

**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of the Interest Arbitration *

Between *

Camden County Sheriff's Office *

and *

PBA Local No. 277 *

**Docket No. IA-99-40
Jeffrey B. Tener
Interest Arbitrator**

OPINION AND AWARD

Appearances

For the Sheriff's Office:

Howard S. Wilson, Esq.

Michael E. Heston, Esq.

For PBA Local No. 277:

Fred M. Klatsky, Esq.

Background and Procedural History

PBA Local No. 277 filed a Petition to Initiate Compulsory Interest Arbitration with the Public Employment Relations Commission ("PERC") on January 7, 1999. Several factors have contributed to the delay in processing this matter. First, an interest arbitrator was appointed by PERC but, following several meetings with the parties, subsequently withdrew. Thereafter, pursuant to the mutual request of the parties, I was appointed as the interest arbitrator by PERC by letter dated July 26, 2000. A second factor which contributed to the delay, discussed at greater length below, was a dispute regarding the negotiability of a job bidding proposal of the PBA. Following the February 10, 1999 filing of a Petition for Scope of Negotiations Determination, PERC issued a decision on October 1, 1999 and a subsequent decision on reconsideration on March 31, 2000. This was appealed by the Sheriff to the Appellate Division and a decision was

not rendered until September 4, 2001. Thus, prior to that date, the parties agreed that a decision in this proceeding could not be rendered.

I met informally with the parties on October 3 and December 6, 2000 and again on January 25, 2001 in an effort to reach a voluntary agreement and to narrow the number of issues in dispute. While some progress was made, a complete agreement could not be reached.

A formal hearing began on March 2, 2001. This dealt only with non-economic issues. Prior to the next hearing date, the Sheriff directed Mr. Wilson not to handle economic issues. The economic issues were handled by the County and Mr. Heston entered his appearance on behalf of the County by letter dated April 12, 2001.

A hearing on the economic issues was scheduled for June 22, 2001 but this was devoted to mediation and nothing was placed on the record at that time. The parties, however, agreed upon a procedure to expedite the hearing by providing the documentary evidence to the arbitrator.

A hearing on the economic issues was held on September 4, 2001 and a final hearing on the non-economic issues was held on September 7, 2001. The parties agreed following each of these hearings that they would exchange any additional certifications or exhibits by September 25, 2001 and that briefs would be submitted thereafter. Briefs were received by October 31, 2001, thereby marking the close of the hearing.

The March 2 and September 4, 2001 hearings were transcribed. The parties agreed not to make a transcript of the September 7, 2001 hearing.

This proceeding is governed by the Police and Fire Public Interest Arbitration Reform Act, P.L. 1995, C. 425, which was effective January 10, 1996. That Act at N.J.S.A. 34:13A-16f(5) calls for the arbitrator to render the opinion and award within 120 days of selection or assignment. Counsel for the parties, however, agreed to extend the

time for the issuance of this decision to December 15, 2001, as set forth in separate letters to PERC's Director of Arbitration.

The parties did not agree upon an alternative terminal procedure. Accordingly, the terminal procedure in this case is conventional arbitration. The arbitrator is required by N.J.S.A. 34:13A-16d(2) to "separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria in subsection g. of this section."

Statutory Criteria

The statute requires the arbitrator to:

decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c.68 (C.40A:4-45.1 et seq.).

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of

P.L.1995, c.425; provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c.68 (C.40A:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment. (N.J.S.A. 34:13A-16(g))

Final Offers

Camden County Sheriff The final offer of the Sheriff included both economic and non-economic proposals.

The economic proposals are as follows:

1. Term of agreement: January 1, 1999 to December 31, 2002.
2. Salary increase:

1999	3%
2000	3%
2001	3.75%
2002	3.75%
3. Benefits:
 - a. Eliminate traditional indemnity plan effective 2002.
 - b. Increase prescription co-pay effective 2002 from \$4.00 to \$6.00 for brand name drugs; \$0.00 to \$2.00 for generic; and \$0.00 to \$2.00 for all mail-order prescriptions.
 - c. The opt out incentive paid shall be fifty percent (50%) of the combined average of all County HMO's at their current rate and for the County's self-insured plan (the self-insured plan shall include the traditional plan plus the PPO) at the prior year's rate, for the coverage dropped.

The non-economic proposals are as follows:

1. Hiring rate for Sheriff's Investigators (Article VII, Section 7). The Sheriff has proposed a return to language which was in the 1994 to 1995 agreement so that the final clause reads: "Except that the Sheriff, with notice to the PBA, may hire Sheriff's Officer Investigators with special skills and experience at a higher step on the guide."
2. Uniforms: the Sheriff has proposed a uniform complement (Article XI, Section 4) which conforms to the practice presently in place with uniforms to be replaced as needed and further that when an item must be replaced due to normal wear and tear the County will replace it without charge but that where the damage is due to abuse or in the event of loss, the individual employee will be responsible.

PBA Local No. 277 The final offer of the PBA also included both economic and non-economic proposals. These were lettered sequentially. For convenience, I have utilized the letters but grouped the proposals into economic and non-economic ones.

The economic proposals are as follows:

1. E, Article V, Overtime: add a new Section 3(d) to read:

All work performed in excess of employees' regular hours on four (4)

holidays, Christmas, New Years Day, Martin Luther King Day and Thanksgiving, will be paid double time for additional hours worked.

Additionally, Article X, Holiday, Section 9 would have the following added to it:

and double time for work on that holiday in addition to the regular day's pay, as provided in the overtime article.

2. G, Article VII, Rates of Pay:

2. Increase all salaries 3.25% on January 1 and July 1 for each year of 1999, 2000, 2001 and 2002.
3. Add a fifth step to the salary guide by increasing the top rate at fifteen (15) years by an additional \$2,000, which will become part of the salary guide beginning July 1, 2000.
4. Sergeants will receive an additional 1% salary increase beginning January 1, 2000 and January 1, 2001.

3. H, Article VII, Section 6, Clothing Maintenance Allowance: Increase the annual clothing maintenance allowance from \$625 to \$700 in 1999 and 2000, \$750 for 2001 and \$800 for 2002.

4. I, Article IX, Longevity: add a new Section 2 to read:

The following Sheriff's Officers shall have their respective base rates of pay increased by two percent (2%) in 1999:

1. Sgt. Pasquale Curcio
2. S/O Donna Alack
3. S/O John Hines
4. S/O Charles Seveck
5. S/O Herbert Mogck

5. J, Withdrawn

6. K, Withdrawn

7. L, Article XI, Fringe Benefits: modify Section 8 as follows:

The County will pay to PBA Local No. 277, for the purpose of Health and Welfare Plan to be administered by the PBA, in 1999, the amount of \$500 beginning on January 1, 1999 and for each year thereafter per employee, payable two (2) quarters in advance.

8. N, Withdrawn

9. O, Withdrawn

10. P, Article XVII, Vacations: modify Section 1(a) as follows:

During an employee's first year of employment, he/she will receive one (1) vacation day per month of service. From the commencement of the

2nd year to the completion of the 9th year he/she will receive fifteen (15) days, from the commencement of the 10th year to the completion of the 14th year he/she will receive twenty (20) days, from the commencement of the 15th to the completion of the 19th year he/she will receive twenty-five (25) days, from the commencement of the 20th year to the completion of the 25th year he/she will receive thirty (30) days and from the commencement of the 26th year and every year thereafter he/she will receive one (1) additional vacation day per year of service.

11. S, All benefits shall be retroactively applied to any and all employees who were employed as of January 1, 1999 and retired, left for disability or for any other reason.

12. T, Federal Survivor Benefits:

Payment of \$1.00 to each employee per year to cover any and all take-home car policies.

The non-economic proposals of the PBA are as follows:

1. A, Article III, Seniority: change Section 1 to 1(a) and add a new Section 1(b):

For purposes of bidding for assignments and shifts only, seniority is defined as an employee's length of continuous service as a sworn law enforcement officer of the Camden County Sheriff's Department (i.e., experience as a Sheriff's Officer or Correctional Officer). With regard to all incidents of employment seniority and related college credits will be the only factors considered when bidding for assignments.

2. B, Article III, Seniority: replace the current Section 2 with the following:

An employee having broken service with the Camden County Sheriff's Department (exclusive of leave of absence), will not accrue seniority credit for time when not employed by the Sheriff's Department except for bidding purposes for assignments and shifts pursuant to Section 1(b) of this Article.

3. C, Article III, Seniority: change Section 5 to Section 5(a) and add a new Section 5(b):

All jobs and assignments which will be subject to the bidding process set forth in Article XIII, Section 4 shall be bid and assigned pursuant to those assignments and jobs covered by the bidding procedure in Article XIII, Section 4, and the above Section 5(a) will not apply for those jobs which are subject to the bidding process.

4. D, Article IV, Work Schedules: add a new Section 7 to read as follows:

Officers and Sergeants assigned to twenty-four (24) hour units will be required to report fifteen (15) minutes prior to their respective shift.¹

5. F, Article V, Overtime: replace Section 6 with the following provision:

Sheriff's Officers assigned to process serving will work a forty hour week, which will include night and weekend hours to fulfill their job functions. Sheriff's Officers assigned as process servers who work more than forty (40) hours per week are entitled to overtime. Any work above forty (40) hours per week must be approved by a supervisor and may include special assignments. Article V, Section 9 applies to Sheriff's Officers assigned as process servers.

6. G, Article VII, Rates of Pay: eliminate references in Section 1 to "I.D. Officers" and to "Sr. I.D. Officers."

7. M, Article XIII, Personnel Regulations: add sentence at the end of Section 4:

The below Section 5 would take precedence for job bidding for those jobs and assignments which are subject to the bidding process in Section 5.

Add a new Section 5:

- A. Commencing with the 15th of the month following the execution of this Agreement, and subsequently January 1st of each year thereafter, shift assignments shall be made, where all qualifications are equal (except for seniority and college degrees), pursuant to a point system based on seniority and earned college degrees bid system. Standard slips with choices for shift assignments shall be developed and distributed to all affected personnel by October 15th of each year and each employee shall return the preference slip on or before November 15th of each year. The employee shall list his/her shift assignment choices giving first, second and third preferences. Assignments shall then be made based upon total points calculated from a combination of points for seniority and college degrees earned as follows:
1. Officers shall be given five points for each continuous year they have been a permanent sworn law enforcement officer employed by the Camden County Sheriff's Department. A year shall be considered to be the calendar year. Officers who have incomplete full years of service shall be credited with one point for each two full months of service (example: 6 years, five months of service equals 32 points).
 2. Officers who have earned college degrees in a law enforcement curriculum shall receive the following points: Associates – 2.5 points; Bachelors – 5 points; Masters – 5 points; Doctorate – 5 points.
 3. Ties will be broken as per the following:

¹ Although the County recognized the economic implications of this proposal, it decided to have this issue addressed by Mr. Wilson because of its potential impact on the operation of the Department and the discretion of the Sheriff.

(a) The employee's date of hire with the County, as a permanent law enforcement officer/employee continuously employed by the Camden County Sheriff's Department.

(b) The employee's temporary time, if any, as a law enforcement officer/employee continuously employed by the Camden County Sheriff's Department (5 points will be given for each year).

(1) Ties will be decided by the date of hire as a temporary law enforcement officer.

(c) When a tie cannot be decided using the formula above, the employees' last name in alphabetical order shall prevail.

- B. The Sheriff shall first assign all employees to positions that are not subject to this bidding process. The remaining unit members shall bid for the positions in the Hall of Justice, Transportation, Jury Management and Records. All of the jobs for Sheriff's Officers and Sergeants in the Hall of Justice, Jury Management, Transportation and Records will be combined into one (1) group for Sheriff's Officers and one (1) group for Sergeants so that the Sheriff's Officers and Sergeants who are not placed in non-biddable assignments can bid for any assignment, of appropriate rank, in any of the four (4) units. Additionally, after the Sheriff makes the assignments to the Identification Bureau, employees assigned to the Identification Bureau may bid among themselves for one (1) of the three (3) shifts (8-4, 4-12, 12-8).

All eligible unit members will be able to select shift assignments through the bidding procedures outlined above in Paragraph A. Shift assignments shall be separated into the following assignments which an officer may bid for:

1. Hall of Justice – Front Door Security.
2. Hall of Justice – Second Floor Security.
3. Hall of Justice – Lower Level Holding Area.
4. Hall of Justice – Probation Department.
5. Hall of Justice – Salley Port.
6. Hall of Justice – Courtrooms (courtrooms to be assigned by Sheriff's designee).
7. Hall of Justice – Juvenile Holding.
8. Transportation – Lakeland site for juveniles, day shift.
9. Transportation – Cherry Hill Depot, 7 a.m. to 3 p.m.
10. Transportation – Cherry Hill Depot, 3 p.m. to 11 p.m.
11. Transportation – Cherry Hill Depot, 11 p.m. to 7 a.m.
12. Jury Management.
13. Records.

- C. Nothing contained in this Article shall be interpreted to mean that assignments such as K-9, Internal Affairs, Missing Persons, Prosecutor's Office, Dive Team, Sheriff's Emergency Response Team (SERT), Bomb Unit, Civil Process, Civil Office, Tech Services and Helicopter Corp are to be bid. Those assignments remain a prerogative of the Sheriff or his designee, which shall be in accordance with controlling statutes. Further, in order to meet the needs of training and/or specialized abilities, shift assignments may

need to be altered in order to meet the bona fide safety needs of citizens of the County. In these cases, the changes shall be made with timely notice and explanation and shall last until such time as the specific needs have been met, at which time the affected employee shall be returned to his/her bid shift.

- D. This section shall be applied equally among members of the same rank, where applicable.
- E. This section will not preclude employees from voluntarily switching or swapping shift assignments with one another prior to the re-bid date. However, such switches of shifts and assignments shall occur with the approval of the Sheriff or his designee. Such approval shall not be unreasonably denied.
- F. Sergeants who are not placed in non-biddable assignments by the Sheriff can bid for assignments in the Hall of Justice, Transportation, Jury Management and Records as one package of assignments which shall be separated into the following assignments and shifts that a Sergeant may bid for:
 - 1. Hall of Justice – General Supervision.
 - 2. Hall of Justice – Security.
 - 3. Transportation – Cherry Hill Depot, 7 a.m. to 3 p.m.
 - 4. Transportation – Cherry Hill Depot, 3 p.m. to 11 p.m.
 - 5. Transportation – Cherry Hill Depot, 11 p.m. to 7 a.m.Additionally, after the Sheriff makes the assignments of Sergeants to the Identification Bureau, then the Sergeants assigned to the Identification Bureau may bid among themselves for one of the three shifts (8-4, 4-12, 12-8).
Sergeant seniority shall be seniority in rank as a Sergeant, and not seniority as an employee of Camden County.

8. Q, Article XIX, Safety and Health: add a new Section 4:

Any officer who shall suffer from a serious communicable disease related to HIV, Hepatitis B or other blood borne disease, shall be treated as though the disease were contracted on the job pending verification using police incident reports.

9. R, Article XX, Grievances:

a. Section 2(a) shall be amended as follows:

The term "grievance" means a complaint that there has been an improper application, interpretation, or violation of this Agreement, any County policy governing the P.B.A., or any administrative decision affecting any member or members of the P.B.A., including all minor discipline, up to and including five (5) days suspension but excluding counseling notices.

b. Section 2(b) shall be amended as follows:

An aggrieved party is any employee, group of employees, or the PBA which employee, group of employees or PBA may submit a grievance individually, collectively or on behalf of its members.

- c. Sections 3 and 4 would be replaced with the following three-step grievance procedure:

First step – The aggrieved or the PBA shall give to the Sheriff or his representative the written grievance within twenty-one (21) calendar days after the event giving rise to the grievance has occurred, and an earnest effort shall be made to settle differences between the aggrieved party or parties and the Sheriff or Sheriff's representative for the purpose of resolving the matter informally. Current Section 3(b) will remain the same in reference to what should be in the written grievance to the Sheriff. The current language of Section (c) will remain except that the PBA will have twenty-one (21) calendar days to initiate the grievance and the remainder of the language shall remain the same.

Second step – If the Sheriff or his representative does not respond in writing within twenty-one (21) calendar days, then the grievant or the PBA may file the grievance with the Camden County Labor Relations Committee or hearing officer appointed by the County pursuant to current Section 4(a) and 3(c), except Section 3(c) shall modify from ten (10) working days to fourteen (14) calendar days the Camden County Labor Relations Committee has within which to respond. Sections 4(c) and 5(b) shall be deleted.

Third step – Arbitration. This will incorporate Sections 5, 6 and 7 of the current agreement. Either party may file for arbitration.

- d. Add a new Section 8:

The sworn law enforcement employees of the Camden County Sheriff's Department shall be subject to the New Jersey Attorney General's Guidelines as they relate to internal affairs investigations, except any major discipline violations of internal affairs guidelines are not subject to binding arbitration.

