

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

Case No: IA-2023-014

In the Matter of the Interest Arbitration between:

CITY OF BAYONNE,

PUBLIC EMPLOYER

and

PBA, LOCAL 7

EMPLOYEE ORGANIZATION

**INTEREST ARBITRATION
DECISION AND AWARD**

BEFORE: **Ira Cure, Esq.**
 Interest Arbitrator

APPEARANCES

For the Employee Organization:

Stuart J. Alterman, Esq.
Alterman & Associates, LLC

For the Public Employer:

Arthur R. Thibault, Esq.
Christopher M. Kurek, Esq.
Apruzzese, McDermott, Mastro &
Murphy, P.C.

I. PROCEDURAL BACKGROUND

On December 7, 2022, the PBA, Local 7 (“Local 7” or “Union”) filed a Petition to Initiate Compulsory Interest Arbitration (“Petition”) with New Jersey’s Public Employment Relations Commission (“PERC”). By filing the Petition, Local 7 asked PERC to appoint an interest arbitrator pursuant to Police and Fire Interest Arbitration Reform Act, *N.J.S.A. 34:13-16(e)(1)* to issue an award concerning a successor collective negotiation agreement (“CNA”) with the City of Bayonne (“City”). On January 3, 2023, I was appointed to serve as interest arbitrator.

Pursuant to *N.J.S.A. 34:13-16(b)(3)*, on January 20, 2023, I conducted a mediation session with the parties in order to “effect a voluntary resolution of the impasse.” At the conclusion of the mediation session, it was determined that the impasse should proceed to interest arbitration. I conducted arbitration hearings on February 14, 2023, February 24, 2023, February 27, 2023, March 1, 2023, and March 2, 2023. The hearings were conducted at Bayonne City Hall, 630 Avenue C, Bayonne, New Jersey¹.

The Union offered the testimony of: (1) Karen L. Amendola, Ph.D. (“Amendola”); (2) Joseph DeMarco, Esq. (“DeMarco”); (3) Union Vice-President and Police Officer Mark Oleska (“Oleska”); (4) Union State Delegate Police Officer Michael Collins (“Collins”); (5) Police Officer Aaron Fabbriatore (“Fabbriatore”); (6) Police Officer Edward Taveras (“Taveras”); (7) Union President and Police Officer Garrett Hoffman (“Hoffman”); (8) municipal finance, budgeting, property tax and local government policy and practice expert, Dr. Raphael Caprio (“Caprio”); (9) Retired Bayonne Police Lieutenant Terrence Joynt (“Joynt”); and (10) Police Sergeant Matthew Lindquist (“Lindquist”). The City offered

¹ To accommodate the parties, the testimony of certain witnesses was taken via Zoom teleconferencing.

the testimony of: (1) South Brunswick Chief of Police Raymond Hayducka ("Hayducka"); (2) Bayonne Police Chief Robert Geisler ("Geisler"); and (3) Bayonne Business Administrator Donna Russo, Esq. ("Russo").

Stuart Alterman, Esq. of the firm of Alterman & Associates, L.L.C. represented the Union. Arthur R. Thibault, Esq., and Christopher M. Kurek, Esq. of the firm of Apruzzese, McDermott, Mastro and Murphy, P.C. represented the City.

Both parties were afforded a full opportunity to examine and cross-examine witnesses, submit evidence, and present arguments in support of their respective positions. Both parties submitted briefs on March 20, 2023, and the record was closed at that time. The evidence adduced and the positions and arguments set forth by the parties have been fully considered in the preparation and issuance of this Interest Arbitration Decision and Award.

II. PROPOSALS

A. FINAL UNION PROPOSALS

The Union presented the following proposals for my consideration:

PBA LOCAL 7'S FINAL OFFER

1. Article 4 - Salaries

1. Increase wages as follows:

2021 – 3.5%
2022 – 3.5%
2023 – 3.75%
2024 – 3.75%

2. Institute college incentives at the following rates:

\$500.00 – Associates degree
\$1,000.00 – Bachelor's degree
\$1,500.00 – Master's degree
\$2,000.00 – PhD degree

The above incentives shall be incorporated in base salary.

