs two to three times a week for a period of 2.5 hours. Under these circumstances, the supervisor performs all the duties regularly performed by JDOs.

c. Non-line supervisors

Like shift supervisors, non-line supervisors are management personnel. They may act as shift supervisors when the shift supervisors are sick or on vacation. They may also bid for shift supervisor overtime once other shift supervisors have bid for it. None of the non-line supervisors carry weapons. The Court Liaison, Program Manager, and Technology Coordinator do not regularly supervise juveniles and are not required to pass a physical agility test.

i. Court Liaison

The Court Liaison reviews court documents, helps juveniles use the telephone, approves their visitors, addresses parental concerns, arranges for juveniles to meet their required appointments/court dates and helps juveniles comply with the judge's orders. The Court Liaison communicates with juveniles to seek their feedback, ideas and contributions to the program plan.

ii. Program Manager

The Program Manager contacts outside agencies, invites them to participate in facility programs and coordinates their visits. For example, RVDC collaborates with the Joliet School District 204 whose teachers provide education at the facility, the Will County Health Department which provides anger management training and counseling, the Girl Scouts and religious organizations. The Program Manager identifies weaknesses in programming and ensures that the groups are conducted properly. She communicates with juveniles individually and in groups to seek their feedback, ideas and contributions to the program plan. The Program Manager does

not regularly supervise juveniles but interacts with them during orientation if there is no JDO present.

iii. Training supervisor

The Training Supervisor provides orientation and training for new staff. He also provides the ongoing training for existing staff which is mandated by the AOIC. The Training Supervisor has contact with the juveniles when he observes new staff.

Zito testified that the training supervisor is not required to pass a physical agility test. However, the job description states that hiring is "contingent upon completing a physical to determine fitness" for the demands of the job. Routinely, the training supervisor's physical demands include "handling objects, hearing, near and far sighted vision, standing, reaching, lifting and fingering objects, walking, sitting, using legs to ascend and descend stairs, carrying objects weight 20 lbs or less." In unusual or non-routine circumstances, the training supervisor's physical demands may include "kneeling, crouching, crawling, running, climbing, grappling, lifting objects including people that weigh 100 lbs or more, pushing or pulling objects or people that weigh up to 100 lbs or more, issuing, responding to, and taking directives during emergency or crisis situations."

iv. Technology coordinator

The technology coordinator maintains the statistical data about juveniles at RVDC and their stay. He has minimal contact with them.

V. DISCUSSION AND ANALYSIS

A security employee is one who is "responsible for the [1] supervision and control of [2] inmates at [3] a correctional facility."[22] 5 ILCS 315/3(p) (2010). MAP, in this case, has the burden of proving the definition's three component parts. Macon County Highway Dep't., 4 PERI ¶ 2018 (IL SLRB 1988) (burden in unfair labor practice case is on the charging party). I address the elements out of order, for clarity.

[22] The term also includes non-security employees in bargaining units composed of a majority of security employees. Id.

1. Inmates

Respondent argues that RVDC residents are not inmates because they are not "offender[s] who [are] committed, under sentence to or confined in a penal or correctional institution." 730 ILCS 5/3-4-4(d) (2010). MAP, on the other hand, argues that the juveniles at RVDC are inmates because they are "confined to an institution such as a prison or hospital."[23] The American Heritage Dictionary, (2nd Ed) (1982), Boston, MA: Houghton Mifflin Company.

The dictionary definition is the proper one to apply in this case because the section from the Unified Code of Corrections cited by the Respondent is limited to defining terms for the Interstate Corrections Compact and has no broader application. 730 ILCS 5/3-4-4(d) (2000).

Applying the dictionary definition here, the residents of RVDC are inmates because they are confined to their facility and may not leave absent a court order or a medical emergency. Respondent's reference to the inmates as "residents" does not lead to a different conclusion.

2. Supervision and Control

The Respondent contends that MAP bargaining unit members are management personnel who do not primarily supervise and control RVDC juveniles. MAP argues that shift supervisors oversee and regularly substitute for those who do (JDOs), and accordingly satisfy this statutory requirement.