- e. Add a new Section 9:

All officers covered under this agreement, when forced to defend themselves of any criminal charges, or in a civil court, when those charges or claims arise from their actions as law enforcement officers, shall have the right to select their own attorney to represent them, and those costs shall be born by the County of Camden. Such representation shall be reasonably commensurate with the cost which may have been, or should have been believed to have been incurred for the defense of the employee if the County of Camden had provided the attorney.

Argument of the County Sheriff's Office

Because the Sheriff's Office was represented by separate counsel for economic and non-economic issues, I shall discuss economic and non-economic issues separately.

In dealing with economic issues, the County offered the testimony of Richard Dodson, Director of Human Resources; David McPeak, Chief Financial Officer; Douglas Bacher, Senior Managing Consultant, Public Financial Management; and Thomas P. Hamer, Ph.D., Professor of Economics, Rowan University. Additionally, the County provided certifications from Messrs. Dodson and McPeak. The County introduced financial documents including budgets, annual financial statements and audits as well as credit rating information. It provided comparative information on the salaries and benefits received by sheriffs' officers in New Jersey's counties. It also provided information on contract settlements in Camden County. It provided a cost of living analysis prepared by Dr. Hamer. It submitted payroll and other information on Camden County Sheriff's officers.

The evidence on non-economic issues included the testimony of Sheriff Michael W. McLaughlin and Lt. Nicholas Filippo. Sheriff McLaughlin also submitted a certification.

Economic Issues The County notes that this is a conventional arbitration proceeding in which the arbitrator is required to determine whether the net economic changes for each year of the agreement are reasonable under the statutory criteria. The relevant criteria must be identified, the evidence deemed relevant must be assessed and there must be a reasoned explanation as to why any criteria were deemed irrelevant. PBA Local 207 vs. Borough of Hillsdale, 137 N.J. 71 (1994) and Hudson County Prosecutor, P.E.R.C. No. 98-99, 24 NJPER 78 (Para. 29403, 1997). Due weight must

be given to the relevant criteria and the award must be supported by substantial credible evidence on the record as a whole.

The County, citing Governor Whitman's conditional veto message, asserts that the Reform Act was meant to signal "a fundamental shift in the approach to government to the well-known problems that have arisen in the resolution of labor agreements involving police and fire services." These included the "problem" of contracts which escalated well beyond the cost of living and awards which outpaced increases in both the public and private sectors generally. Further, it notes that the public has been deemed by the Supreme Court to be a silent party in this process notwithstanding its adversarial nature. PBA Local 207, 137 N.J. at 82.

The County provided a cost-out of the parties' proposals. The wage base for this unit, based on the 169 bargaining unit members – officers and sergeants – employed as of June 19, 2001, was \$7,960,114. The cost of the County's proposal is as follows:

Year	Increase	Base Wages	New Money	Cumulative Cost
1999	3%	\$8,198,917	\$238,803	\$238,803
2000	3%	\$8,444,885	\$245,967	\$484,771
2001	3.75%	\$8,761,568	\$316,683	\$801,454
2002	3.75%	\$9,090,127	\$328,558	\$1,130,013

The total cumulative cost is \$2,665,041 or an increase of 33.35% of the current base wage. This represents a total increase over four years of 13.5% or an average of 3.38% per year.

The County's cost-out of the PBA's economic proposals produces the following: With annual wage increases for each of four years of 3.25% on January 1 and July 1, the increase in 1999 is \$392,259; it is \$551,724 in 2000 with a cumulative cost of \$943,986; it is \$588,170 in 2001 with a cumulative cost of \$1,532,157; and it is \$627,022 in 2002 with a cumulative cost of \$2,159,181. The total cumulative cost is \$5,027,584.

The PBA has asked that five named Sheriff's officers have their base rates increased by 2% in 1999 (Article IX, Longevity). This would cost \$8,034 in 1999, \$8,429 in 2000, \$8,845 in 2001 and \$9,281 in 2002. The total cost could be \$34,589.²

The PBA has asked that the clothing allowance be increased by \$75 from \$625 to \$700 in 1999, by \$50 to \$750 in 2001 and by \$50 to \$800 in 2002. This would cost an additional \$12,675 in 1999, \$12,675 in 2000, \$8,450 in 2001 and \$8,450 in 2002 for a total cost of \$42,250.

The PBA is seeking the addition of a fifth step after 15 years of service which would be \$2,000 above the top step. This would be effective July 1, 2001. It would cost \$38,000 in 2001 and \$58,000 in 2002 or a total of \$96,000.

The PBA proposal to provide for double time for working on a holiday would cost \$8,696 in 1999, \$9,270 in 2000, \$9,882 in 2001 and \$10,535 in 2002 or a total of \$38,383.³

The PBA proposal to increase the County's fringe benefit payment from \$350.00 to \$500.00 per employee effective January 1, 2001 would cost \$25,350 in 2001 and \$25,350 in 2002 or a total of \$50,700.

The grand cumulative cost would be \$5,289,506 or 66.45% of the 1998 base wage. This figure does not include a rollover into 2003 of \$161,809 in wages and \$40,000 for the fifth step at fifteen years nor does it include the cost of retroactivity for employees who were employed as of January 1, 1999 and who retired or left for disability which the County has placed at \$93,397.⁴ The annual percentage increases

² Mr. Dodson certified that, based on dates of hire, none of the nine employees who were laid off and remain as County employees would have had the required five years of service as of the December 15, 1995 cutoff date for eligibility even if they were given full credit for the period of time they were laid off. A chart with dates was provided. (County Exhibit C-29C)

³ Mr. Dodson certified that these figures were based on the actual number of hours who worked the holidays in 2000 and 2001.

⁴ The County did not calculate the cost of the PBA's vacation proposal.

are 5.29% in 1999, 6.44% in 2000, 6.66% in 2001, 7.22% in 2002 and 1.62% in 2003 or a total of 27.23%. This is an average of 6.4% annually.

Prior to making more specific arguments based on the evidence, the County asserts that two factors are paramount in deciding this case. The first is the internal pattern of settlement in the County. The second is what is said to be the highly favorable position of the Sheriff's officers in relation to comparable sheriff's officers in New Jersey.

Beginning with a consideration of the internal pattern of settlement, the County notes that, excluding units of County hospital employees, there are 22 bargaining units. Nineteen of those reached voluntary agreements with the County. Depending upon their term, these agreements were essentially identical. If the agreement was for four years, as the County has proposed in this proceeding, the increases have been 3%, 3%, 3.75% and 3.75%, which is precisely what the County has proposed in this proceeding. Those agreements which were for three years provided wage increases of 4% beginning mid-year of the first year, 4% beginning mid-year of the second year and 3.9% for the third year. Additionally, depending upon factors unique to each bargaining unit, there were modest other increases. These never exceeded a total of .41% over the contract term, as Mr. Dodson testified.

The twentieth unit is the Prosecutor's investigators and that agreement resulted from an interest arbitration award. The arbitrator in that proceeding distinguished the investigators on the basis that they were the elite of the County law enforcement units whose uniqueness of duties and responsibilities justified a larger wage increase than the County pattern. The County points out that 93 of the 169 Sheriff's officers or 55% of the unit are assigned either to the Court House or to the Identification Bureau where the duties they perform and the risks they face are clearly less than those faced by Prosecutor's investigators. Also, while the County did not file an appeal, it believes that

the arbitrator in that case made several mistakes including an error regarding the County's bond rating and a disregard of changes in the County's economic position, thus leading him to conclude that the County had the ability to absorb the impact of the award.

Next, the Sheriff's officers are said to enjoy a very favorable comparative position in relation to other sheriffs' officers in New Jersey. The starting salary is the highest of the 21 counties in the State. They reach the top step after four years whereas the average is eight years. They enjoy more personal days and bereavement days than others and their combined number of holidays, personal days and maximum vacation days is the highest in the State. Further, they received average wage increases of 6.3% between 1975 and 1998 when the cost of living increased by an average of 5%. During that period, many other employees, including law enforcement officers, were providing "give backs" to their employers. This set of circumstances is said to account for the fact that the average length of service of a Sheriff's officer is a very high 13 years.

A major argument of the County, as stated, is based on the fact that there is an internal pattern of voluntary wage settlements which applies to 19 of the 22 units in the County. All units have settled except the Sheriff's officers and the SOA unit of the Sheriff. As Mr. Dodson testified, all voluntary settlements were either 3%, 3%, 3.75% and 3.75% if they covered four years or 4% mid-year, 4% mid-year and 3.9% if they covered three years.

Returning to the importance of internal patterns of voluntary wage settlements, the County notes that, except for the two units in the Sheriff's Office and the Prosecutor's investigators who went to interest arbitration, all of its units reached voluntary agreements which provided for wage increases of 3%, 3%, 3.75% and 3.75% for four-year contracts or mid-year increases of 3.9% for the first two years and 4% for the third year of three-year agreements.

The County asserts that it is well accepted that a pattern of bargaining is given major consideration under the statutory criteria. It cites the decision of Arbitrator Weisblatt in City of Asbury Park Superior Officers Ass'n., PBA Local No. 6, Docket No. IA-88-92 at 10. In addition to its statutory support, the County argues that pattern bargaining is important because it places strict parameters on those units which bargain late in the cycle and this is necessary for units to be willing to come to agreements with employers. The County also cited a decision which I issued in 1991 in which I stated that a salary offer which is consistent with those offered to all other employees is "inherently reasonable." Township of Union and PBA Local 69, Docket No. IA-91-103 at 7. I also stated in that decision that the burden shifts to the PBA to prove that a different settlement should be awarded when a bargaining pattern such as the one which exists in Camden County has been established. This same reasoning has been adopted and applied by other arbitrators in cases cited by the County.

The County notes that corrections officers accepted a four-year agreement with a wage increase identical to that offered by the County to the PBA in this case. Both groups of employees share responsibility for the security and transport of prisoners and inmates. Thus, the jobs are not only similar but they are distinct from other law enforcement units.

Distinguishing the interest arbitration award which covers the Prosecutor's investigators, the County asserts that it is the norm in county law enforcement for detectives and investigators in the prosecutor's office to be more highly paid than other law enforcement units including sheriff's officer. Even for these employees, the County notes, not all arbitrators will break a pattern if the county has established a pattern with other units of employees. The County cited another decision which I rendered which involved prosecutor's investigators:

I believe it would be highly disruptive for the investigators to obtain salary increases which were significantly different from those received by other county employees and particularly by the other county law enforcement employees. Such a deviation would cause resentment among those other employees and it would serve as a disincentive for them to reach voluntary agreements with the County in the future. County Prosecutor's Office and Morris County PBA Local 327, Docket No. IA-97-17.

The County believes that Arbitrator Mastriani misconstrued the evidence in the case which he decided involving the Camden County Prosecutor and Prosecutor's Office Investigators, PBA Local No. 316, Docket No. IA-99-37 (December 15, 2000). It contends that he cited minor differences in County contracts which he overvalued and overstated to justify his conclusion that the variations were so significant that the County could not claim that there was a pattern of wage settlement. To counter this, the County cites the testimony of Mr. Dodson who said that the "extras" referred to by the arbitrator amounted to no more than .41% over the life of each of those other contracts.

Further, Arbitrator Mastriani said that what he perceived to be the unique duties and responsibilities of the detectives and investigators of the Prosecutor were such that they were the elite law enforcement unit in the County. In this case, the PBA has not and cannot make such a claim.

The County also asserts that Arbitrator Mastriani misunderstood the financial data and the financial impact on the residents and taxpayers. He stated that the County maintained an AAA bond rating with Moody's based on its healthy surplus. The County not have such a rating. As Mr. Bacher testified, the actual rating from Moody's is A+ and the reason it does not have an AAA rating is because it does not have a sufficient surplus for such a rating. Indeed, as he testified, the County did not seek a review of its bond rating because it believed that a review would result in a lower rating. The tax collection rate is low, the County has amassed more debt than it has retired, its net debt is viewed by Moody's as the highest in the State and it has the highest effective tax rate

in New Jersey. Thus, the County asserts, Arbitrator Mastriani was wrong in finding that the financial strength of the County supported an award higher than the established wage pattern.

The Sheriff's officers would continue to receive very high wages and benefits under the County's offer. The present minimum salary is \$32,391. It would rise to \$36,987 under the County's proposal and that would be the highest in the State.⁵ These officers reach the top salary after only four years whereas the average in the State is 7.7 steps and thirteen of the 21 counties have eight or more steps. This means that these officers reach the maximum salary years before their counterparts throughout the State and they receive that maximum salary much longer than do their counterparts. (Certification of Dodson and County Exhibit C-29 D)

The maximum salary also is high. It was \$47,182 in 1998 and would rise to \$53,878 under the County's offer. The 2002 average is \$54,115 but if the seven northern-most counties are excluded – and the County notes that Arbitrator Light found that they are unique comparators – then the average salary only \$50,599, over \$3,000 below the County's offer to these officers. The figure is even lower when sheriff's officers who have responsibility for jails are excluded. The average then becomes \$48,050, over \$6,000 less than the County's offer.

The amount of holiday, personal and vacation time received by an officer with 25 years of service totals 925 days. Officers in only two counties receive slightly more, meaning that those in eighteen counties receive less, and the Camden County Sheriff's Officers receive 53 days more than the average. (Dodson certification and County Exhibit C-29 E) These officers receive a maximum of six personal days; the next highest number of personal days is four and only two counties provide that many. These officers receive the most personal and holidays combined. They receive 19 days; two counties

⁵ I note that the rates for nine of the counties listed are not 2002 rates.

provide 18 days. The rest provide 16 or 17 days. These officers also receive the most combined holidays, personal and maximum vacation days in New Jersey. They receive three more than the next closest counties provide. They also receive the greatest maximum number of bereavement days.

Further, these employees are among the few who currently have no co-pay for generic drugs. Only four counties provide generic drugs with no co-pay.

Thus, the County offer is said to provide wages and economic benefits which are in excess of those received by sheriffs' officers in most other counties in New Jersey and particularly in excess of those in comparable counties. In contrast, the PBA wage proposal would put the maximum salary in 2002 at \$67,859, second only to the rate in Bergen county.

The County also addressed the PBA's longevity proposal. The County rejected this proposal as being contrary to its intent to reward employees for service to Camden County. The PBA agreed to eliminate longevity in prior negotiations and accepted a specific date and number of years of service that would be recognized. There was a buy-out and at that time it was agreed who would get longevity built into wages and who would not. The PBA now is seeking to add five more officers at a cost of \$7,656 which would be built into the base for all future increases. This is said to be particularly unnecessary in view of the very favorable economic package which these officers receive in relation to other sheriffs' officers in other counties.

The County contends that its offer is more consistent with the public interest and welfare than is that of the PBA. As the Supreme Court made clear in Hillsdale, the interest and welfare of the public must be considered by an arbitrator in determining an award and the public is a silent party to the interest arbitration process (Id. at 82 and 83). The County's wage offer is more consistent with the interest and welfare of the public because it is consistent with the County's priority on fiscal responsibility including a

continuation of the current levels of taxation without a reduction in services. The County cites the detailed report of Public Financial Management which has worked with the County for a number of years and is very familiar with the County. As stated in that report, the County decided in 2001 not to seek a review of its credit rating from the rating agencies because its financial condition had worsened or not improved in a number of areas and positive trends had been reversed, thus creating the possibility that the rating would have been reduced. Three specific areas were cited.

First, it cited demographics and the economy. The report points out that the rating agencies have expressed concern that the County income levels continue to fall below the State average and the weak demographics have an impact on the County's overall economic profile. Also, property values have remained relatively flat over the last five years in contrast to some parts of the State which experienced substantial growth in ratables in that period. These observations are said to illustrate that the rating agencies have concern regarding both the growth of tax valuation and relatively weak demographics compared to other counties. This will have an impact on the County's ability to raise additional revenue and to absorb additional financial burdens.

Second, the debt position was discussed. The net direct debt per capita in April 2000, as calculated by Moody's, was \$1,800 which is the highest of any county in New Jersey. The total net direct debt in Camden County also is the highest in the State at \$910,325,000. The net direct debt as a percentage of full value is 4.5% and, again, this is the highest figure of any New Jersey county. This shows that County taxpayers are highly leveraged. Furthermore, the County's debt position is worsening. Since 1998, the County has been issuing more debt than it has retired, something which the County had told the rating agencies would not occur. If continued over time, this will erode the County's ability to issue debt for needed purposes. The County's net debt as a percentage of equalized valuation also has been increasing and this, too, is a negative.

The County had succeeded in reducing this percentage from 1.02% in 1994 to .92% in 1997 and 1998 but it has increased again to .97% in 2000.

CFO McPeak certified that the County debt, which is in excess of \$75,000,000, stands at .38% of the last three years' average equalized valuation and that this is well below the statutory limit of 2% permitted under State law. He noted, however, that the law does not require County Guarantees to be included in the statutory debt and that the County is directly responsible for almost \$160,000,000 attributed to Capital Budget financing through the Camden County Improvement Authority. Thus, the County's potential debt is considerably greater.