3. Increase time due compensation for FTOs to 2 hours per tour.

2. **Article 5 - Longevity**

Reinstitute longevity for all officers hired after 1/1/18. \$3,000 after 10 years, \$6,000 after 15 years, \$9,000 after 20 years.

3. **Article 6 – Clothing Allowance**

New Section: Section 4

All uniformed officers shall, at the Officer's discretion, have the option to wear the departmentally approved class B uniform if they so choose.

4. **Article 8 – Hours of Work and Overtime**

Reinstitute time due as an option in lieu of cash payment at the officer's discretion.

The applicability of this proposal is for all time for anything outside of the normal work hours.

As far as overtime issues that is found on page 21 of the contract; the PBA proposes the following:

1. Update language to remove "rotating list" language and to reflect hour-option and text notification system currently in use;
2. Codify it in that all voluntary overtime shall be in the order of seniority and shall rotate through each name by order of seniority for purposes of voluntary overtime etc.; for anything that would be involuntary overtime or mandatory overtime the list would be inverted from most junior to most senior.

Meal breaks shall not be unreasonably denied. In the event a meal break is denied the Officer shall receive one-half-hour (1/2 hour) in compensatory time due.

5. **Article 9 – Health Insurance**

Update Section 7 to reflect the updated sidebar agreement currently in effect deleting the outdated and outmoded \$25 dental payment.

No change to Retiree contributions for medical insurance.

6. **Article 13 – PBA Rights and Privileges**

Section 4 Amended to Include:

PBA State Delegate shall be given leave with pay to attend State, Local, and County meetings for the 24 hour period in which the shift and/or meeting occur.

Section 5 Amended to include:

Delete “Manpower permitting.”

PBA President’s PBA time may only be denied for emergency reasons and shall not impact PBA President’s lunch time.

PBA President’s right and ability to attend State, Local, and County meetings shall not be abridged.

New Section (Consistent with Past Practice): In the PBA President’s absence due to a previously scheduled and approved vacation or other leave, the State PBA President’s designee, such as the PBA Vice President, shall have the rights, privileges, and abilities appending to the Office of the PBA President.

New Section: All members shall be notified of any and all information and/or documentation that is being placed in their personnel file, medical file, and/or internal affairs file. Upon receiving such notification, the member may then dispute such documentation and/or information.

7. **Article 14 – Holiday Calendar**

Juneteenth shall be added as a seventh holiday.

(Consistent with Past Practice) Time off for Holiday and Vacations shall be treated equally for purposes of granting time off on the basis of seniority.

8. **Article 15 – Leaves of Absences**

(This proposal can be added in a current leave article or a new article).

The PBA proposes to include a maternity leave language, paternity leave language, and/or bonding time language.²

9. **Article 18 – Rules and Regulations**

Add: Policies and directives cannot supersede the contract.

10. **Article 19 – Off Duty Police Action and Off Duty Pay**

The PBA proposes \$3.00 shall be taken from the City's administrative fee and provided to the PBA Good and Welfare Fund.

The PBA proposes extra duty and/or off duty jobs be increased by \$10.00 per hour. There has been no raise since 2013.

For off-duty jobs: If the contractor hires for less than 8 hours, he/she must pay the weekend/holiday rate for any time worked in excess of the mandatory 4 hour hiring minimum.

13. **Article 23 – Terminal Leave**

Include language that when a member is applying for a disability pension that their health benefits and other contractual benefits shall continue through the period of the application.