The supervision and control of inmates which renders employees security employees may be indirect. Indeed, the Board will acknowledge an employee's responsibility for that supervision and control even where he merely oversees the activities of lower-ranked employees who directly perform such tasks. County of Cook and Sheriff of Cook County (Dep't. of Corrections), 14 PERI ¶ 3003 (IL LLRB 1997) (finding shift commanders to be security employees even though they did not directly supervise and control inmates because they oversaw sergeants and correctional officers who did).

Here, shift supervisors are responsible for the supervision and control of inmates because they oversee JDOs who perform those duties directly.[24] JDOs supervise and control inmates by

[23] MAP used a different dictionary, on brief; the definition cited was substantially similar to this one.

[24] The job duties of non-line supervisors, those who constitute the minority of the unit, are material to the outcome of this case only if the Board determines that RVDC is in fact a correctional facility and that shift supervisors, those who make up the majority of the unit, are not security employees. 5 ILCS

escorting them to their activities, performing headcounts, issuing discipline and/or reward, securing them for transport, searching them for contraband and generally monitoring their health and welfare. In turn, shift supervisors are responsible for the supervision and control of inmates because they ensure JDOs perform those enumerated tasks properly. See, County of Cook and Sheriff of Cook County (Dep't. of Corrections), 14 PERI ¶ 3003 (IL LLRB 1997). Thus, given the Board's broader reading of "supervision and control," shift supervisors satisfy this requirement even though they directly supervise and control inmates only when they substitute for JDOs, around three times a week for a total of about 8 hours.

3. Correctional Facility

The Board has never addressed what factors render an institution a correctional facility under the Act. Nor has the Board more specifically determined whether juvenile detention centers qualify as correctional facilities. Two ALJs considered the later question and reached opposite conclusions, based on their different analytical approaches. ALJ Waechter relied on case law: he held that juvenile detention centers were correctional facilities because they deprived individuals of liberty and conformed to minimum standards established by the Department of Corrections. Chief Judge of the Fifth Judicial Circuit and Vermillion County, 18 PERI ¶ 2057 (IL LRB-SP G.C. Ord. 2002) (citing, Interest of V.P., 139 Ill. App. 3d 786 (2d Dist. 1985)). ALJ Kazanjian relied on statute: he held that juvenile detention centers were not correctional facilities because juveniles were detained there, not committed, and because the General Assembly expressly designated such institutions as "detention facilities," distinct from correctional ones.[25] Teamsters, Local 330, 18 PERI ¶ 2026 (IL LRB-SP G.C. Ord. 2002). I apply ALJ Kazanjian's approach here because it considers recent legislative developments in

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315/3(p) (2010) (where a majority of unit members satisfy the statutory definition of security employee, the remaining members are also considered security employees under the Act—job duties of the minority rendered immaterial); but see, County of Warren, 27 PERI ¶ 37 (IL LRB-SP 2011) (minority of employees in a unit who meet the statutory definition of security employee are entitled to interest arbitration, even though the majority are not—job duties of the minority rendered outcome-determinative). In the interests of thoroughness, I address this unlikely scenario and conclude that non-line supervisors are not responsible for the supervision and control of inmates because they rarely oversee JDOs and their actual interaction with inmates is too minimal to constitute supervision and control.

[25] Neither ALJ evaluated the institutions based on the facilities' physical characteristics. Accordingly, I make no explicit comparison of RVDC to any other facility on such a basis and note that this matter may be resolved through different reasoning.

juvenile justice, not weighed by ALJ Waechter and not in force when the court decided Interest of V.P., the case on which he relied.[26]

RVDC is not a correctional facility because juveniles are detained there, not committed—a distinction made relevant by the Unified Code of Corrections and the Juvenile Court Act of 1987. The Unified Code of Corrections defines "correctional facility" as "any building…where *committed* persons are kept in a secure manner," 730 ILCS 5/3-1-2 (g); Juvenile Court Act sets forth separate sentencing orders for detention and commitment. 705 ILCS 405/5-710 (a) and (b). Taken together, these two semantic choices demonstrate a legislative intent to distinguish facilities by the nature of the confinement imposed on the facility's residents. Here, all RVDC juveniles are detained because they are either awaiting (i) the disposition of their cases or (ii) a Court order for their placement or commitment at different facility. 705 ILCS 405/5-710 (5) (2010) (defining detention).[27] Accordingly, RVDC is not a correctional facility because its juveniles are not committed there.