Third, the Public Financial Management report considered surplus and fund balance. This is very important because it provides flexibility in the event of a decrease in revenues based on a declining economy or tax base or to meet unexpected emergencies. While the 2001 surplus was a slight increase over the previous year, the amount of surplus appropriated to offset increasing budget demands increased much more. What had been a positive for the County now is a negative. In fact, the County now has a fund balance as a percent of revenue of 7% and this is the sixth lowest in the State, far behind the leader, Gloucester County, with over 20%. The result of using more surplus is that the remaining surplus declines and that is exactly what has occurred in Camden County. The amount of surplus utilized increased by \$3 million in 2001 over 2000 and this had the effect of reducing the surplus retained by that same amount. What had been a positive trend with an increase in the percentage of surplus from 1998 to 2000 was a negative in 2001 when the figure fell from 8.75% to a projected 8.45% in 2001.

Additionally, the County cites data taken from the certification of Mr. McPeak. He certified that the County's health benefit costs increased by approximately \$2.5 million between 2000 and 2001 with the increase for those in HMO's being 10% to 15%

whereas the increase for those in the traditional plan was a huge 50%. Mr. McPeak also noted that while Camden County, like all counties, receives all anticipated tax revenue because the municipalities are required to turn over 100% of a county's portion of property taxes, nevertheless there is a concern because Camden City collects only 78% of its property taxes and this is a factor considered by the rating agencies when examining the financial stability of a county.

The County recognizes that the public interest requires a police force that is properly funded. The County points out that in 2000, it spent \$66.2 million for public safety, far more than was spent in neighboring Gloucester County (\$20.6 million) or Burlington County (\$29.5 million). The per capita cost of public safety in Camden County in 2000 was \$130.08 compared to only \$80.94 in Gloucester County and \$69.77 in Burlington County. With the County's wage proposal, the County will continue to have a well-staffed and effective Sheriff's Department without having a detrimental effect on the County. This cannot be said of the very high increases proposed by the PBA.

The County also argues that its economic package is more consistent with the true "going rate of settlement" and the awards issued in 1998, 1999 and 2000, indicating that the statutory comparability criterion favors the County's economic package. Because PERC publishes and makes available its own neutral calculation of both voluntary settlements and interest arbitration awards, it is not necessary to speculate on the "going rate." In 1998, 1999 and 2000, the average salary increase in all awards was 3.87%, 3.69% and 3.64%. Voluntary settlements in that period were 3.77%, 3.71% and 3.87%. These are the years covered by this award for which information is available. The proposal of the County is within that range whereas that of the PBA is far outside of it and does not begin to qualify as being consistent with the "going rate" or comparability. In an attempt to overcome the problem with its offer, the PBA has carefully selected some high-cost settlements which really distorts the record. The County asserts that the

data published by PERC is a true reflection of the general rate of settlement or increase. The County also asserts that the counties selected by the PBA are not in fact comparable to Camden County, thus obviating their usefulness in determining settlements in comparable counties.

The County also cited data from the Bureau of National Affairs on national settlements in 1998, 1999 and 2000. Private sector settlements averaged 3.1% in 1998, 3.2% in 1999 and 3.8% in 2000. The corresponding figures for state and local government employees were 2.8% in 1998, 3.4% in 1999 and 3.4 %. Because the PBA's economic proposal far exceeds 4% a year, an award of the County's offers is appropriate and consistent with the statutory criteria.

Another statutory criterion relates to the "continuity and stability of employment." The record indicates that there is a high level of continuity and stability of employment in this unit. Turnover is low. When deaths, resignations and retirements are excluded, turnover was only 2.6% in 1998, 2.5% in 1999 and 3.7% in 2000. Because of this low turnover, the average years of service is 13. Accordingly, the County argues, this factor points to an award at the low end of the PERC range of settlements.

The County also cites the low rate of inflation as a factor which the arbitrator is required to consider in rendering the award. The cost of living must be considered under the law. As Dr. Hamer testified and as shown in the report which he prepared, from 1975 through 1998, the inflation rate averaged 5% whereas the Sheriff's officers received average salary increases of 6.3%. This is 1.3% annually above increases in the cost of living. In 1998, the inflation rate was only 1%. It was 2.2% in 1999. It was 2.7% in 2000. The County's wage offer exceeds those figures each year, thus assuring that the Officers will remain ahead of the cost of living. The inflation rate for 2001 also is expected to be low.

A final comparison provided by the County compared increases received by government employees generally, as compiled by the Department of Labor's Bureau of Labor Statistics. Starting with 1989, the compensation of all government workers increased to just above 140% of the 1989 rate in 1999 whereas the figure for Camden County's Sheriff's officers was 165%, far in excess of the increases received by all other government workers in the United States. Again, this is said to call for an award consistent with the offer of the County.

The County again cites the legislative intent behind the Police and Fire Public Interest Arbitration Reform Act: to bring settlements in police and fire departments into line with inflation and with public and private sector settlements. Increases in the range of 4% or more would appear to violate the Legislative intent, asserts the County. When the PBA's interest in obtaining economic improvements for its members is balanced against the County's limited financial means and developing negative financial patterns, the current level of compensation received by the Sheriff's officers, the trend of settlements in police and fire contracts as reflected in the PERC data and not the selective information submitted by the PBA, the public and private sectors generally and the low increases in inflation, the County argues that an award at the low end of the PERC range is appropriate. This is said to be particularly true in the absence of evidence which would support an award at the high end of the range.

Accordingly, the County asks that its economic offer be accepted in entirety and that the economic proposals of the PBA be rejected.

Non-economic Issues The Sheriff, who has held office since January 1995, addressed the various economic issues but the issue which is of primary importance concerns bidding for shifts and assignments. The PBA submitted a proposal which called for assignments and shifts to be subject to bidding based on a combination of experience and education. The Sheriff filed a petition for a scope of negotiations

determination with PERC on February 10, 1999. PERC rendered a decision on September 30, 1999 in which it determined that the PBA proposal was not mandatorily negotiable "to the extent it would pertain to the assignments described in the Sheriff's certification [positions that require "special training, experience or other qualifications"], other than the Jury Management and Records assignments and among employees in units with more than one shift. Stated positively, the proposal was found to be mandatorily negotiable "to the extent it proposes a bid system based on seniority and education for the Record and Jury Management positions; the approximately 80 assignments in the Hall of Justice and Transportation Units; and among employees in units with more than one shift." Camden County Sheriff and PBA Local No. 277, PERC No. 2000-25, 25 NJPER 431 (¶ 30190 1999) at 22.

On January 28, 2000, the Appellate Division issued an Order of Limited Remand to PERC to permit the Sheriff to file a motion for clarification and reconsideration. PERC issued a decision on March 31, 2000, PERC No. 2000-72, denying the Sheriff's motion to reconsider and specifying that:

for the PBA shift assignment proposal to be mandatorily negotiable, the employer must have the right to assign any unit member, of appropriate rank, to the positions identified in P.E.R.C. No. 2000-25 as requiring special skills, training or qualifications. P.E.R.C. No. 2000-25 is also clarified to state that assignments to the Identification Bureau may not be subject to bid, but that sheriff's officers and sergeants assigned to that unit may bid among themselves for their desired shifts.

The Sheriff filed an appeal with the Appellate Division and, in a per curiam decision dated September 4, 2001, the Court affirmed PERC's decision.

Mandatory negotiability notwithstanding, the Sheriff is adamantly opposed to the PBA's assignment and shift bidding proposal and wants no change in the current system. The proposed system would hamper his ability to assign officers to particular jobs to best meet the goals of the Department and to best match the qualifications of

officers to particular jobs. He also is concerned that the PBA proposal does not include language used by PERC which recognizes the right to deviate from the bidding system when necessary for training or to meet the safety needs of the public or to assign employees with specialized skills. The Sheriff notes that the Supreme Court has recognized the important governmental goal of matching the best employees to particular jobs. Local 195, IFPTE v. State, 88 N.J. 393 (1982). While a bidding system may be mandatorily negotiable, this does not mean that it is required or desirable.

The Sheriff understands that the PBA has asserted, through certifications of several of its officers, that there is a perception that transfers on occasion are made for political reasons or racial or gender reasons or based on favoritism or for punitive reasons. The Sheriff asserts, however, that there was absolutely no evidence to support these contentions beyond scant anecdotal evidence. These contentions are said to be completely unsupported and not worthy of serious consideration.

In addition to the arguments which it made in the prior administrative and judicial proceedings, the Sheriff asserted that there is a transfer and assignment procedure at the present time and that it includes a consideration of qualifications, evaluations, disciplinary actions, personal preferences, considerations of cross-training, special qualifications, seniority, education, etc. Requests for particular assignments can be made and these are considered. He testified that the mix of experience on each shift is a consideration to assure balance. He said that there have been occasions when officers have been under investigation and they have been given an assignment which is less likely to lead to problems for the officer or the Sheriff's Office. There have been requests for transfers based on personal hardship, sometimes initiated by a spouse of an officer. He said that the use of sick leave is considered. There are problems when an officer on some assignments and shifts fail to appear as scheduled so they are more likely to be assigned to the Hall of Justice or Identification Bureau, he said. In terms of

specific assignments, he said that various things are considered such as, for example, whether a person is tactful and able to deal with the public or with judges or with other law enforcement officers and departments. Also, some officers cannot work well with certain supervisors and some officers need a particular kind of supervision.

The Sheriff denied that he has used transfers as a means of disciplining officers although he said transfers have been used as last resort in an effort to avoid terminating an officer. He acknowledged that prior to his tenure, there had been problems with assignments and transfers and that he could understand how there could be a perception by some officers – although it would not be accurate – that certain transfers were made for racial or other improper reasons.

The Sheriff insists that he needs the flexibility of the present system in order to be able to take into consideration all of the above factors. The fundamental question is what is best for the entire Department.

Lt. Filippo testified regarding assignments at the Hall of Justice where he has been the assistant commander for the last two years. He said that, in his view, the Hall of Justice is one assignment. There are posts within that assignment such as front door security and the others listed in the PBA proposal but there is only one assignment. The Sheriff assigns officers to the Hall of Justice but not to specific posts. Assignments to posts are made at a lower level and it would not be in the best interests of the Departments for such posts to be subject to bidding. In his certification, the Sheriff agreed with Lt. Filippo, stating that the "assignments" listed in the PBA proposal really are "posts" and that officers are chosen to staff those posts by their supervisors in the Court Security and Transportation Bureaus. It would be an extension of the PERC decision to apply it to posts as opposed to assignments, according to the Sheriff, and there is no support in the decision for extending bidding to post selection. This would invalidate the discretion, judgment and authority of superior officers.

The Sheriff also contends that the jury management and record positions should be exempt from bidding because both positions are said to require months of training and the occupants of those positions must have exceptional people skills. He is concerned that he might have a different person in these positions each year, thereby creating efficiency problems.

Accordingly, the Sheriff asks that the PBA proposal regarding bidding be rejected in its entirety.

The PBA submitted a proposal regarding work schedules under which officers would report fifteen minutes prior to the start of their scheduled shift. This is not required under the prior contract and the Sheriff contends that there was no demonstration of a need to change the present system in which officers report five or ten minutes early, depending upon assignment and rank. The PBA proposal would build guaranteed overtime into the system and this is simply not necessary. There have been few complaints about the existing system and there is no reason to deprive the Sheriff of his discretion to allow or discontinue early reporting, as he deems appropriate.

The parties reached an agreement regarding overtime for officers assigned as process servers. Work in excess of 40 hours per week must be approved by a supervisor and may include special assignments.

The PBA is seeking to make a number of changes in the grievance procedure. The Sheriff argues that the grievance procedure was completely overhauled in the last round of negotiations and that there has been no demonstration of a need for more than a very few changes. The parties did agree, consistent with the PERC decision, that minor discipline will be included within the definition of a grievance. They also agreed that the Attorney General's guidelines would be applied regarding internal investigations but major discipline for violating the Internal Affairs Guidelines is not subject to arbitration. The Sheriff agrees there should be a time limit for the Sheriff to respond to

any decision of the County Labor Relations Committee but it objects to any extension of the time within which an aggrieved member or the PBA can submit a written grievance to the Sheriff.

Another area of concern of the Sheriff – this is one of his non-economic proposals – relates to hiring rate for Sheriff's investigators. This appears at Article VII, Section 7 of the prior agreement. That section provides that the Sheriff shall hire all investigators at the first step of the salary guide unless the Sheriff and the PBA agree that an investigator with special skills and experience may be hired at a higher step. The Sheriff notes that under the 1994 to 1995 agreement, the Sheriff did have the discretion and authority to hire Sheriff's investigators above the first step simply by giving notice to the PBA. The approval of the PBA was not required. The Sheriff in his certification denied that he ever agreed in the negotiations for the successor agreement to change that provision, although the PBA did propose a change.

The Sheriff introduced several documents to support its position. He provided a copy of the 1994 to 1995 contract which contains the language which only requires "notice" to the PBA. He also provided two draft contracts which the former PBA counsel submitted to Mr. Wilson which purportedly had "the highlighted changes or the new language." One showed proposed changes in the 1994 to 1995 contract and the other showed changes in the 1996 to 1998 contract. The latter document reflected the change to Article VII, Section 7 but this change was not highlighted. Thus, the final 1996 to 1998 contract which the parties signed did include the changed language but the Sheriff was not aware of this change and relied on the representation of the former PBA counsel that there was not a change in this section. The Sheriff asserts that the language in the 1996 to 1998 agreement was included as the result of a clerical error and that it was not agreed to by the parties.

The Sheriff asks that the language be changed back to the original language of the 1994 to 1995 agreement. It asserts that the PBA failed to demonstrate the need for a veto power for hiring above the first step and contends that the Sheriff should have and needs the unfettered discretion to hire Investigators with special skills above the first step.

The other proposal of the Sheriff relates to uniforms. It calls for the Sheriff's Office to provide a uniform complement which conforms to the present practice with uniform items to be replaced as needed. Additionally, the Sheriff proposes that items which must be replaced due to normal wear and tear be replaced by the County without charge but that where the damage is due to abuse or loss, the individual officer be responsible.

The PBA is seeking the addition of language similar to that contained in the County Park Police contract under which, if employees contract serious communicable diseases related to HIV, Hepatitis B or other blood borne diseases, it would be assumed that they were contracted on the job pending verification. The Sheriff argues that there was no demonstration of a need for this change and it asks that the proposal be rejected.

The PBA seeks to add a provision to the contract under which the County would be required to pay for counsel selected by the officer in the event that an officer is forced to defend himself against criminal or civil charges or claims when the claims arise from his actions as a law enforcement officer. The County contends that the PBA has offered no evidence to show that such a provision is needed and notes that the practice in the County is to supply counsel where the actions of officers are not beyond the scope of their duties as law enforcement officers. The PBA is seeking to greatly extend the scope of coverage and this is not warranted.

The PBA had initially proposed that officers employed prior to January 1990 be given credit for their time with other law enforcement agencies for purposes of health benefits and particularly retirement benefits. The County rejects this proposal as contrary to its intent which is to reward service with the County.⁶

Argument of the PBA

The PBA argues that the recent events of September 11, 2001 and the even more recent anthrax scares have only served to highlight the importance of the jobs and the dangers faced by sworn law enforcement officers including the Camden County Sheriff's officers. These events indicate that these officers should receive far more than the 6% wage increase and increases in other benefits which they are seeking. Only then will historical wrongs and underpayment and lack of recognition of these officers begin to be corrected.

The PBA first addressed its longevity proposal. Longevity was eliminated in the 1994 to 1995 agreement with the last discrete payment for longevity being made by separate check on December 15, 1994 for that year. Thereafter, longevity was discontinued except that employees covered by the agreement who had five or more years of continuous service as of December 15, 1995 had their base pay increased by 2% if they had five years of service as of that date, 3% if they had six years of service, 4% if they had seven years of service, 5% if they had ten years of service, 6% if they had fifteen years of service or 7% if they had twenty years of service. Thus, employees hired after December 15, 1990 receive no longevity. The effect of this is that as time goes on, the Sheriff's officers and sergeants will increasingly be at a disadvantage in relation to their counterparts in other sheriffs' departments throughout the State who do have longevity.

⁶ While this is an economic proposal, it was addressed by Mr. Wilson in his brief. This proposal was withdrawn by the PBA so it is not a live issue.

Since January 1, 1991, 54 Sheriff's offices have been hired by the County and they do not now and never will receive longevity. As calculated by the PBA, this results in a savings of at least \$12,000 for each such employee and this will continue for all new hires forever. The cost of longevity to the County in 2002 for the officers hired after December 15, 1990 would have been \$14,000. The savings will mount in future years. Further, those employees who did receive the addition to their base salary for longevity in 1995 will never move to higher longevity steps. Their longevity was frozen based on their years of service in 1995. An officer who received a 2% addition to base salary will never reach the higher levels which reached a maximum of 7%. This results in additional savings for the County in terms of lower salaries and lower PFRS contributions.