14. **Article 24 – Sick Leave Incentive³**

Sick time incentive plan shall be increased to four (4) days per year and shall be applied as follows:

- a. If the member has not used any sick time in the first half of the year, \$500 shall be paid or two (2) days may be banked at the officer's discretion.
- b. If the member uses sick time in the first half of the year but uses no sick time in the second half of the year, \$500 shall be paid or two (2) days may be banked at the officer's discretion.
- c. Should a member not use any sick time for the entire year; then \$1,000 shall be paid or four (4) days can be banked, at the officer's discretion

² This demand was withdrawn at the hearing. (Tr. 677-678).

³ This demand was withdrawn at the hearing. (Tr. 680).

B. FINAL CITY PROPOSALS

The City of Bayonne presented the following final offers referenced below for my consideration:

CITY OF BAYONNE'S FINAL OFFER

1. Article 27 – Duration

January 1, 2021 through December 31, 2025

2. Article 1 - Recognition

Modify language of Section 2 and add to the end of the first sentence “only upon City receipt of a written document from the employee expressly authorizing said Representation Fee payment in accordance with applicable law.”

3. Article 3 – Grievance Procedure

Add clarifying language to Article to provide that (1) the PBA or employee shall move the grievance to the next step if not satisfied with the response within 5 days of the decision at Step 2, and within 7 days of the decision at Step 3 and (2) if the time limits at each step of the process are not adhered to by the employee or PBA, the grievance shall be deemed settled or abandoned and not arbitrable.

4. Article 4 - Salaries

a. Increase wages on as follows:

7/1/21 – 1.5%
7/1/22 – 1.5%
7/1/23 – 1.75%
7/1/24 – 1.75%
7/1/25 – 1.75%

b. Modify Section 3 to 2080 hours.

c. Clarify that, in addition to the wage increases set forth above, the salary guide steps after Academy Rate will be, upon full ratification and implementation of the new work schedule, be increased by the number of

additional hours to be worked time the hourly state for each step. See attached guide, which is made a part hereof.

5. Article 8 – Hours of Work

- a. Modify Section 1 to incorporate a 4 on/4 off 12-hour work schedule for the patrol division and a 10 hour and 40-minute workday for officers not assigned to the patrol division.
- b. Add to the end of the first sentence of Section 7: “unless the necessity to return to work is due to the officer’s negligence, misconduct or failure to perform a duty required during his previous shift.”

6. Article 9 – Health Insurance

Modify Section 10 and elsewhere necessary to provide that, irrespective of the language of Section 10, all officers who retire after 12/31/24 shall contribute, upon retirement and eligibility to receive City-provided retiree health insurance benefits, 10% of the cost of their City-provided retiree health insurance. This contribution will not apply to officers who retire based on a traumatic injury disability pension.

7. Article 13 – PBA Rights and Privileges

- a. Modify Section 5 to provide for PBA union leave time to no more than 8 hours per 4-on/4-off tour of duty, or 2 hours per day, subject to the Chief’s discretion and manpower availability.

8. Article 15 – Leaves of Absence

- a. Add as new Section E: If a paid holiday, vacation day, personal day, floating vacation day or any other paid day falls on a day when an officer is on sick leave, the officer shall not have the day counted as sick but charged for the paid leave day as applicable, except that this shall not apply to officers with on-duty injuries who will not be charged with paid leave days.
- b. Add as new Section F: PBA members assigned to Patrol will earn four (4) Kelly Days per year, or forty-eight (48) hours leave, to be used one (1) day per quarter (1 day Jan-March, 1 day April-June, 1 day July-Sept, 1 day Oct-Dec) subject to the Chief’s discretion. Kelly Days must be used in the quarter they are earned and cannot be carried over to another quarter.

Detailed PBA members will earn two (2) Kelly Days leave per year to be used one (1) day per half of the year (1 day Jan-June, 1 day July-Dec). Kelly

Days must be used in the 6 months they are earned and cannot be carried over into another 6-month period.

9. Article 19 – Off-Duty Police Action and Off-Duty Pay

- a. In the first two sentences of Section 2, increase off-duty rate to \$70 on weekdays and \$85 for weekends, holidays, and after 8 hours.
- b. Eliminate Section 3.