Further, the Illinois General Assembly's designation of RVDC as a "detention center" is significant and determinative in this case because the legislature distinguishes between detention facilities and detention staff, on the one hand, and commitment facilities and correctional officers, on the other: For example, the Counties Code provides for separate commitment and detention facilities. 55 ILCS 5/3-15003 (2010). In addition, the Illinois Probation and Probation Officer Act identifies detention staff, but not correction officers, as probation officers.[28] Thus,

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[26] These developments most notably include the Juvenile Court Act of 1987, amendments to the Code of Corrections and the Probation and Probation Officers Act. 730 ILCS 110/9b(3) (2010); 730 ILCS 5/3-2.5-5 (2010); 705 ILCS 405/5-105 (2010).

[27] "'Detention' means the temporary care of a minor who is alleged to be or has been adjudicated delinquent and who requires secure custody for the minor's own protection or the community's protection in a facility designed to physically restrict the minor's movements, pending disposition by the court or execution of an order of the court for placement or commitment. Design features that physically restrict movement include, but are not limited to, locked rooms and the secure handcuffing of a minor to a rail or other stationary object. In addition, "detention" includes the court ordered care of an alleged or adjudicated delinquent minor who requires secure custody pursuant to Section 5-125 of this Act." 705 ILCS 405/5-710 (5) (2010).

[28] While RVDC line and non-line supervisors do not perform the type of work that meets the layperson's conception of a probation officer, or all of the duties specifically set forth by the Probation and Probation Officers Act, 730 ILCS 110/12 (2010), they do qualify as such under the statutory definition because they meet minimum standards established by the Supreme Court, are hired under the direction of the circuit court and are staff members at a detention facility. 730 ILCS 110/9b(3)(the definition of probation officer includes *detention staff* and management personnel who perform court services under the Juvenile Court Act of 1987)(emphasis added).

"if the Illinois General Assembly had intended [this facility] to be termed a correction facility, as opposed to a detention facility, or its staff as correctional officers, rather than detention officers, it could have done so." Teamsters, Local 330, 18 PERI ¶ 2026 (IL LRB-SP G.C. Ord. 2002). The fact that it did not, indicates a strong legislative intent to treat RVDC as a detention facility, not a correctional one.

Contrary to MAP's contention, an ALJ's previous characterization of RVDC as a "jail" in a unit clarification petition does not mandate a finding that RVDC is a correctional facility in this case. See, Chief Judge of the 12th Judicial Circuit, River Valley Detention Center (and Metropolitan Alliance of Police, River Valley Detention Center, Ch. 228), 22 PERI ¶ 73 (IL LRB-SP G.C. Ord. 2006) (finding that shift supervisors were public employees—not supervisory—and therefore properly included in the unit with the Court Liaison, Program Manager, Programs Coordinator, Training Coordinator and Technical Coordinator).

First, res judicata does not apply here because there is no identity of issues between this case and the earlier one. The doctrine of res judicata applies only if the following three requirements are satisfied: (1) there is a final judgment on the merits rendered by a tribunal of competent jurisdiction, (2) there is an identity of parties, and (3) there is an identity of cause of action. Downing v. Chicago Transit Authority, 162 Ill. 2d 70, 73-74 (1994). While it is clear that the first two requirements are met, the third is not.

Two causes of action share an identity of issues for purposes of res judicata when they constitute the same transaction. River Park, Inc. v. City of Highland Park, 184 Ill. 2d 290, 310 (1998). In determining whether actions constitute the same transaction, courts consider "whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage." River Park, Inc., 184 Ill. 2d at 310 (citing, Restatement (Second) of Judgments § 24, at 196 (1982)).