The PBA points out that when the Camden County Police patrolmen agreed to eliminate longevity in their 1995 to 1998 agreement (PBA Exhibit I, Article XVI), this was done by permitting the County, at its option, to buy out longevity. The County exercised this option. The salaries of all patrolmen except the top patrolmen were increased by 5% at that time, regardless of years of service, and the salary for the top patrolmen was increased by 6%. Thus, all patrolmen employed in 1998 by the Camden County Park Police receive an additional payment, added to their base, of at least 5% and up to 6% in return for giving up longevity. This is in marked contrast to the treatment accorded to Sheriff's Officers. Further, this payment is built into the wage schedule so all future employees, regardless of length of service, will receive the higher salaries.

With specific reference to the PBA's longevity proposal that five named officers receive a payment of 2% added to their base pay in 1999, the PBA contends that these

were the last remaining officers from the buyout and that they should receive the payment. The cost is nominal and this would provide equity for these officers.⁷

One of the chief arguments of the PBA concerns the relationship between compensation received by both Camden County Prosecutor's investigators and Camden County Park Police patrolmen compared to Camden County Sheriff's officers. This is very important because the statute requires comparisons in the same jurisdiction and both Camden County Park Police and the Camden County Prosecutor are in the same jurisdiction as the Camden County Sheriff. (N.J.S.A. 34:13A-16g(2))

Starting with a comparison with the Camden County Park Police, the PBA points out that a Park Police patrolman earns about \$5,000 a year more than does a Camden County Sheriff's officer. Thus, comparing officers in the two departments, both of whom were hired on January 1, 1991, the Park Police patrolman earned \$52,200 in 1998 and a Sheriff's officer earned \$47,182 (or \$5,018 less).

Additionally, the Park Police have a twenty-year step called Top Patrolman which had a 1998 rate of \$52,680. This puts a 20-year patrolman \$5,498 above a 20-year Sheriff's officer. This step was added to the wage schedule in 1998, at the same time that longevity was bought out by the County. This wage differential also results in the Park Police patrolman receiving a much higher pension than does a Sheriff's officer. Based on a pension of 65%, which is the pension after 25 years of service (and not the maximum of 70% which officers can receive if they work 30 or more years), the pension of a Park Police patrolman is worth over \$3,500 more each year than that received by a Sheriff's officer with the same service. This works out to almost \$100,000 in constant dollars based on life expectancy. The PBA argues that this added differential also has

⁷ According to the County's calculation, the cost over the four years of this agreement would be \$34,589.

negative implications for the continuity and stability of employment of Sheriff's officers, a factor the arbitrator must consider under N.J.S.A. 34:13A-16g(8).

The PBA contends that Sheriff's officers have responsibilities in excess of those given to Park Police patrolmen and it cites the certification of PBA President John Reinmuth in support of this assertion. While the Park Police simply maintain order in the parks and help with wildlife, Sheriff's officers are involved in a wide range of activities. These include service of high-risk fugitive warrants; working in bomb disposal; maintaining a canine unit; enforcing Superior Court strike restraining orders; working with Federal agencies such as the FBI Fugitive Task Force, ATF Task Force, HIDTA, etc.; enforcing domestic violence restraining orders; and working throughout the County as well as the State. Given the wider range of responsibilities expected of Sheriff's officers compared to Park Police patrolmen, the PBA argues that Sheriff's officers should receive higher compensation than that received by the Park Police patrolmen, yet in actuality they receive over \$5,000 less per year. This statutory factor points toward an award at least equal to the PBA's proposal.

The dollar increase received by the Park Police patrolmen in 1999 was \$2,088. For a Sheriff's officer to receive the same dollar increase, the percentage raise would have to be 4.425%. The Supreme Court in Washington Township vs. PBA 206, 137 NJ 88 (1994) and Hillsdale PBA 207 vs. Hillsdale, 134 NJ 71 (1994) instructed arbitrators to use dollars when comparing raises. This makes sense because both groups of employees are paid by the same taxpayers and work in the same County. Similarly, if the Sheriff's officer were to receive the same dollar increase as that received by the Park Police patrolman in 2000 (\$2,172) and 2001 (\$2,202), the Sheriff's officer would have to receive percentage increases of 4.4% in 2000 and 4.28% in 2001. The PBA emphasizes that raises of that magnitude would simply maintain the disparity between

Park Police patrolmen and Sheriff's officers; it would not begin to reduce that differential which would continue to exceed \$5,000.

Comparisons with Camden County Prosecutor's investigators make the case for larger raises for Sheriff's officers even more strongly. The investigators received almost \$10,000 more in 1998 than did Sheriff's officers. Both are sworn officers who work predominantly in Camden County and are paid by the same taxpayers. The PBA contends that the work of Sheriff's officers is more dangerous than is that of Prosecutor's investigators, in part because the former work in uniform which tends to make them targets. The difference in salaries in 1998 was \$9,847. The investigators received increases of 4.5% in 1999, 2000 and 2001 through arbitration. If the Sheriff's officers received the same percentage increases of 4.5% in those years, the differential would increase to \$10,290 in 1999, \$10,753 in 2000 and to \$11,237 in 2001. According to the PBA, the County offered no reason nor evidence for Sheriff's officers to fall even further behind Prosecutor's investigators.

The most important non-economic item for the Sheriff's officers in these negotiations concerns the bidding proposal, PBA Exhibit J, Proposal M. There are approximately 159 officers in this unit of officers and sergeants of whom 127 are officers and 32 are sergeants. Under the decisions of PERC, a number of positions were excluded from bidding based on a determination that they required special training or experience or skills or qualifications. Therefore, before there is any bidding, the Sheriff will have the ability to assign 54 officers and 22 sergeants or a total of 76 positions (almost 50% of the total) to the Administration and Civil Division, Investigative Division and Uniform Division.

The only positions which would be subject to bid would be those in the Hall of Justice, Transportation, Jury Management and Records. As proposed by the PBA, these positions would be combined into one group, something which PERC explicitly

permitted. (PBA Exhibit N at 7 and 8) This covers the assignments for a total of 82 officers in the following 13 assignments: Hall of Justice front door security (3), Hall of Justice second floor security (2), Hall of Justice lower level holding area (1), Hall of Justice probation department (3), Hall of Justice salley port (1), Hall of Justice court rooms (32),⁸ Hall of Justice juvenile holding (4), Transportation Lakeland (days) (4), Transportation Cherry Hill Depot (7 a.m. to 3 p.m.)⁹ (8), Transportation Cherry Hill Depot (3 p.m. to 11 p.m.) (7), Transportation Cherry Hill Depot (11 p.m. to 7 a.m.) (5), Jury Management (1) and Records (1).¹⁰ Additionally, the ten sergeants would bid on the following assignments: Hall of Justice general supervisor (2), Hall of Justice security (2), Transportation Cherry Hill Depot (7 a.m. to 3 p.m.) (2), Transportation Cherry Hill Depot (3 p.m. to 11 p.m.) (2) and Transportation Cherry Hill Depot (11 p.m. to 7 a.m.) (2). The PBA notes that all Sheriff's officers have graduated from a New Jersey certified police academy, with its extensive five and one-half months of training, and are sworn law enforcement officers. This is said to indicate their ability and qualifications to perform the jobs for which bidding has been permitted by PERC and the Court.

Also, once the Sheriff has made assignments to the Identification Bureau, the officers and sergeants so assigned would be permitted to bid on their shifts. As Sergeant Henry Moore set forth in his certification, the officers assigned to the Identification Bureau routinely work different shifts, based on staffing shortages, and all can perform the work on any shift.

The PBA contends that its proposal is consistent with the decisions of PERC, as affirmed by the Appellate Division, and that assignments which require special training or

⁸ Assignments to particular court rooms would be done as they are presently by the Sheriff or his designee.

⁹ These are the current hours. The PBA is not intending to compel a continuation of these hours. The Sheriff would retain the discretion to determine the hours of shifts.

¹⁰ The numbers in parentheses represent the current numbers of officers assigned to each assignment. The PBA is not intending to require that such numbers continue.

experience or other qualifications have been removed from the bidding process. The Sheriff is again arguing, both in his testimony and his certification, that all positions in the Department require special skills or qualifications but this argument was fully considered by PERC and the Court and it has been rejected. The arbitrator cannot overturn those findings. Further, the right of the Sheriff to deviate from the results of bidding when necessary for training or to assign an employee with specialized skills or to meet the safety needs of the public was recognized by PERC and the PBA proposal also permits such deviation for those purposes as set forth in its proposal, PBA Exhibit J-10, paragraph C. This is consistent with a long line of PERC decisions including City of Asbury Park, PERC No. 90-11, 15 NJPER 509 (¶20211 1989), aff'd NJPER 2d 245 (¶204 App. Div. 1990).

Further, the Sheriff would continue to fill vacancies as they have been filled. If an officer in a bid position is out, the Sheriff will be permitted to decide who will fill that position, even if that means taking another officer from a bid position.

While the Sheriff contends that PERC did not determine that assignments within shifts were negotiable, the PBA argues that this is not correct. It cites the language in the PERC decision which reads: "Shifts generally determine work hours, but since the proposal defined 'shift' to include 'general assignment within a shift,' the proposed bidding system would affect the employee's assignments as well." (PBA Exhibit N-3) Thus, bidding was permitted by PERC not only as to shifts but also as to assignments within shifts.

The PBA makes a number of arguments in support of its proposal. First, it contends that it would greatly improve morale. Citing the certifications of several of its officers, the PBA contends that such a system would be, and perhaps as important, would be perceived as being, fair and consistent. This would immeasurably improve morale. A bidding system is the fairest means of making assignments because it

eliminates any perception that considerations of race, politics, gender, unsubstantiated discipline, etc. played a role in making the assignment. Additionally, bidding enables officers to select assignments which permit them to maximize their second job opportunities or to accommodate working spouses and child care needs and other family considerations.

The Sheriff has acknowledged that assignments have been made for disciplinary reasons or based on alleged abuse of sick time, personality conflicts, past disciplinary actions, various hardships, and for other improper reasons. Assignments are not the right way to deal with such matters which should be dealt with openly and directly.

The PBA also proposed several other changes in connection with its bidding proposal. Thus, Proposals A, B and C all deal with bidding. Proposal A adds a new subsection which defines seniority for bidding purposes and the definition includes experience as a corrections officer in Camden County. The PBA notes that until 1994, corrections officers were part of the bargaining unit with Sheriff's officers. Proposal B gives credit, for bidding purposes only, to any officer who might have worked as a corrections officer when those officers were included in the bargaining unit but who left and then were hired by the Sheriff. Proposal C is said to make clear that positions which are subject to bidding will utilize the procedure specified in Article XIII, Section 4 and not the more limited procedure in Article III, Section 5. Also, the PBA has proposed that, for sergeants, seniority be defined as experience as a sergeant only and not experience as an officer and a sergeant.

The PBA points out, as certified by Vincent Foti, its financial expert, that the County has had a stable tax rate since 1994. That rate was 0.8545 in 1994 and 0.8600 in 2001. The rate actually went down in 1995 and 1996 and was flat for three years before it went up slightly to 1994 levels in 1999 where it has remained for the last three years. (PBA Exhibit BB-8 and 14) This stability in the tax rate is said to weigh heavily in

favor of the proposal of the PBA because it shows that three statutory factors, the interests and welfare of the public (16g(1)), lawful authority of the employer (16g(5)), and financial impact on the governing units and its residents and taxpayers (16g(6)) will not be adversely affected. A stable or even slightly decreasing tax rate is said to remove any County argument against the proposal of the PBA. The County can provide the proposed increases.

The PBA notes that the County will save over \$2 million in its 2001 PFRS contribution as a result of a periodic revision by PFRS as to what is required. Such revised employer contributions are not unique. There was a similar one in 1992. This, too, is said to show that the County can provide the increases sought by the PBA without any adverse impact on the public interests and welfare (16g(1)), the lawful authority of the County (16g(5)) and the financial impact on the County and its residents and taxpayers (16g(6)). By reducing the County's contribution to PFRS, the County gains money which is available for other purposes including salary increases to bring Sheriff's officers to more equitable levels in relation to other County law enforcement employees. Even if only the amount of this savings directly attributable to the Sheriff's Department is considered, the savings is over \$600,000 since the 168 Sheriff's officers constitute 32% of the County's PFRS employees.

The PBA addressed the number of holidays and vacation days received by the Sheriff's officers compared both to Park Police patrolmen and Prosecutor's investigators within the County and to sheriffs' officers throughout New Jersey, both in accordance with N.J.S.A. 34:13A-16g(2). Sheriff's officers receive 13 holidays. Park Police patrolmen receive 14 and Prosecutor's investigators receive 15. Thus, the Sheriff's officers are behind their brethren in the County. Further, the statewide average is 14 holidays so the Sheriff's officers are behind sheriffs' officers generally in New Jersey.

When vacation days earned over 25 years are totaled, a Prosecutor's investigator receives 59 more days than does a Sheriff's officer (450 vs. 509 days). Park Police patrolmen receive 462 days or 12 days more than Sheriff's officers. Sheriff's officers receive nine fewer days over 25 years than their counterparts throughout the State. Thus, again, by any measure, the vacation days received by the Sheriff's officers are low and should be increased as proposed by the PBA. At this time, the PBA is asking to have the same schedule as is enjoyed by the Prosecutor's investigators.

Another claimed deficiency experienced by the Sheriff's officers relates to call-in pay. The officers are guaranteed to receive only two hours when they are called in whereas the Park Police patrolmen are guaranteed four hours and the Prosecutor's investigators are guaranteed three hours. All of these are overtime hours so the real difference is three hours for the Sheriff's officers but six hours for the Park Police patrolmen and four and one-half hours for the Prosecutor's investigators. The Sheriff's officers are said to rank 17th among their counterparts throughout New Jersey on this measure.

The PBA cites statistics from the New Jersey Department of Labor (New Jersey Economic Indicators, PBA Exhibit D) on personal income. These show an increase as of August 2001 over the prior year of 7.1%. The national figure is 6.1% over that same period. These figures are said to justify the PBA's salary proposal in relation to comparisons with private employment in general (N.J.S.A. 34:13A-16g(2)).

Additionally, citing the cost of living factor, N.J.S.A. 34:13A-16g(7), the PBA equates increases in personal income to the cost of living, again citing the New Jersey figure of 7.1%. This is well below the 6.5% which the PBA is seeking.

The PBA cites what it regards as an important difference between municipalities and counties in New Jersey. Municipalities do not collect all of the taxes that they bill whereas counties collect 100% of theirs because municipalities must pay 100% of the

amount owed to them. Therefore, counties do not need a reserve for uncollected taxes as municipalities do. This places counties in a much more stable and solid position than municipalities. Camden County's budget in 1999, for example, called for it to raise \$172,002,914 in taxes and, in fact, it raised, \$172,002,914. This also was true every year from 1990 to 1999 as shown in PBA Exhibit V-30. Therefore, the argument of the County that Camden City creates potential tax collection problems for the County is said to be absurd. Further, the County collects a considerable amount of revenue from other sources. In 2000, over \$110 million was collected in addition to property taxes. This has been typical.

The PBA prepared cost analyses of the increases proposed by the County as well as its own proposal. Based on roster information provided by the County, the PBA calculated the costs including not only officers who were employed throughout the period beginning January 1, 1999 but also the costs of those employed at some time during that period (both those who have left and those who were hired subsequent to January 1, 1999). This takes promotions, resignations, retirements, hiring and all other personnel actions into account.

The County proposed raises of 3% in 1999, 3% in 2000, 3.75% in 2001 and 3.75% in 2002. As calculated by the PBA, this would result of total salary costs, including longevity, of \$6,418,544 in 1999, \$6,488,715 in 2000, \$6,765,819 in 2001 and \$7,076,595 in 2002. (PBA Exhibit EE-8 to 11)

With annual 6% increases, as sought by the PBA, the cost in 1999 would be \$6,596,031, in 2000 would be \$6,837,202, in 2001 would be \$7,308,914 and in 2002 would be \$7,813,844. (PBA Exhibit EE-33 to 36)

Even with a 6% increase, which would result in a salary cost of \$6,596,031 (PBA Exhibit EE-34), salaries would represent only 2.26% of the total revenues of \$290,905,069 which were collected by the County in 1999. In 2000, again with a 6%

salary increase, the salaries would cost \$6,837,202 which is only 2.36% of total County revenues of \$289,363,046. These figures are said to indicate that neither the interests and welfare of the public nor the financial impact on the governing unit, its residents and taxpayers will be adversely affected even if the full increases proposed by the PBA are awarded. The impact is *de minimis*.

The additional cost of a 6% increase in 2000 over the 1999 cost is only \$241,171 and this represents only .08% of total 2000 revenue. Thus, the additional cost of the PBA's proposal will have a *de minimis* financial impact on the County and its residents and taxpayers, a factor which must be considered by the arbitrator in accordance with N.J.S.A. 34:13A-16g(6).