Attachment A – Salary Guide

	7/1/2021	7/1/2022	1/1/23*	7/1/2023	7/1/2024	7/1/2025
	1.50%	1.50%		1.75%	1.75%	1.75%
Academy	\$ 40,045.86	\$ 40,646.55	\$ 40,646.55	\$ 41,357.86	\$ 42,081.63	\$ 42,818.06
1	\$ 58,929.59	\$ 59,813.53	\$ 71,790.05	\$ 73,046.37	\$ 74,324.68	\$ 75,625.37
2	\$ 67,106.82	\$ 68,113.42	\$ 81,751.83	\$ 83,182.49	\$ 84,638.18	\$ 86,119.35
3	\$ 75,284.03	\$ 76,413.29	\$ 91,713.59	\$ 93,318.57	\$ 94,951.65	\$ 96,613.30
4	\$ 83,461.27	\$ 84,713.19	\$ 101,675.38	\$ 103,454.70	\$ 105,265.16	\$ 107,107.30
5	\$ 91,638.50	\$ 93,013.08	\$ 111,637.16	\$ 113,590.81	\$ 115,578.65	\$ 117,601.28
6	\$ 99,815.73	\$ 101,312.97	\$ 121,598.94	\$ 123,726.93	\$ 125,892.15	\$ 128,095.26
	\$ 107,990.28	\$ 109,610.13	\$ 131,557.46	\$ 133,859.72	\$ 136,202.26	\$ 138,585.80

* Ratification & New Schedule

III. STIPULATIONS OF THE PARTIES

As will be discussed below, in the course of the hearing, certain proposals were withdrawn, and others were implicitly agreed upon. However, the parties did not present to me any formal stipulations concerning the contents of the successor CNA.

IV. STATUTORY CRITERIA

In rendering my award, I am bound to apply the criteria set forth at *N.J.S.A. 34:13-16(g)* which provides:

The arbitrator shall 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; provided, however, that in every interest arbitration proceeding the parties shall introduce evidence regarding the factor set forth in paragraph (6) of this subsection and the arbitrator shall analyze and consider the factor set forth in paragraph (6) of this subsection in any award:

- (1) The interests and welfare of the public. Among the items the arbitrator 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 (C. 34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
 - (d) In comparative private employment.
 - (e) In public and private employment in general
- (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 economic benefits received.
- (4) Stipulations of the parties.

- (5) The lawful authority of the employer. Among the items the arbitrator 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, the limitations imposed upon the local unit's property tax levy pursuant to section 10 of P.L.2007, c. 62 (C.40A:4-45.45), 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.
- (9) Statutory restrictions imposed on 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 Section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

V. BACKGROUND

The City is an ethnically mixed urban center with approximately 70,000 residents in Hudson County. (City Ex. 7). In his report, the Union's municipal finance, budgeting, property tax and local government policy and practice expert, Dr. Caprio describes the

City as being “blessed financially with robust property development and miscellaneous non-property tax revenue.” (Union Ex. 2, Summary). Dr. Caprio’s report cites several ongoing residential and commercial real estate developments which he concludes will significantly enhance the City’s revenues. (Union Ex. 2, Table 16).

Median household income for the period 2016-2020 was sixty-nine thousand, five hundred and eleven dollars (\$69,511). Per capita income for that period was thirty-four thousand, two hundred and forty-three dollars. (\$34,243). (City Ex. C. 2). Since 2000, the City has experienced population growth. Between 2010 and 2020, the City has grown at the rate of 13.7% per year. (City Ex. 7).

The City’s unemployment rate is 6.5%, which is almost double the rate of the State of New Jersey, which is 3.3%. (City Ex. 5). Approximately 12.4% of the population lives below the poverty line. (City Ex. 2).