This matter and the one cited by MAP to support its res judicata argument are strikingly different in character, separated in time, and motivated by disparate factors. This case arises from an unfair labor practice charge while the first case concerned threshold representational matters. Here, MAP asserts that unit members are security employees, entitled to interest arbitration; six years earlier, the Chief Judge asserted that some of these same employees were supervisory, not even entitled to representation. Accordingly, this case is motivated by the

union's desire to obtain additional benefits under the Act while the second was motivated by the employer's desire to prevent their organization altogether.[29]

Second, even if the Board accepts the prior ALJ's description of RVDC as a jail, MAP presented no compelling evidence to demonstrate that "correctional facility" and "jail" are interchangeable for purposes of section 3(p) of the Act, particularly in this case, where the facility's occupants are juveniles.[30] Notably, the Board does not limit correctional facilities to those institutions operated by the state; county jails may be correctional facilities, too. See, County of Tazewell, 1 PERI ¶ 2022 (IL SLRB 1985) (county jail found to be a correctional facility); 55 ILCS 5/3-15003(a) (2010) (authorizing counties to establish departments of corrections). However, RVDC is not such a jail because it exclusively houses minors subject to proceedings under the Juvenile Court Act of 1987, individuals explicitly excluded from the County's jurisdiction under the Code. 55 ILCS 5/3-15003(b) (2010) (noting that nothing in that section of the Counties Code, relating to the County's charge of "prisoners," applies to minors subject to proceedings under the Juvenile Court Act of 1987).

Finally, while there is no doubt that RVDC is highly secured, this characteristic alone is insufficient to render it a correctional facility under the Act. Similarly, the rare internal references to RVDC as a jail /correctional facility or its accreditation by the American Correctional Association also do not override the statutory framework which demonstrates a strong legislative intent to treat RVDC as a detention center and not a correctional facility.

VI. CONCLUSIONS OF LAW

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[29] Collateral estoppel, the equitable doctrine that prevents a party from relitigating an issue that has been decided in a prior proceeding, does not apply either because the ALJ's characterization of RVDC as a jail in the previous case was a passing description, not a matter actually litigated or even relevant to the case's outcome. Kessinger v. Grefco, Inc., 173 Ill. 2d 447, 467–68 (1996) (Application of collateral estoppel must be narrowly tailored to fit the precise facts and issues that were clearly determined in the prior judgment); Nowak v. St. Rita High School, 197 Ill. 2d 381, 389–90 (2001) (A judgment in the first suit operates as an estoppel only as to the point or question *actually litigated* and determined and not as to other matters that might have been litigated and determined).

[30] MAP argues that according to the dictionary, "jail" is synonymous with "correctional facility," and that I must apply the dictionary definition to the Act under the plain meaning rule of statutory construction. http://definitions.uslegal.com/c/correctional-facility/ (correctional facility defined as "a jail, prison, or other place of incarceration…which confines and rehabilitates prisoners"). I do not use that approach here because my analysis above more accurately ascertains and gives effect to the intent of the legislature and therefore better achieves the primary goal of statutory construction.

The bargaining unit members at issue in this case are not security employees under Section 3(p) of the Act and are therefore not entitled to interest arbitration under Section 14.

VII. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the instant complaint be dismissed.

VIII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 7 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross-responses must be filed with the Board's General Counsel at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 28th day of September, 2011

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Anna Hamburg-Gal
Administrative Law Judge

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Metropolitan Alliance of Police , Chapter #228,	)	
Petitioner	)	
and	)	Case No. S-CA-11-055
Chief Judge of the 12th Judicial Circuit (River Valley Juvenile Detention Center),	)	
Employer	)	

AFFIDAVIT OF SERVICE

I, John F. Brosnan, on oath state that I have this 28th day of September, 2011, served the attached **ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD STATE PANEL** issued in the above-captioned case on each of the parties listed herein below by depositing, before 5:00 p.m., copies thereof in the United States mail at 100 W Randolph Street, Chicago, Illinois, addressed as indicated and with postage prepaid for first class mail.

Joseph Mazzone
Attorney at Law
3033 W Jefferson Street, Suite 208
Joliet, IL 60435

Carl Tominberg
Laner Munchin
515 N State Street, Suite 2800
Chicago, IL 60654

SUBSCRIBED and **SWORN** to
before me this **28th day**
of September 2011.

NOTARY PUBLIC

NOTARY PUBLIC OFFICIAL SEAL STATE OF ILLINOIS
CARLA STONE
MY COMMISSION EXPIRES
OCTOBER 26, 2014