The County has a large surplus which has increased significantly over the last eight years. The surpluses in 1993 and 1994 were \$6.7 million and \$12.3 million respectively. This had grown to over \$21 million in both 1999 and 2000. Some of that surplus, as is typical, is used in the succeeding year's budget. The percentage of surplus utilized has ranged from a low of 22.24% in 1993 to a high of 31.52% in 1996. In 1999 and 2000, the percent of the fund balance used was 24.5%. This is said to demonstrate the County's ability to regenerate significant surplus each year and this has a positive effect on the lawful authority of the employer (N.J.S.A. 34:13A-16g(5)) as well as both the interests and welfare of the public (N.J.S.A. 34:13A-16g(1)) and the financial impact on the governing unit, its residents and taxpayers (N.J.S.A. 34:13A-16g(6)).

The County's results of operations, as set forth in the Annual Financial Statements ("AFS"), show that the County has consistently generated surplus during the year. The amounts have ranged from \$4.3 million in 1997 to \$8.1 million in 1999. It was \$5.3 million in 2000.

Looking at these numbers in relation to the proposed salary increases is revealing. The difference in costs between the County's proposal and that of the PBA in

1999 is only \$177,487. This is tiny compared to the amount generated that year from operations. Similarly, the difference between the costs of the two proposals in 2000 is only \$368,487. Again, this would require only a slightly smaller transfer of surplus to the following year's budget.

Further, the County has consistently had substantial unexpended balances of appropriation reserves. These figures, again taken from the AFS, reflect amounts ranging from \$2.0 million in 1996 to \$3.7 million in 2000. This has been an ongoing situation which demonstrates the ability of the County to regenerate surplus.

The County also has a large cash balance. This exceeded \$56 million as of December 31, 2000. This is important because it indicates not only that the County will not have to borrow to met its expenses but that it will be able to generate additional revenue from the cash balance.

The opinion of Mr. Foti, the PBA financial expert, is that the County will be able to continue to regenerate surplus in 2001. This opinion is based on what the County has been able to do in recent years and an expectation that there will continue to be sound financial management in the County. This, too, reflects positively on the above-cited statutory factors: N.J.S.A. 34:13A-16g(1), (5) and (6).

Those same factors, and particularly N.J.S.A. 34:13A-16g(1) and (5), require the arbitrator to consider the CAP law and its attendant limitations. Mr. Foti, however, in his certification, explained why the County does not have a CAP problem or restriction in 1999 or 2000. The CAP Law is different for counties than it is for municipalities. It limits budget increases based on expenditures for municipalities but for counties limits are based on the tax levy. The evidence shows that the County did not use all of its CAP in 1999, when a bank of \$4.1 million was available for use in 2000, and in 2000, when a bank of \$4.9 million was available. The County in 2001 used only 4% rather than the permitted 5% to increase its budget. The PBA proposal costs only \$87,931 more than

that of the County in 1999 and only \$182,922 more in 2000. Therefore, it is clear that the County has the lawful authority under the CAP Law to increase expenditures and to pay for the increases proposed by the PBA. The PBA notes that Arbitrator Mastriani, in his decision involving the Prosecutor's investigators, also concluded that the County did not have a CAP problem. (PBA Exhibit F-70)

To further support its argument that its proposal would not have a negative impact on the County's taxpayers, Mr. Foti made several other points. One is that assessed values increased between 1996 and 2000. The 1997 figure was \$18.98 billion; the 2000 figure was \$19.65 billion. Also, the County's debt, which stood at \$75.1 million at the end of 2000, is well below the legal limit of \$400 million based on 2% of equalized valuation.

Based on these financial factors and evidence, Mr. Foti concluded that the County has the ability to fund the PBA's proposed salary increases without having a negative impact on the taxpayers.

The PBA next addressed the reasonableness of its 6% salary proposal. It assembled wage and benefit data from the contracts of sheriffs' departments from 16 counties including Camden as well as the Camden County Park Police and Prosecutor. The PBA compared the salary of sheriffs' officers after ten years with longevity. For the 12 entities for which 1988 data were available, the Camden County Sheriff's officers ranked ninth, above only Sussex, Cape May and Hunterdon Counties. The average for the group, including the Camden County Prosecutor's investigators, was \$51,926. This was \$4,744 above the \$47,182 figure for Camden County Sheriff's officers. This low ranking implicates the comparisons mandated by N.J.S.A. 34:13A-16g(2)(b) and (c). In 1999, assuming a 6% raise for the Camden County Sheriff's officers, they would rank 12th of 19 with a salary of \$50,013 compared to an average of \$51,858 (almost \$1,800 below the average) and well below both the Camden County Park Police patrolmen and

Prosecutor's investigators which are said to be an even better comparative group. The average percentage increase for these entities was 4.25%.

For 2000, again assuming a 6% increase for the Camden County Sheriff's officers, the ranking would remain 12th. Camden's salary would be \$53,014 and the average was \$53,786. The average increase reported that year was 4.31%.

One the other hand, if 3% raises were received in 1999 and 2000, as proposed by the County, the Camden County Sheriff's officers would be \$3,261 below the average in 1999 and \$3,731 below the average in 2000. Even worse, with these increases, the Camden County Sheriff's officer would fall \$11,844 behind the Camden County Prosecutor's investigators in 2000 and \$6,924 behind the Park Police. Again, the comparative salary data, both within the County and throughout the State, is said to favor the 6% increases proposed by the PBA.

The PBA reviewed the compensation data (pay, uniform allowance, holidays, vacations, bereavement, prescription benefits) submitted by the County and identified what it believes to be a large number of errors, a number of which it specified. Furthermore, it disputed the report submitted by the County's economist, Dr. Thomas Hamer, pointing out errors in salary increases received by the Sheriff's officers in several years as well as other errors.

The PBA discussed its proposal to increase from \$350 to \$500 the County's fringe benefit payment to the PBA health and welfare plan. This is used by the PBA to pay for dental insurance and an eye program. The \$350 payment has been in effect since 1997. The PBA notes that the Park Police patrolmen receive payments of \$470 for single coverage and \$1,115 for family coverage for this benefit in the 1999 to 2001 contract. Further, the costs have increased considerably over the years and the current payment does not begin to cover the costs. The cost of these programs in 1992 was \$605.16 per employee; it was \$942.24 in 2001. On a comparative basis, the PBA's

proposal should be awarded. Further, the County should be directed to continue to make payments two quarters in advance as it has been doing.

The PBA urges a rejection of the County's other economic proposals. The County has asked to have the traditional indemnity plan eliminated. This would be a major giveback and the County offered no evidence in the form of testimony or exhibits to support this proposal. The County did not indicate how many Sheriff's officers would be affected or what the costs of the plan are or other critical information. While Mr. McPeak stated in his certification that costs of this plan doubled from 2000 to 2001, this was not supported by documentary evidence. The PBA is strongly opposed to this proposed giveback.

There also should be no increase in the prescription co-pay. Again, the County provided no supporting testimony. The County did provide charts which purport to show co-payments for generic drugs and name brand drugs in New Jersey's 21 counties but the PBA contends that much of the data on those charts was incorrect and it submitted contract excerpts from various counties to support its position. The County also failed to provide information showing what it would save if a change were made.

The PBA also urges a rejection of the County's proposal to change the formula for opting out of insurance coverage. The County did not support this proposal and the arbitrator asked it to submit information but it failed to do so. In the absence of supporting evidence, the proposal cannot be awarded.

The PBA is seeking an additional 1% salary increase for sergeants in 1999 and 2000. There are several reasons for this proposal. One is that these sergeants earned less in 1998 than a Park Police patrolman (\$52,540 v. \$52,680). The difference is even greater when the salary of \$56,375 for a first class patrolman is considered. This is a better comparison because sergeants tend to have more experience. They also earned less than a Prosecutor's investigator (\$52,540 v. \$57,029). The investigators also have

a senior investigator rate which is \$61,348 which they receive after 20 years of police service and this makes the comparison even less favorable to the Sheriff's sergeants.

Compared with other sheriffs' sergeants in New Jersey, the Camden County Sheriff's sergeants are far below the average. Including longevity, their figure of \$52,540 is \$6,395 below the average or \$58,935 received by sergeants in eight other counties for which data were available. When sergeants with 15 years of experience are compared, the differential is even greater. Thus, Sheriff's sergeants lag even more than do Sheriff's officers. Therefore, the additional 1% increases are justified.

The PBA argues that the data compiled by PERC regarding salary increased awarded, which the County cited, understate actual increases. The data do not include longevity increases, increases in clothing allowance, additional personal days, etc. It provided examples from several awards to demonstrate this point. In one, sergeants were given an additional \$1,000, a new \$1,550 step 15 was added and payment for unused sick leave was increased from \$10,000 to \$15,000 (PBA Exhibit Butler Award-23). In the Phillipsburg award, longevity steps were increased by \$300 by Arbitrator Mastriani, thus raising the value of the salary by an additional .56%.

The PBA asks that the County's non-economic proposal to change language in Article VIII, Section 7 of the agreement be denied. This relates to the hiring rate. The County has claimed the prior PBA attorney committed a fraud by slipping new language into the agreement which the parties had not negotiated or agreed to. The PBA points out, however, that the Sheriff signed the contract and had an opportunity to review it before doing so. The Sheriff was represented by counsel in that proceeding. The County has taken no legal action since the March 7, 1997 signing of that contract to revise the provision. An interest arbitration proceeding is not the right forum to argue fraud; this must be presented to the Superior Court. The parol evidence rule prevents the consideration of extrinsic evidence and binds the parties to their signed contract.

There was not a full hearing on this issue before the interest arbitrator. Further, the Sheriff presented no evidence to indicate why the agreement should be modified as he proposed.

The PBA argues that the decision of Arbitrator Mastriani in the Prosecutor's investigators case is highly relevant in deciding the present case. It notes that the arbitrator in that matter found that the pattern of settlement claimed by the County was not what the County represented it to be. He found that there had been additional monetary benefits which increased settlements. He also cited the County's increasing results of operations, the stable tax rates, the strong borrowing power and the absence of a CAP problem.

The PBA cites the 32 Sheriff's officers who have left, retired or been promoted since January 1, 1999 as evidence that there has not been continuity and stability of employment. Only six of these were promoted so 26 officers, many of whom were younger officers, left the Department for various reasons. This shows tremendous turnover and instability. Better wages and benefits are necessary to reduce this problem, according to the PBA. This is one of the statutory factors which must be considered: N.J.S.A. 34:13A-16g(8).

The PBA cited the 2000 Camden County Improvement Authority Bond document dated July 15, 2000. This provides information on the population, government, history, commercial locations, health services, recreational facilities, transportation facilities, etc. in the County. It lists the major employers. This document shows that the County's bond rating was upgraded in the fall of 2000 from A to A+ by Standard and Poor's. Newspaper articles indicate that the County has been able to fund projects such as a new library in Camden and to improve the park system while maintaining a stable tax rate. It also provides aid to Camden City.

Finally, the PBA submitted data which show the tremendous amount of work performed by the Sheriff's officers as set forth in the Department's annual reports. These are said to demonstrate the dangers and responsibilities which these officers experience.

For the above reasons, the PBA asks the arbitrator to award its economic proposals and non-economic proposals and to reject the economic and non-economic proposals of the County.

Discussion

The arbitrator is required "to separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria set forth in subsection g." Due weight is to be given to those criteria which are judged to be relevant. Each criterion must be considered. Those deemed relevant must be explained and there also must be an explanation as to why any criterion is deemed not to be relevant.

I have considered the evidence which has been presented as well as the arguments of the parties. I have examined the evidence in light of the statutory criteria. Each criterion has been found to be relevant, although the weight given to different factors varies, as discussed below. I have determined the net annual economic changes for each year of the agreement.

I shall set forth the terms of the award at this time so that, in discussing the evidence and applying the statutory criteria, the terms of the award will be the reference point rather than proposals of the parties which will not be awarded. Each party, of course, related the evidence and its arguments to its offer and that of the other party. I shall not do so because, in this conventional arbitration proceeding, I have the authority and responsibility to fashion the terms of the award.

I shall first address the economic issues proposed by the parties.

Both parties have agreed that the new agreement should have a term of four years, January 1, 1999 through December 31, 2002. I agree.

I shall award the following salary increases: step one shall be increased by 2% each year of the agreement; step two shall be increased by 3% each year of the agreement; step three shall be increased by 4% each year of the agreement; step four shall be increased by 4.5% in 1999, 2000 and 2001 and by 4% in 2002. Sergeants' pay shall be increased by the same percentages as the fourth step officers. There shall be a new hiring rate for all employees hired after December 31, 2001 of \$32,391. This will result in the addition of one step to the salary schedule in 2002. There shall be a new first class patrolman rate and first class sergeant rate effective January 1, 2002 for all officers and sergeants upon completion of 22 years of service in the New Jersey Police and Firemen's Retirement System. The rate for first class patrolmen shall exceed the fourth step rate by 7% and the rate for first class sergeants shall exceed the sergeant rate by 7%.

Additionally, I shall award an increase of \$150 per employee in the amount of the County's contribution to the health and welfare fund effective January 1, 2001 and an increase in the clothing maintenance allowance of \$100 per employee effective January 1, 2002.

I also shall award an increase in the prescription co-pay to \$5.00 for brand name drugs and to \$2.00 for generic and mail-order drugs.

Finally, the benefits shall be applied, for their period of employment, to all officers employed during a portion of the term of this agreement who were not terminated.

While I shall discuss the costs of this award with reference to the statutory criteria at length below, I shall discuss my general thinking behind the economic components of this award without regard at this time to its costs. The percentage increases parallel

those awarded by Arbitrator Mastriani for Prosecutor's investigators for 1999, 2000 and 2001. He awarded increases of 2% to the first and second of the eight steps, 3% for the third and fourth of the eight steps, 4% for the fifth and sixth of the eight steps and 4.5% for the seventh and eighth of the eight steps.

I have awarded 4% in 2002 because that number more closely reflects the increases generally being awarded by arbitrators and voluntarily accepted by parties.

I have added a new hiring rate for two reasons. First, the current hiring rate is high. The County submitted the minimum rates for sheriffs' officer for 2002 in ten counties. A hiring rate of \$32,391 will exceed that in all but one of those rates (\$34,436 in Bergen County). It is far above the 2001 minimum rates in five other counties. Second, the number of steps in Camden is low in relation both to the Prosecutor's investigators who have eight steps (plus senior investigator) and the Park Police patrolmen who have four steps and a top patrolman rate (plus first class patrolman). It also is low in relation to other sheriffs' officers in New Jersey as reflected in the attachment to Mr. Dodson's certification (County Exhibit C-29D). Thus, an increase in the number of steps is reasonable.

I have awarded first class rates for both patrolmen and sergeants after 22 years of service in the PFRS at rates of 7% above the top rate because this parallels the provision provided to the Park Police patrolmen and sergeants although it is less favorable than the senior investigator rate enjoyed by Prosecutor's investigators which is achieved after 20 years of service and which is 7.57% above the top rate.

The PBA proposed an increase in the County's payment to the health and welfare fund. That payment now is \$350. This is used to provide dental and optical insurance for the officers. The PBA submitted evidence which indicates that the costs of these benefits exceed the amount paid by the County. The cost of these two benefits was \$942.24 in 2001, as set forth in the Certification of PBA Treasurer Thomas Gladden.

Because most counties provide these benefits to employees, it is not possible to compare Camden's Sheriff's officers with those in other counties in this area. Within the County, the benefit varies. The Prosecutor's investigators receive \$220.38 for these benefits; the Park Police patrolmen receive \$450.84 for single coverage and \$1,095 for family coverage plus an additional \$20 for vision care. The corrections officers receive \$450. The PBA proposal to increase the County's payment for these benefits to \$500 is reasonable. I shall grant it effective January 1, 2001. I also shall grant the proposal of the PBA that the County be required to continue its practice of making payments two quarters in advance.

The PBA also has proposed an increase in the clothing maintenance allowance. Currently employees receive \$625 for this purpose. The PBA is asking for an increase to \$700 in 1999, to \$750 in 2001 and to \$800 in 2002.

The Sheriff's officers are now in the middle compared to their counterparts in New Jersey. Middlesex County pays nothing, Hudson County pays \$100 and then there is a jump to \$400 paid by Mercer and Union counties, \$425 paid by Salem and \$475 paid by Warren County. Cumberland County pays \$550, Cape May, Essex, Hunterdon and Ocean counties pay \$600, Burlington County pays \$650, Gloucester County pays \$750, Bergen, Morris and Sussex counties pay \$800, Somerset County pays \$970, Monmouth County pays \$1,000, Atlantic County pays \$1,150 and Passaic County pays \$1,425.

Within Camden County, Prosecutor's investigators receive no clothing maintenance allowance or clothing allowance; the Park Police patrolmen receive \$1,007; the corrections officers receive \$925 in 1999, \$975 in 2000 and 2001 and \$1,025 in 2002. Thus, an increase is in order for this unit.