VI. THE BARGAINING UNIT AND THE HISTORY OF NEGOTIATIONS

The City employs 187 sworn members of the police force, 136 of whom are members of the Local 7 bargaining unit. As an urban police department, the City police force has a “patrol function, an investigative function and a traffic function.” (Tr. 723). Chief Geisler testified that the number of officers has been stable over the last several years. (Tr. 724). Including the entry or Academy class, there are eight steps on the salary guide. As of January 1, 2023, there were 18 officers at the third step of the guide, 12 officers at the fourth step of the guide, 26 officers at the fifth step of the guide, 7 officers at the sixth step of the guide and 67 officers at the seventh or top step of the guide.

There is also a Superior Officers Association (“SOA”) which represents the ranks of Sergeant, Lieutenant, and Captain. (Tr. 725). At present, patrol officers work 4 days a

week for nine-and-a-half hours per day. (Tr. 731). Members of the SOA have agreed to work 4 days a week for twelve hours per day. *Passim*. The members of the Local 7 bargaining unit are relatively inexperienced. The average length of service in the patrol division is six years. (Tr. 736)

The present CNA was in effect for the period July 1, 2013 through December 31, 2018. (City Ex. 37). A subsequent memorandum of understanding was in effect for the period January 1, 2019 through December 31, 2020. (City Ex. 38). There has been no agreement since January 1, 2021. In addition to Local 7, there are three other public safety bargaining units including FMBA Local 11 representing firefighters, FMBA Local 211 representing fire officers and the SOA. Historically, all four bargaining unions coordinated their bargaining. (City Exs. 37, 38 & 43-45).

As will be discussed below, because the City's proposal would significantly alter the hours of work of the members of the Local 7 bargaining unit, Local 7 refused to adhere to the pattern agreed to by the SOA and sought interest arbitration instead⁴.

VII. THE PARTIES' DISCUSSION OF THE COMPETING ECONOMIC PROPOSALS

A. The Parties Positions concerning the Twelve Hour Day and Wage Adjustments

The issue of scheduling for members of the Local 7 bargaining unit dominated this proceeding. Article 4 of the 2013-2018 CNA sets forth police salaries. Article 4 § 3 provides: "The hourly rate for all purposes shall be calculated by dividing the annual pensionable salary by 1,733." (City Ex. 37). Police officers who are assigned to patrol presently work four nine-and-a-half-hour days, with four days off. Over the vigorous

⁴ Although the SOA and the FMBA units agreed to similar contracts, the issue that divides the City and Local 7 concerns the scheduling of work, and this issue is not germane to the FMBA units.

objection of the Union, the City has proposed modifying Article 4 § 3 to state: “Modify Section 3 to 2080 hours.” In addition, the City is proposing to modify Article 8: “Hours of Work and Overtime.” This provision presently provides in pertinent part: “The work schedule for the Patrol Division shall be four (4) days on followed by four (4) days off. The workday for the Patrol Division shall be nine and one half (9 ½) hours per shift inclusive of a lunch period of one-half (1/2) hour.” The City proposes to “Modify Section 1 to incorporate a 4 on/4 off 12-hour work schedule for the patrol division and a 10 hour and 40-minute workday for officers not assigned to the patrol division.

The 4 on/4 off 12-hour work schedule proposal would require police officers to work four consecutive 12 hour days. Patrol officers then receive four consecutive days off. Under the City’s proposal, the bargaining unit employees would receive the following wage increases: 7/1/21 – 1.5%, 7/1/22 – 1.5%, 7/1/23 – 1.75%, 7/1/24 – 1.75%, and 7/1/25 – 1.75%. The Union is seeking the following wage increases: 2021 – 3.5%, 2022 – 3.5%, 2023 – 3.75%, and 2024 – 3.75%.⁵

Although the Union is seeking a larger percentage increase than that offered by the City, the Union and Dr. Caprio concede that because the workday would be increased by two and a half hours, the members of the Local 7 bargaining unit would actually make a higher salary under the City’s proposal. In his report, Dr. Caprio notes that over the first four years of the agreement, the City’s “proposal is actually 67% more than the [Local 7] proposal.” Dr. Caprio goes on to state that over the four-year proposal the [Local 7] proposal is more than \$2 million less than the City proposal.” Dr. Caprio also states:

For a five-year proposal, the City totals \$6.9 million over a starting base of \$10,451 million, or a 66% increase. The PBA

⁵ Another crucial difference is that the Union is seeking a four-year agreement and the City is seeking a five year agreement.

proposal increases to \$5.012 million over a starting base of \$10,246 million or a 48.9% increase. In the five-year model, the [Local 7] proposal is \$1.179 million less than the City proposal.

(Union Ex. 2, Table 45).

i. The Union's Opposition to the Twelve Hour Day and Arguments in Support of its Wage Proposal

As noted, the Union is vehemently opposed to modifying Article 4 § 3 to mandate that police officers work 2080 hours per year. In support of its position, Local 7 retained Dr. Amendola, the Chief Behavioral Scientist for the National Policing Institute (formerly the Police Foundation). Dr. Amendola prepared a report entitled "Compressed Workweeks in Policing and Other Industries." (Union Ex. B 1-2).

In her direct testimony, Dr. Amendola reviewed the physical and mental effects on police officers working four straight twelve-hour days. Dr. Amendola stated:

[The] combination of excess work and reduced sleep perilously heightens the risk of officer damage awards – well significantly it heightens the risk of injuries and compromises public safety. But increases the possibility of civil liability damages that could have been avoided.

(Tr. 114). Dr. Amendola's testimony included a slide presentation describing the effects of twelve-hour days upon police officers. Dr. Amendola's testimony expanded on the following bullet points:

Policing a High Stakes, High Risk industry

- Decreased Performance
- Greater safety concerns (including more accidents and mistakes) and markedly more injuries
- Higher levels of fatigue/lower levels of alertness
- Increased back pain
- Increased burnout and emotional exhaustion
- Poorer communication

(PBA 7 Brief p. 12, Union Ex. B-2 at 4). Dr. Amendola testified that “when you combine a 12-hour shift with 48 hours or more in a week, that the risk goes up substantially, especially for safety and injury risk.” (Tr. 187).

In addition to relying on Dr. Amendola’s expert opinion, the Union points to the testimony of its members who it contends overwhelmingly object to the imposition of the twelve-hour day. The Union argues that the “main draw” of employment with the police department is the nine and half-hour schedule. The Union contends that the imposition of the twelve-hour day would lead to attrition in the police force.

The Union points to the testimony of Chief Geisler in which he conceded that some members of the bargaining unit would have childcare issues, family scheduling issues and quality of life issues. (PBA Brief at 21, citing Tr. 769). The Union also relies on the testimony of Officer Oleska, Officer Collins, Officer Fabbriatore, and Officer Taveras, all of whom were opposed to the twelve-hour schedule. Officer Oleska testified that one of the reasons he joined the Bayonne Police Department is that it offered a nine and a half-hour shift. (Tr. 222). Officer Oleska also noted that he is engaged to another police officer, and he is concerned that if the twelve-hour schedule is imposed, it would have a detrimental effect on their relationship. (Tr. 226). Officer Fabbriatore testified that in his former position he worked a twelve-hour shift, and that he joined the Bayonne Police Department in order to work a nine and a half-hour shift. Officer Fabbriatore stated that the twelve-hour shift created a strain on his family life, and that now he was able to spend more time with his son. (Tr. 404-405).

Officer Taveras also testified that he worried about the effects on his family life if he was required to work a twelve-hour schedule. (Tr. 417-418) In addition, he testified

that he spoke to a number of members of the SOA bargaining unit, and that they expressed displeasure with the twelve-hour schedule, finding it “stressful.” (Tr. 421). The Union also cites retired Lieutenant Joynt’s testimony. Lieutenant Joynt disliked the twelve-hour schedule and characterized it as “brutal.” (Tr. 869-70). Sergeant Lindquist testified that the twelve-hour schedule is not in the “interest” of his family. (Tr. 909).