Based on these internal and external comparisons, I shall award an increase in the clothing allowance to \$725 in 2002. This is a modest increase which will improve the

ranking of these officers slightly in the State. The County increased these payments for both the Park Police patrolmen (\$50 in 1999) and corrections officers (\$300 in 1999, an additional \$50 in 2000 and an additional \$50 in 2002.

The PBA has asked that all benefits be applied retroactively to January 1, 1999 to all officers who retired or left for disability or any other reason. The County has not opposed this request. I shall grant it.

I shall grant, with a modification, the proposal of the County to increase the prescription co-pay. The County asked that the co-pays be increased for brand name drugs from \$4.00 to \$6.00 and for both generic and mail-in prescriptions from \$0.00 to \$2.00. I shall grant the request but limit the co-payment for brand name drugs to \$5.00. That is the amount of the co-pay required for both corrections officers (Article XXVI, Section 1) and Park Police patrolmen (Article VIII, Section A4).¹¹ I am granting this proposal, notwithstanding the fact that the County failed to indicate its savings associated with this change, because it is a minimal change and because it retains a similarity among these employees at least in this area. Also, only three other counties have a \$0.00 co-pay for generic drugs (County Exhibit Tab 18) and only three have a co-pay of \$3.00 or \$4.00 for brand name drugs (County Exhibit Tab 19). A \$7.00 co-pay for brand name drugs is the most common. Further, the cost of prescription drugs for the County has been increasing significantly (County Exhibit Tab 20). While I cannot quantify the value of this change to the County, I am mindful of it.

I have rejected the following economic proposals of the PBA:

1. Article V, Overtime (Proposal E).
2. Article IX, Longevity (Proposal I).
3. Article XVII, Vacations (Proposal P).

¹¹ It also is the amount sought by the County in the interest arbitration with the Prosecutor's investigators.

4. Public Safety Officer's Benefit (Proposal T).

The overtime proposal (PBA Proposal E) to receive double time for four holidays if worked in addition to eight hours pay for the holiday is rejected because of its added cost to the County (calculated by the County to be \$8,696), because it would be overly generous since the officers already receive time and one-half if they work the holiday in addition to holiday pay, and because the PBA provided no evidence that any other unit of County law enforcement officers receives such a benefit.

The longevity proposal (PBA Proposal I) is rejected because the PBA, while making a good argument in terms of the relationship between the Sheriff's officers and Camden County Park Police patrolmen, provided no real support for awarding 2% longevity payments to the five named individuals. The nature of a buyout is that there is necessarily a cutoff date. Employees either do or do not receive a benefit depending on their service or date of hire as of a certain date. In this case, the five named officers¹² all were hired after December 15, 1990. While it is true, as the PBA argued, that these employees all were laid off for various lengths of time in 1993 and 1994 and were recalled on July 31, 1994, none would have been eligible for the longevity payment even if they had not been laid off. These five (or nine) officers simply did not and in no event would have qualified for receipt of the 2% longevity payment under the terms of the parties' 1994 to 1995 agreement. In addition, the claim of these officers for a 2% payment is no stronger or different than would be a claim by other officers for higher levels of longevity. An officer who had five years of service as of December 15, 1995 and who received a 2% longevity raise would have been eligible to receive 3% one year later, 4% one year after that, 5% three years after that, etc. There was a cutoff. Benefits

¹² The County identified a total of nine officers, including the five named by the PBA, who lost time because they were laid off.

were frozen as of December 15, 1995. I shall not award a 2% longevity payment to the five named individuals.

I have rejected the proposal to improve the vacation schedule (PBA Proposal P) because, while the PBA can make an argument for an increase based only on a consideration of vacation days, when personal days are considered the case disappears in terms of other sheriffs' officers in New Jersey. These officers receive six personal days annually (Article X, Section 6). Camden is the only county in the State to provide six personal days. Two counties provide two days and two counties provide four days. The rest all provide three days. Thus, these officers enjoy an average of three additional personal days per year. That adds 75 days to the figures provided by the PBA over a 25-year career and moves these officers to the top of the list when vacation and personal days are considered together. Also, the maximum number of vacation days is 26 in Camden and this exceeds the maximum in all other counties. Other sheriffs' officers may receive more days in earlier years but none gets more days than these officers after 25 years.

While the case is a little stronger when internal comparisons with the Park Police patrolmen and Prosecutor's investigators are considered, this does not change my conclusion. The investigators receive a total of 17 holidays and personal days. The Sheriff's officers receive 19 such days. The Park Police patrolmen receive 21 such days. Thus, the Sheriff's officers earn 50 more holidays and personal days over 25 years than do the Prosecutor's investigators. This reduces the 59 day advantage enjoyed by the Prosecutor's investigators over the Sheriff's officers when only vacation days are considered to only nine days when vacation, holiday and personal days are considered. The data submitted by the PBA indicate that the Park Police patrolmen receive only 12 more vacation days over 25 years than do Sheriff's officers which is relatively close. Also, the Sheriff's officers can earn a maximum of 26 vacation days

whereas the maximum number of vacation days for Park Police patrolmen is 23. These differences do not justify the change in the vacation schedule sought by the PBA.

The reason for the rejection of the proposal relating to the Public Safety Officer's Benefit (PBA Proposal T) is that I am suspicious of and do not know enough about a benefit which costs only \$1.00 per year. According to the article provided by the PBA, this coverage provides "a take home car policy that provides line of duty death coverage for officers who drive their own vehicles to and from work." (PBA Exhibit J-16) According to the PBA, a nominal payment by the employer to the employee as reimbursement for travel expenses provides for benefits paid by the Federal government to survivors of officers killed or permanently disabled in the line of duty. Without more information, I am unwilling to award such an unknown benefit which may have implications for the County which are not known at this time. If it is truly a benign benefit, the PBA may be able to convince the County of its merit. I am unwilling to award it.

I also have rejected the following economic proposals of the County: its proposal to eliminate traditional coverage and its proposal to change the opt-out incentive for employees who elect not to retain County health insurance.

The County did succeed in eliminating the traditional indemnity plan in two of the other three rank and file units which are eligible for interest arbitration. Thus, both the corrections officers and the Park Police patrolmen no longer have access to an indemnity plan (except on a limited basis for certain retirees). The Prosecutor's investigators, however still have access to such a plan. While the County proposed its elimination in those negotiations, it was not successful in obtaining this change. I recognize that there is a trend against traditional indemnity coverage because of its high costs, as reflected in the certification of Mr. McPeak. The County, however, did not submit information which indicates the number of employees who would be affected nor

the savings that would be realized. Thus, I could not attribute a cost (or savings) to this item. Further, the Sheriff's officers compare unfavorably to the Prosecutor's investigators in several areas of wages and benefits (particularly salary and longevity) so, absent a compelling case by the County, I am not willing to award this change which is adamantly resisted by the PBA.

None of the contracts submitted for employees eligible for interest arbitration in the County indicate that the County changed the opt-out provision. The County did not even include this as a proposal in its final offer to the Prosecutor's investigators. The County provided no information on its savings if this were to be granted nor the cost on not changing it. There is simply not a valid basis for accepting this proposal.

I turn now to a consideration of the total net annual economic changes for each year of the agreement. Ideally, there should be a list of employees in the bargaining unit at the end of the last contract along with their salaries as well as information on the dates of hire and departure of all officers who were employed subsequent to that date along with salaries. Because almost three years have gone by since the old contract expired, it should not be necessary to project costs. They can be calculated with some certainty for that period of time. Given the materials submitted by the parties, however, it is not possible to do that in this case.

The County submitted and based its cost calculations on a listing of all employees in the Department as of June 19, 2001, a list of 169 officers and sergeants with a total payroll of \$7,960,114. (County Exhibit Tab 4) That is a reasonable proxy for the precise figure even though the June 2001 listing includes employees who were hired subsequent to January 1, 1999 and it excludes employees who left after January 1, 1999 but before June 2001.

The PBA submitted several things which it says were based on two rosters provided to it by the County. The rosters were the December 1998 roster (PBA Exhibit

K-10 to 14) and the July 2001 roster (PBA Exhibit K-15 to 19). Both of those rosters included lieutenants and captains who are not in the unit. Those employees and their salaries can be subtracted. The PBA then compiled a list which purports to be all people who were employed in the Department at any time from the end of 1998 through July 2001. The problem with this list is that the PBA excluded sergeants who are included in this bargaining unit.

There are other problems with the data. The two rosters for June and July 2001 prepared by the County do not match exactly. For example, on the first page of the July 2001 roster (PBA Exhibit K-15), there are three names which do not appear on the June 19, 2001 roster (Steven Bestafka, Allison Beverly and Laura Carpenter). Thus, it is simply not possible based on the information which has been submitted to make the precise calculations for 1999, 2000 and most of 2001 which could be made with that information.¹³

Based on the evidence which was submitted, I shall accept the County's figure of \$7,960,114 as the 1998 base.¹⁴ The vast majority of Sheriff's officers were at the top rate of \$47,182 in 1998, meaning that they were hired in or before 1994. Thus, to simplify the calculations, I shall assume that all Sheriff's officers are at the top rate. There is a single rate for sergeants so they all earned that rate. This method overstates the costs to the County somewhat because it attributes raises of 4.5% for three years and 4% for one year to all employees whereas only those who are step 4 officers and sergeants will receive those increases.

The salary base in 1999 increases by 4.5% or \$358,205 to \$8,318,319; the 2000 base increases by 4.5% or \$374,324 to \$8,692,643; the 2001 base increases by 4.5% or \$391,169 to \$9,083,812; the 2002 base increases by 4% or \$363,352 to \$9,447,164.

¹³ I devoted a substantial amount of time attempting to reconstruct the precise personnel changes but concluded that it was not possible based on the information provided by the parties.

¹⁴ This figure includes longevity costs.

In addition, the 2002 figure must be increased to reflect the new senior officer rate which is 7% above the fourth step for officers and sergeants with 22 years of service in PFRS. The County roster, County Exhibit Tab 4, lists nine sergeants and seven officers with 22 years of service in 2001. These employees would be eligible for the senior officer rate. The added cost would be \$66,725.¹⁵

Freezing the hiring rate and adding a step in 2000 provides significant long-term savings but these cannot be quantified at this time. The frozen hiring rate means that the County will be able to hire at the same rate in 2002 as it has since 1998 and the additional step will extend the time it will take for newly hired officers to reach the top step.

Additionally, the 2001 base has to be increased by \$150 per employee or approximately \$25,550 (170 officers times \$150) to reflect the increased cost to the County of its contribution to the health and welfare fund. Also, the 2002 figure has to be increased by \$17,000 (170 officers times \$100) to reflect the increase in the clothing maintenance allowance.

When these additional costs are added to the base salary figures, the 2001 cost increases to \$416,719 or a total of \$9,109,362 and the 2002 cost increases to \$447,077 or a total of \$9,530,889.

Turning to the non-economic issues, the parties reached agreement on several items which shall be included in the award and the new agreement.

First, they agreed to language in Article V, Overtime, Section 6, under which, reversing the current prohibition, Sheriff's officers assigned to process serving will be entitled to work overtime with the approval of a supervisor (PBA Proposal E).

¹⁵ The difference between the senior rate and the top rate for officers is \$3,920 times seven officers equals \$27,440. The difference for sergeants is \$4,365 times nine sergeants equals \$39,285. The total is \$66,725.

Second, they agreed to eliminate references to "I.D. Officers" and "Sr. I.D. Officers" from Article VII, Rates of Pay, Section 1 (PBA Proposal G1). Those are titles which are no longer in effect.

Third, they agreed to two changes in the grievance procedure (PBA Proposal R). They agreed to amend Section 2(a) by removing the last sentence and adding the following to the end of what will be the last sentence: "including all minor discipline up to and including five (5) days suspension, excluding counseling notices." They also agreed to add a new Section 8 under which it will be specified that Sheriff's officers will be subject to the New Jersey Attorney General's Guidelines as they relate to internal affairs investigations. The language is as follows:

The sworn law enforcement employees of the Camden County Sheriff's Department shall be subject to the New Jersey Attorney General's Guidelines as they relate to internal affairs investigations, except any major discipline violations of internal affairs guidelines are not subject to binding arbitration.

Turning to the contested issues, the most important non-economic issue or group of issues concerns bidding. PBA Proposals A, B, C and M all deal with this issue. The PBA has indicated that this is its highest non-economic priority. At the same time, the Sheriff has indicated strong opposition to the proposal of the PBA to permit certain positions to be filled on the basis of bids with seniority and education being the determining factors.

While both parties have expressed themselves strongly on this matter, the fact is that its impact will be limited. Under the PERC decisions, as affirmed by the Appellate Division, almost half of the positions in the Sheriff's Department cannot be subject to bidding. It was determined that those positions required special training, experience or other qualifications. The only positions about which PERC permitted the parties to

negotiate for bidding were those in the Hall of Justice (50), Transportation (34), Jury Management (1) and Records (1).

Not subject to bidding, whether occupied by an officer, sergeant or both, are the following positions: training/armorer, civil office, civil process, special services, crime prevention, ATF task force, HIDTA program, S.I.U., homicide, intelligence, missing persons, Identification Bureau, security, bike patrol, K-9 and tech services. Presently, approximately 54 officers and 22 sergeants are in those positions. However, once the Sheriff has assigned the approximately 25 officers and sergeants to the Identification Bureau, the parties are permitted to negotiate regarding bids for shift assignments in the Identification Bureau.

The primary reason expressed by the Sheriff for his opposition to this proposal, as set forth in his certification, relates to his concern that "it will hamper my ability to assign my employees to particular jobs to meet the governmental policy goal of matching the best qualified of those employees to a particular job." (Sheriff's September 25, 2001 Certification, p. 1)

This argument is the same as that presented by the Sheriff to PERC where it has already been rejected. While the Sheriff's concern is a legitimate one, PERC determined that it must be balanced against the right of parties to agree that seniority can be a factor in shift assignments where qualifications are equal and managerial prerogatives are not compromised. PERC decided that for the limited positions which are now subject to bidding under the PBA proposal, bidding would not interfere with the special training, skills or other qualifications necessary to perform in the positions.

Other concerns also were expressed by the Sheriff. These generally concerned areas which are of particular concern to the PBA because they can lead to the perception that assignments are made on the basis of favoritism or for disciplinary reasons or for other reasons which are not proper. If the Sheriff believes that an officer

is abusing sick leave, he can and should address that concern directly and not indirectly through assignments. If he believes that an officer should be disciplined, the officer should be told why and disciplined with that discipline being subject to challenge through the usual outlets. The PBA proposal explicitly recognizes the right of the Sheriff to meet training needs and specialized abilities to meet the safety needs of the citizens. If any employee in a bid position is not doing the job, the Sheriff obviously has the right, as he always does with respect to any employee, to work with and, if necessary, discipline the employee. This is the usual responsibility of management.

The Sheriff also has argued that "assignments" in the context of this proceeding refer to the Transportation Bureau or the Court Security Bureau and not to what he calls the particular "posts" within the Court Security Bureau or Transportation Bureau. I disagree. PERC's March 31, 2000 decision stated that the PBA proposal defined "shift to include" general assignment within a shift" and then noted that 16 "assignments" in certain specialized units were excluded. These 16 "assignments" were within each of the three Divisions: Administrative and Civil, Investigative and Uniform. One of the biddable positions, Records, is in the Administrative and Civil Division. Some of the biddable positions (after assignments have been made) – those in the Identification Bureau – are in the Investigation Division. Finally, some of positions in the Uniform Division are not subject to bidding. Those in the K-9 unit and tech services are not subject to bidding. Thus, it appears that, as contemplated by PERC, it is specific positions which are subject to bidding. PERC used the word "assignment" in the same way as the PBA used that word in its listing of assignments on which officers could bid. There is nothing in the record to convince me that, after exempting those positions not subject to bidding, the remaining positions cannot be handled properly and adequately by any of the remaining officers based on their general training.

Further, the PBA provided numerous certifications from employees which indicate the importance of this proposal to the PBA and the reasons behind it. Morale is a major consideration, particularly given the current and, it appears, longstanding, perception that assignments are made for reasons which are not always proper or have not been adequately explained. The absence of an explanation can lead to such perceptions. Both parties will be better served by a system which is perceived as fair and consistent and transparent. The PBA proposal meets these standards.

When assignments are based on seniority and education, there is transparency and equity which is important. Senior officers have certain advantages and this is well accepted among employees.

Yet another advantage of a bidding system for certain positions is that it permits employees to accommodate family and child-rearing responsibilities or the need or desire for second jobs in the most advantageous manner. These are legitimate concerns of employees and ones which should be respected to the extent possible. While it should be obvious that the requirements of the job as a Sheriff's officer must come first, it still is possible to accommodate certain concerns and interests of employees without sacrificing the mission or efficiency of the Sheriff's Department.

Finally, there is no reason to believe that officers assigned by the Sheriff to the Identification Bureau cannot perform that work on any of the shifts. See the September 4, 2001 certification of Sergeant Henry Monroe, Jr., PBA Exhibit L-21 to 23. For the same reasons as set forth above, I have concluded that bidding on shifts within the Identification Bureau is appropriate and will further the interests of the employees without undermining the Department in any significant way.

For the above reasons, I shall award the PBA's proposal to permit employees to bid for assignments in Transportation, Hall of Justice, Jury Management and Records based on seniority and education as well as for assignments on shifts in the

Identification Bureau among employees who have been assigned to that Bureau. While I shall award the language as proposed by the PBA, I urge the parties to look carefully at the language to assure that it clearly expresses the intent and is not redundant.

I shall reject PBA Proposal D, Article IV, Work Schedule, under which Sheriff's officers assigned to 24-hour units (Identification Bureau and Transportation) would be required to report – and be paid overtime for – 15 minutes prior to their shift. The PBA provided no evidence to justify this proposed change which appears to be an attempt to build overtime into the schedule. The Sheriff opposes this proposal so that he can retain the ability to establish and change any early reporting requirements. There is no evidence that this has created problems or led to complaints.

I shall award the PBA's proposal regarding communicable diseases (PBA Proposal Q). That proposal is exactly the same as language which appeared in the agreement between the County and the Camden County Park Police at Article XXII of their 1995 to 1998 agreement and which was continued in their 1999 to 2001 agreement at Article XXI. The County has provided no reason not to provide a similar benefit to the Sheriff's officers nor has it claimed that the provision caused any problems in the Park Police unit. The health of officers is surely in the interest of the County as it is in the interest of the employees. This is a reasonable proposal.

There are several parts of the grievance procedure upon which the parties did not agree. The PBA is seeking to expand the definition of "aggrieved party" in Article XX, Section 2(b) to include the PBA. This is a statutory right enjoyed by the majority representative as determined by the Supreme Court in Red Bank Regional Education Association v. Red Bank Regional High School Board of Education, 78 N.J. 122 (1978). Accordingly, I shall grant the proposal of the PBA so that the provision will read as follows:

An aggrieved party is any employee, group of employees, or the PBA which employee, group of employees or PBA may submit a grievance individually, collectively or on behalf of its members.

Second, the PBA is seeking to change the steps of the grievance procedure in an attempt to simplify and streamline that procedure. While there is an abstract logic to the proposal, the Sheriff was not willing to agree and the PBA failed to provide any evidence that the existing grievance procedure, even if it is cumbersome, has created problems or undue delays in processing grievances. Accordingly, I shall not order a change in the steps of the grievance procedure.

Third, the PBA is seeking to create a deadline for the Sheriff to respond to decisions of the County Labor Relations Committee or its hearing officer. As I read Article XX, Section 4C of the 1995 to 1998 agreement, there is a requirement that the Sheriff issue a written decision accepting, rejecting or modifying the decision within ten days. Accordingly, there is no need to create a deadline for an answer from the Sheriff and I shall reject this proposal.

Fourth, the PBA is seeking County payment of attorneys to defend officers who face criminal or civil charges or claims. This proposal is overly broad and would seem to apply to actions of officers which are beyond the scope of their duties. The County has a practice of supplying counsel where the charges arise out of the officer's actions as a law enforcement officer and are a legitimate exercise of police powers. Officers also enjoy certain statutory rights to representation in the area of criminal charges. The County is not willing to go beyond the current practice or the statutory protections. The PBA has not demonstrated a need to exceed those protections. I shall deny this part of the PBA proposal.

I also shall reject the following non-economic proposals of the County:

1. Article XI, Section 4: Change in the uniform system.

2. Article VII, Section 7: Hiring rate for Sheriff's Investigator.

I have rejected the proposed change in the uniform system for several reasons. First, this was the subject of discussions between the parties when I first became involved in these negotiations. The parties agreed to attempt to resolve this issue away from the bargaining table and it appeared that they would do so. This did not happen. I am unwilling to impose a change but obviously the parties are free to agree upon any changes they believe make sense to them. Second, the County failed to provide evidence to support the need for any change in the current system. Accordingly, absent mutual agreement of the parties, this should not be changed.

I also have rejected the Sheriff's proposal to change Article VII, Section 7 regarding the hiring rate for Sheriff's Investigators. The Sheriff alleges that the current language which states that "the Sheriff and PBA may agree that a Sheriff's Investigator with special skills and experience may be hired at a higher step on the guide" was mistakenly included in the 1996 to 1998 agreement and that there was no agreement to change the prior language which permitted the Sheriff to hire Sheriff's Investigators above the first step of the salary guide "with notice to the PBA..."

I do not believe that this issue should be dealt with in an interest arbitration proceeding except on the merits of the proposal by applying the same analysis and standards as are applied to all other issues proposed by the parties. A change in a contract based on mistake or other reason cannot be made by an interest arbitrator.

On the merits of the proposal, the Sheriff failed to provide any evidence that he has been hindered by the current language or even that he sought and that the PBA rejected his effort to hire a Sheriff's Investigator with special skills and experience above the first step of the salary guide. As set forth in County Exhibit Tab 25, 32 officers have been hired since January 1, 1999. Given this volume of hiring, the Sheriff's failure to cite

a single instance of a problem relating to the current language is telling. The Sheriff failed to justify the need for a change in Article VII, Section 7.

I turn now to a discussion of the evidence and the parties' argument in relation to the statutory criteria.

Interests and Welfare of the Public The Supreme Court made it clear in Hillsdale that the interests and welfare of the public must always be considered in rendering an interest arbitration award and this explicitly requires a consideration of the CAP Law as part of this consideration. The Court stated that the public is a "silent party" to these proceedings.

It is obvious that the interests and welfare of the public require adequate public services and this must include the services provided by the Sheriff's Department. This requires a sufficient number of employees to provide the necessary services which, in the case of the Sheriff's Department, are particularly diverse. A primary function is the provision of security in court rooms. They also transport prisoners. They do identification work. In addition, they perform a number of highly specialized law enforcement functions such as diving, bomb squad, emergency response team, process serving, and K-9. They also provide officers to work with a number of other law enforcement agencies at the County, State and Federal levels.

While the public wants to obtain these, and all other services, as inexpensively as possible so that their tax rates can be as low as possible, it is necessary for the Sheriff's Department to provide a level of salaries and benefits which will attract and retain the caliber of officer capable of providing these services efficiently and effectively. Reasonable rates of compensation contribute to a productive and efficient work force with the high morale that is desirable. They also contribute to a stable and harmonious labor relationship which has a positive impact on productivity and efficiency.

The County has not claimed that it has a CAP problem and the PBA, citing the County's budgets, submitted evidence that there is not a CAP problem in Camden County. The County did not budget to the extent of the amount it could have under the CAP Law in either 1999 or 2000. Thus, money was "banked" in each of those years. The amounts were in the millions of dollars, far in excess of the total additional costs of this award. What this means is that there can be no argument that this award contradicts the interests of the public by exceeding the legal authority of the County under the constraints of the CAP Law.

While the County has emphasized the importance to its labor relations of respecting what it describes as a pattern of settlement, and while, as the County noted, I have shown respect for patterns of settlement in prior decisions, I am convinced in this case that pattern of settlement should not be controlling. First, this is not a situation in which there is a strict pattern of settlement. The decision of Arbitrator Mastriani did not follow what the County has described as such a pattern. Also, as set forth on the summary of contract settlements provided by the County (County Exhibit Tab 3), there are two wage patterns: three-year contracts with 3.9% mid-year of the first two years and 4% in the third year or four-year contracts of 3%, 3%, 3.75% and 3.75%. I will discuss the pattern argument more fully below but at this point it is sufficient to state that the pattern in Camden County is not as clear as have been patterns in other situations.

The overriding consideration, in my view, concerns the relationship between the Sheriff's officers and both the Park Police patrolmen and the Prosecutor's investigators. These Sheriff's officers lag behind those two groups of employees to an extent which I do not believe can be justified and which I believe threatens to undermine the ability of the Sheriff to attract and retain the caliber of officer which is necessary for these positions. The disparity between Prosecutor's investigators and Sheriff's officers is particularly large and an increase for these officers of less than the same percentage

increase received by those investigators would further increase the disparity in relative as well as absolute terms. As it is, the dollar disparity will be increased significantly. The award of a senior officer rate after 22 years is intended to provide parity with the Park Police patrolmen, although the Prosecutor's investigators enjoy a superior benefit and they also continue to receive longevity. On the other hand, freezing the hiring rate and adding an additional step will be a valuable (although presently unquantifiable) benefit to the County in future years.

I do not believe that it would further the interests and welfare of the public for Sheriff's officers to experience a decline relative to the Prosecutor's investigators. The increases which I have awarded in the clothing maintenance allowance and the health and welfare fund contributions are necessary for the same reason. I note that there have been a large number of departures from this unit. The County listed 32 Sheriff's officers who have departed since 1999 and this is about 18% of the unit to have left in two and one-half years.

I recognize that Camden is not a wealthy county, that its income levels are below the State average, that it has not seen much of an increase in assessed valuation, and that its per capita debt is very high. Nevertheless, the County's fiscal picture still appears to be sound with an increasing surplus and a demonstrated ability to regenerate surplus. Further, the impact of this decision will be minimal, given the cost of this award and the small extent to which this group impacts on the overall County finances. Thus, I believe that the interests and welfare of the public will be served by the award and that it will not have a negative impact.

Comparisons The statute calls for comparisons to be made with other employees performing similar services as well as with other employees generally in the following three groups: 1) in private employment in general, 2) in public employment in

general, and 3) in public employment in the same or similar comparable jurisdictions. I shall discuss each of these.

Little can be said about comparisons with private employees performing similar services. Neither party provided any evidence that there are comparable private employees who perform services similar to those performed by the Sheriff's officers. I deem this aspect of comparisons not to be relevant.

It is possible to compare the Camden County Sheriff's officers and private employees in general. I believe that such comparisons are important because ultimately, it is the private sector which generates the funds upon which the public sector is dependent. If private sector employees do not have jobs and do not receive sufficient wages and salaries, then they are unable to pay the taxes which fund government at all levels. The private sector also is a useful guide because private employers, unlike public ones, cannot simply raise taxes when they want or need more money. They must generate profits to remain in business. Economic considerations as opposed to political ones are predominant.

One of the requirements of the Police and Fire Public Interest Arbitration Reform Act is that PERC shall provide a survey of private sector wage increases for use by all parties. The information is to be both statewide and countywide. See N.J.S.A. 34:13A-16.5. PERC fulfills that obligation by providing surveys compiled by the New Jersey Department of Labor. The County submitted the 1999 survey in this case. PERC has provided its panel of interest arbitrators with the 2000 survey of which I take notice.

The 1998 to 1999 results show a total private sector increase of 4.3% with a 3.8% increase in Camden County. The 1999 to 2000 survey shows a total private sector increase of 6.9% with a figure of 3.4% in Camden County.¹⁶

¹⁶ The figures for counties range tremendously. Thus, there is a reported low of 1.3% in Warren County and a high of 20.4% in Morris County in the 1999 to 2000 survey. Because of these

The County provided data from the US Department of Labor Bureau of Labor Statistics on the employment cost index ("ECI"). This index reports changes in total compensation for private nonfarm employment. I have used the most recent data available from that source. The increase in 1999 in the northeast was 3.4%; in 2000 it was 4.2%; in the twelve months ended September 2001, it was 4%.

The County also submitted data published by the Bureau of National Affairs. The average first-year increase for all settlements in 1999 was 3.2%. It rose to 3.8% in 2000 (County Exhibit Tab 24).

The PBA submitted data on increases in personal income which is published by the New Jersey Department of Labor. The August 2001 New Jersey Economic Indicator reported an increase in personal income of 7.1% from the first quarter of 2000 to the first quarter in 2001. The national figure for this period was 6.1%. Thus, New Jersey was above the national average.

Given these figures, increases of 4.5% at the top step in 1999, 2000 and 2001 along with a 4% increase in 2002 appear to be justified in relation to this criterion. The salary increase which I have awarded for 1999 is very similar to the reported increase in New Jersey (4.3%) and the 2000 award is well below the reported increase (6.9%) in 2000. The salary award exceeds the increases reported by the ECI by about 2% over the first three years of the agreement. An award of 3%, 3%, 3.75% and 3.75%, as urged by the County, would be well short on this measure.

The second comparison is with public employees in general. The BNA data show that average first year increases for state and local government workers was 3.4% in both 1999 and 2000. The ECI for state and local government workers reflects compensation increases of 2.8% in 1999, 2.4% in 2000 and 5.6% in the year ending

extreme fluctuations, I am more comfortable with the Statewide figure than I am with those in individual counties.

September 2001. Thus, based on these figures, awards of 4.5% in those years exceed the national state and local government average in 1999 and 2000 but trail that figure for 2001. The excess is approximately 2.7%. This factor, standing alone, would suggest a somewhat lower figure than I have awarded.

The third comparison has two parts: comparisons with public employees in the same jurisdiction and comparisons with those in comparable jurisdictions. I believe that the comparisons which are in the same jurisdiction that are the most meaningful are those with Sheriff's officers and both Park Police patrolmen and Prosecutor's investigators. Comparisons with the correctional officers are less important because of the dissimilarity in jobs but they are nonetheless relevant in that both groups have access to interest arbitration and have police powers. Comparisons with employees in comparable jurisdictions would be comparisons with other sheriffs' officers in counties throughout New Jersey.

Prosecutor's investigators received, in an interest arbitration award, salary increases which varied depending upon their step. Investigators in the first two steps received 2% in 1999, 2000 and 2001. Those in the third and fourth step received 3% increases those years. Those in the fifth and sixth step received 4% in those years. Finally, those in the top two steps received 4.5%. I have followed that pattern in this award, although the Sheriff's officers have only four steps, one of the very few advantages which they enjoy over investigators.

In 1998, an investigator in training received \$31,585. One at the seventh step received \$57,029. Sheriff's investigators began at a slightly higher rate of \$32,391 but ended at \$47,182, almost \$10,000 below an investigator. With increases of 4.5% for three years for top investigators, the rate will increase to \$59,595 in 1999, to \$62,277 in 2000 and to \$65,079. With increases of 4.5% for those years for step four Sheriff's officers, their salaries will increase to \$49,305 in 1999, to \$51,524 in 2000 and to

\$53,843 in 2001. While the Sheriff's officer will maintain the mathematical relationship with Prosecutor's investigators, the dollar differential will increase from \$9,847 in 1998 to \$11,236, an increase of \$1,389.

Additionally, it should be noted that although the Sheriff's officers gave up longevity in 1995 with those then eligible for the benefit receiving it at the level for which they then qualified, the Prosecutor's investigators still receive longevity up to \$2,520 per year. This further adds to the advantage enjoyed by the Prosecutor's investigators in relation to the Sheriff's officers. Further, the Prosecutor's investigators have a senior investigator category which, beginning in 1999, is automatic after 20 years of police service. This step is 7.57% above the step 7 rate. It is because of this and a first class step for patrolmen and sergeants in the Park Police that I have awarded a senior officer step for Sheriff's officers and sergeants after 22 years of PFRS membership.

While it is very difficult to compare employees doing different jobs, it is true that both Sheriff's officers and Prosecutor's investigators are law enforcement officers who have attended a police academy. They sometimes work together. The work of some Sheriff's officers who provide court room security, which is the job performed by a plurality of Sheriff's officers, may be less demanding than that performed by most investigators but a number of Sheriff's officers also serve full-time or part-time in highly specialized functions: bomb squad, emergency response team, aviation, underwater search and recovery, K-9, missing persons, SIU, and various task forces. I do not believe that a differential larger than the existing one between the two groups can be justified.

The other important group for internal comparison purposes is the Park Police patrolmen. These patrolmen, like the Sheriff's officers, gave up longevity in their last contract but they did so on much more favorable terms than did the Sheriff's officers. Thus, rather than longevity payments going only to eligible officers at the rates to which

they were then entitled and being frozen at that level thereafter with new employees being ineligible for longevity, the steps on the wage schedule for Park Police patrolmen were increased by 5% except for those then receiving the maximum longevity of 6% for whom the salary step was increased by 6%. Thus, the Park Police patrolmen built longevity into the wage schedule whereas the Sheriff's officers did not do this. All patrolmen, present and future, will enjoy the benefit of the higher wage schedule. This affected the relationship between the two groups by increasing the differential between Sheriff's officers and Park Police patrolmen. Thus, in 1997 the fourth year patrolman in the Park Police received \$2,956 more than a fourth step Sheriff's officer but that number increased to \$5,019 in 1998.

The first step for a patrolman in 1998 was \$38,471.24. For a fourth year patrolman it was \$52,200.58. For those then eligible for 6% longevity, there was a top patrolman rate of \$52,679.92. Additionally, as stated, these officers also have a first class rate for both patrolmen and sergeants which is 7% above the top patrolman and top sergeant rates.

Based on the increase received by the Park Police patrolmen in 1999, it would require an increase of 4.4% for a Sheriff's officer to receive the same dollar increase received by Park Police patrolmen.

There was a difference of \$5,018 between the top rate for a Park Police patrolman and that of a Sheriff's officer in 1998. This is a difference which seems inappropriate, based on certification from PBA President John Reinmuth. I believe that an award which moderately improves the relationship of Sheriff's officers to Park Police patrolmen is appropriate on this comparative measure.

It is these two internal comparisons which I find to be the most significant factors in deciding this case. The County cannot reasonably claim that it cannot pay the Sheriff's officers about the same dollar increase that it agreed to pay the Park Police

patrolmen, especially when this is quite a bit less than it will be paying the Prosecutor's investigators. The substantial negative differential between Sheriff's officers on one hand and Park Police patrolmen and, even more dramatically, Prosecutor's investigators, on the other hand cannot be justified.

In its brief, the County cited a decision which I issued involving the Morris County Prosecutor's Office and PBA Local 327 (Docket No. IA-97-18). In that case, I discussed what I believed would be the disruption if I had awarded salary increases "which were significantly different from those received by the other county employees and particularly by the other county law enforcement employees." That is true. That argument, however, would have been appropriate (and may have been made by the County) in the case heard by Arbitrator Mastriani involving the Camden County Prosecutor's investigators. It is not relevant at this time since the Camden County Prosecutor's investigators did not follow what the County claims to have been the pattern. There is no pattern in Camden County at this time.¹⁷

The second part of this comparison deals with other sheriffs' officers in New Jersey. I discussed the starting rate above in explaining why I was freezing that rate. In part, this was based on the high minimum rate for Camden County's Sheriff's officers. The County provided data on top rates in 2002 in ten counties. Based on my award, the top rate in Camden County in 2002 will be \$55,997. Five of the ten rates provided by the County exceed that rate (by \$23,000 in Bergen County and by almost \$10,000 in Passaic County). The County also provided eight 2001 rates. With a rate in 2001 in Camden County of \$53,843, six of those eight counties will have higher maximum rates.

¹⁷ The County submitted a listing of all contract settlements in the County. These all provided either for three-year contracts with increases of 4% and 4% in the middle of the first two years and 3.9% at the start of the third year or for four-year contracts with salary increases of 3%, 3%, 3.75% and 3.75%. In addition, there were modest other improvements in various of these contracts. Mr. Dodson placed the value of these other items at less than .5% over the life of these agreements. (9-4-01 Transcript, p. 111)

It should be noted, however, that these rates are salaries only and do not include longevity. Most sheriffs' officers do receive longevity. Therefore, a better comparison includes both salary and longevity. Based on the evidence, the increases awarded will keep these officers in the lower half of the group but with reasonably comparable salaries.

The PBA submitted data showing total salary and longevity for a ten-year officer in 1998 in ten counties outside of Camden County. There was longevity in all but three of these counties. The rate in Camden County is fourth from the bottom.¹⁸ On the same basis, in 1999, an officer with ten years of service would rank tenth of 17 counties. The Camden County Sheriff's officer also would rank tenth of 17 counties in 2000.

The County also submitted data on interest arbitration awards and settlements as published by PERC. These show average salary increases in awards in 1999 and 2000 to have been 3.69% and 3.64% with voluntary settlements at 3.71% and 3.87%. The latest information provided by PERC, of which I take notice, covers the first nine months of 2001 and it shows average salary awards to be 3.65% and average voluntary settlements to be 3.92%. While the salary increase which I am awarding for the top step exceeds those figures, I believe that the award is justified in light of the other factors cited.

To summarize, the most significant factor is comparisons with both the absolute salaries and benefits received by the Camden County Park Police patrolmen and the Camden County Prosecutor's investigators. The award does not improve the relative position of the Sheriff's officers in relation to the Prosecutor's investigators but it does improve the relationship between Sheriff's officers and Park Police patrolmen to a limited extent, although both groups will continue to receive compensation well in excess of that

¹⁸ This excludes longevity in Camden which, I believe, is proper because longevity will not be received by any officer hired after December 15, 1990 nor will it increase for any officer hired thereafter.

received by the Sheriff's officers. The award is below the private sector increases in New Jersey but it exceeds the national figures for both wages and total compensation. It also exceeds average public sector settlements nationally and interest arbitration awards and voluntary settlements. This is justified, in my view, by the overriding consideration of the relationship with the two other Camden County law enforcement groups.

Overall Compensation I have discussed other economic issues which were in dispute in the earlier discussion of items which I was awarding and those that I was not awarding. I explained the reasons for those decisions. Various benefits were considered including vacations, clothing allowance, health and welfare payments, prescription co-pay, overtime on selected holidays, etc. As was made clear, several of the proposals were justified. The PBA request for additional vacation time, while appealing when examined in a vacuum, made no sense when personal days were considered.

There is no reason to believe that the overall compensation of the Sheriff's officers requires major changes up or down when the Sheriff's officers are compared to their counterparts throughout New Jersey. The changes which I have awarded, including the first class officer status and the increase in the prescription co-pay, are modest movements toward greater uniformity of benefits within Camden County's law enforcement units. I believe that it would be in the interest of not only of the Sheriff's officers but also of the County as well as its other law enforcement unions if efforts were made to increase the uniformity of benefits among these groups. This would simplify the negotiations process and permit a greater focus on salaries where differences are appropriate, although obviously contentions. Greater uniformity of various benefits also would improve morale. The Prosecutor's investigators still enjoy longevity. The Sheriff's officers and Park Police patrolmen do not, although, as stated, the Park Police

patrolmen in effect rolled longevity into the wage schedule, thus putting them on a par with Prosecutor's investigators if both salary and longevity are considered.

The changes which I awarded were made in recognition of the considerations of overall compensation. This is important for the reasons stated but of limited impact (except for those officers with 22 or more years in PFRS).

Stipulations I identified above the several areas on which the parties reached agreement. These included the term of the new agreement, the ability of those who serve process to work overtime, the elimination of the reference to I.D. Officers and Senior I.D. Officers, an expanded definition of grievance to include minor discipline and an agreement that the Sheriff's officers will be subject to the Attorney General's guidelines as they relate to internal affairs.

Beyond the agreement on these several relatively minor, the parties did not enter into other stipulations. Accordingly, this factor has minimal bearing in this case.

Lawful Authority There is no evidence nor has the County claimed that even an award in the amount proposed by the PBA would require it to exceed its lawful authority in any way, including in relation to the limitations imposed by P.L. 1976, c. 68 (C.40A:4-45.1 et seq.) or the CAP Law.

Mr. Foti cited evidence which indicates that the County did not use all of its CAP in 1999 or 2000 and pointed to the County budgets which reflect that the County had a CAP bank of \$9 million in 1999 and 2000. Given the modest amounts, specified below, by which this award exceeds the cost of the County's offer, it is evident that there is no statutory impediment to the implementation of this award.

This factor has no bearing on the award in this case beyond noting that the award can be implemented without conflicting with any statute including the CAP Law.

Financial Impact The financial impact of this award on the governing unit, its residents and taxpayers will be minimal. This is due to the fact that the compensation

costs of Sheriff's officers are a small portion of the total County budget and because the costs are not much greater than what the County proposed.

Total County revenues approach \$290 million. The cost of salaries for Sheriff's officers is approximately \$9 million. Thus, they constitute just above 3% of the County budget. The 1998 figure of \$7,960,114 increases by \$358,205 to \$8,318,319 in 1999; that figure increases by \$374,324 to \$8,692,643 in 2000; that figure increases by \$416,719 to \$9,109,362 in 2001; and that figure increases by \$447,077 to \$9,530,889 in 2002.

The County computed the new money under its offer to be \$238,803 in 1999, \$245,967 in 2000, \$316,683 in 2001 and \$328,558 in 2002. The differences between the two are \$120,000 in 1999, \$130,000 in 2000, \$100,000 in 2001 and \$120,000 in 2002. While I recognize that all expenditures have consequences and ultimately require more money to be raised by taxation, the financial impact of this award as opposed to the County's proposal is truly minimal. One tax point equals almost \$2 million.

The fiscal management of the County has been prudent, as evidenced by its ability to accumulate a CAP bank of \$9 million in 1999 and 2000. Further, the County has demonstrated a consistent ability to regenerate surplus and the amount generated has increased over the years. Thus, the 1993 surplus was \$6.7 million and it has increased each year thereafter except 1997 when it dropped slightly but then it resumed its upward climb and reached \$21.6 million in 2000. Further, the amount of surplus utilized in the next year's budget has dropped consistently from 31.52% in 1996 to 24.51% in 2000.¹⁹ The Results of Operations were \$6.9 million in 1998, \$8.1 million in 1999 and \$5.3 million in 2000. In 2000, \$3.7 million lapsed into surplus from unexpended balance of appropriation reserves. Camden had a current fund balance on

¹⁹ I note, however, that the report prepared by Public Financial Management points to a projected reversal of the favorable surplus trend in 2001 with more surplus being used in the budget and a decline in the ratio of the available surplus to the budget. (County Exhibit Tab 1, pp. 6- 9)

December 31, 2000 of \$56 million. This money can be invested and provides additional revenue to the County, even if returns have been declining.

Tax rates have been remarkably stable over the last eight years. The rate in 1994 was .8545. In 2001 it is estimated to be .8600, a very moderate increase. It has been essentially unchanged the last three years. Assessed value has increased moderately but consistently over the last four years from \$18.988 billion in 1997 to \$19.656 billion in 2000. As a county, Camden collects 100% of its taxes so it need not have a reserve for uncollected taxes.

Camden has a considerable amount of unused borrowing power and, while not desirable to use this authority, especially for recurring expenses, it nonetheless shows that the County is not at the end of the line.

The County's bond rating from Standard and Poor's is A+ and its rating from Moody's is A1, strong ratings by any measure.

Due to a reduction in its PFRS contribution, the County will pay \$2 million less in pension contributions in 2001 than it would have paid without the revised contribution. While this is a one-time benefit, it nonetheless contributes positively to the County's financial situation.

At the same time, the effective tax rate of the municipalities in Camden County is the highest rate in New Jersey at 3.443; it has issued more debt in the last several years than it has retired; and Camden City is a constituent part of the County and the City has an abysmal tax collection rate, very poor citizens and is highly dependent on the State. The County portion of property taxes in Camden County ranks third highest in the State.

It is clear that although Camden County has been well managed financially and has a number of positive attributes, as reflected in its bond ratings, it also is clear that it is not a wealthy county. The income levels are well below the State average and property values have not increased as much as they have in many parts of the State.

The net direct debt per capita is the highest in the State. It also is true that the County's costs for health benefits for County employees have been increasing rapidly. There are several negative trends in the County's fiscal scene which are of legitimate concern to the County.

Based on these factors and considerations, I have determined that the amounts awarded balance the needs and interests of both the County and the Sheriff's officers and that there will be a minimal impact on the governing unit, its residents and taxpayers.

Cost of Living While the County's economist provided data on several measures or indices of the cost of living, including one which indicates the low price of houses in Camden County compared to the State as a whole, the most useful and generally used measure – also submitted by the County – is the data published by the Bureau of Labor Statistics reflecting changes in the consumer price index. Increases in the CPI in the Philadelphia, Wilmington and Atlantic City area were 2.2% in 1999, 2.7% in 2000 and 2.8% in the first ten months of 2001.²⁰

Salary increases of 4.5% for those three years and 4% in the next year bear a reasonable relationship to these increases in the CPI. As can be seen by comparing the salary increases received by the Sheriff's officers with increases in the CPI over the years as reflected in County Exhibit Tab 21 and Table 7 of County Exhibit Tab 2, with a few exceptions salary increases over the years going back to 1975 have exceeded increases in the CPI. This is the normal state of affairs for most employees and reflects the increased productivity of the economy. It is increases in productivity which permit improvements in overall standards of living. This award provides for salary increases which permit a moderate increase in the standard of living or real earnings of these officers which is consistent with historical trends.

²⁰ I obtained the latter figure from the BLS web site.

Continuity and Stability of Employment I believe that the recent experience with turnover in this unit confirms the concerns which I have expressed regarding the relationship between the Sheriff's officers on one hand and the Park Police patrolmen and Prosecutor's investigators on the other. The County submitted a list of Sheriff's officers who left the Department in 1998, 1999, 2000 and 2001. Nine officers left in 1998 but five of those were terminated. One died and two retired. Only one left for other reasons which, in this case, was to transfer to the Prosecutor's Office. In 1999, 14 officers departed. Of these eight retired, one died, one was terminated and four transferred to local police departments. In 2000, 17 officers departed. Five of these retired, three was terminated and one died; four took jobs with outside law enforcement agencies and one transferred to the Prosecutor's office and two transferred to the Park Police. In 2001 to date, five officers departed of whom two retired, two transferred to local police departments and one transferred to the Park Police. Since the last agreement expired, a total of three Sheriff's officers have gone to the Park Police, two have gone to the Prosecutor's Office and ten have gone to local police departments, often shortly after starting with the Sheriff's Department. This means that the Sheriff pays for their training but then gets very little return on that investment.

I believe that these figures reflect the need to improve the internal relationship among Sheriff's officers, Park Police patrolmen and Prosecutor's investigators. My award has been fashioned with this consideration at the forefront.

Summary In short, while I have considered each of the criteria in relation to the evidence submitted by the parties as well as their arguments, I have determined that the award which I have crafted reflects the appropriate balance of what are obviously competing and even conflicting considerations. I have determined that the most significant consideration is the internal relationship among the Sheriff's officers, the Park Police patrolmen and the Prosecutor's investigators. The Sheriff's officers fare poorly in

relation to those other two groups which also are eligible for interest arbitration. I have issued an award which provides for the same percentage increases at the top step for Sheriff's officers as was received by the Prosecutor's investigators in 1999, 2000 and 2001, although this still will result in an increase in the dollar differential between these groups of \$1,389 to \$11,236 and the investigators will still receive longevity. I have provided a first class officer step which is consistent with similar steps enjoyed by the other two groups. The award falls comfortably within the range of private sector increases depending upon whether national or State figures are utilized. It exceeds public sector increases and average police and fire awards by a moderate amount. It also exceeds increases in the cost of living but the excess is within the normal range to permit an increase in the real earnings for these officers. Overall compensation also has been considered in providing limited increases for clothing maintenance and health and welfare fund contributions by the County. Relatively low wages and benefits contribute to turnover and the lack of continuity and stability of employment.

There is nothing in the award which conflicts with the legal authority of the County nor will there be a significant impact on the governing unit or its residents and taxpayers. The award is consistent with the interests and welfare of the public.

AWARD

The term of the agreement shall be four years, January 1, 1999 through December 31, 2002.

The wage schedule shall be increased as follows: the first step shall be increased by 2% each year, the second step shall be increased by 3% each year, the third step shall be increased by 4% each year, and the fourth step shall be increased by 4.5% in the first three years and by 4% in the fourth year. There shall be a new step used for hiring effective January 1, 2002 with a rate of \$32,391. There shall be a new

first class officer and first class sergeant step effective January 1, 2002 for those officers and sergeants who have completed 22 years of service in PFRS. This step shall be 7% higher than the top rate for officers and the sergeant rate.

The County's contribution to the health and welfare fund shall be increased by \$150 effective January 1, 2001 and the County will be required to continue to make payments to the fund two quarters in advance.

The clothing maintenance allowance shall be increased by \$100 effective January 1, 2002.

Benefits shall be applied retroactively to all officers who left the Department for any reason other than termination.

The prescription co-pay shall be increased from \$4.00 to \$5.00 for brand name drugs and from \$0.00 to \$2.00 for generic and mail-in prescriptions.

The changes proposed by the PBA regarding bidding for shifts and assignments in the Hall of Justice, Transportation, Jury Management and Records and shift selection for those assigned by the Sheriff to the Identification Bureau are granted (Article XIII, Section 4 and new Section 5), including those changes to Article III, Section 1, Section 2 and Section 5.

Article XIX, new Section 4 shall be added to deal with communicable diseases.

The grievance procedure, at Article XX, Section 2(b) shall be amended to expand the definition of "aggrieved party" to include the PBA.

Article V, Section 6 shall be changed as agreed by the parties to permit officers assigned to process serving to work overtime with the approval of a supervisor.

References to "I.D. Officers" and "Senior I.D. Officers" shall be eliminated.

Section 2(a) of the grievance procedure shall be changed to include minor discipline.

A new Section 8 shall be added to the grievance procedure which makes the Sheriff's officers subject to the Attorney General's Guidelines as the relate to internal affairs investigations.

All other proposals of both parties are denied and the prior 1995 to 1998 agreement shall be continued without change except as the parties mutually agree.

Dated: December 3, 2001
Princeton, NJ


Jeffrey B. Tener
Arbitrator

State of New Jersey)
County of Mercer) ss.:

On this 3rd day of December, 2001, before me personally came and appeared JEFFREY B. TENER to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



GLORIA L. TENER
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 24, 2004