Citing Chief Geisler’s testimony, the Union also contends that members of the SOA voted to approve the twelve-hour schedule because they were closer to retirement and the new schedule enhanced their pensions. (Tr. 763-764). The Union asserts that the twelve-hour schedule was used by the City to induce early retirement. The Union contends that such an inducement violates *N.J.S.A. 43:16A-1*.

As will be discussed in more detail below, a major pillar of the City’s argument for a twelve-hour schedule is that, because Police Department superior officers are working a twelve-hour schedule the members of the Local 7 bargaining unit should work a twelve-hour schedule as well. Both Chief Hayducka in his expert report and Chief Geisler in his testimony emphasized that it is important for superior officers and their subordinates to work the same schedule. That is not the case at the present time because members of the Local 7 bargaining unit are only working nine and a half hours per day. The Union points to the testimony of Sergeant Lindquist who stated that there were no problems with continuity of supervision under the present system. (Tr. 909).

The Union also argues that the City has not met its burden of altering the status quo and establishing the need to move to a twelve-hour schedule. The Union also

contends that the City's insistence on moving to a twelve-hour schedule has undermined labor relations between Local 7 and the City.⁶

The Union also urges me to reject the City's proposal because the Union's proposal is actually less costly than the City's proposal. The Union points to Dr. Caprio's testimony and contends that, if the nine-and-a-half-hour schedule was maintained, the City would be able to hire an additional 18-20 officers. (PBA Brief at 19).

In analyzing the statutory criteria, the Union urges me to award its wage proposal, pointing out that its proposal is actually less costly than the City's proposal.⁷ The Union maintains that its proposal would assure quality policing and therefore be in the public interest. The Union characterizes the twelve-hour schedule as potentially endangering the health and welfare of both taxpayers and officers. The Union asserts that a comparison to other jurisdictions supports raising the salaries of Local 7 members above the two percent mark. The Union also notes that inflation has increased significantly, and contends that its wage proposal would only partially mitigate the increased cost of living. The Union also contends that its proposal would not "upend" the lives of police officers and therefore would contribute to the "continuity and stability" of employment.

ii. The City's Arguments in Favor of the Twelve Hour Day and in Opposition to the Union's Wage Proposal

The City contrasts its proposal to move to a twelve-hour schedule and the attendant salary increase with Local 7's proposal to maintain the nine and a half hour schedule with wage increases ranging from 3.5% to 3.75% for each year of the agreement.

⁶ During the course of this proceeding it was noted that the Union had recently filed a significant number of unfair practice charges and grievances against the City.

⁷ This assumes that no additional police officers are hired.

The City points to Chief Geisler's testimony. Chief Geisler described the composition of the police department. He stated that the largest division in the police department was the patrol division. Chief Geisler testified that in order to be fully staffed, the patrol division would require six squads of 16-19 officers if they worked a nine-and-a-half-hour schedule. On the other hand, Chief Geisler stated that it would be unnecessary to increase the size of the police department if I were to award the twelve-hour schedule because the police department could have four fully staffed squads. (Tr. 728-730). Chief Geisler testified that as a result of the Covid-19 pandemic there were a large number of retirements. In addition, the police academies were shut down, and when the academies reopened the academies only admitted half the normal number of recruits. Previously the City would send six officers to the academy but could now only send three officers.

The City argues that, if I were to maintain the status quo, and deny the City's proposal for a twelve-hour schedule, that the cost of adding the forty additional officers, combined with the need to pay overtime would impact the City's ability to pay the wage proposals made by the PBA.⁸ The City maintains that under its proposal the police department could fully staff all of the Divisions including some that are presently understaffed.

The City contends that the twelve-hour schedule is crucial to the City's ability to provide adequate police services to the public. The City notes that currently there are six divisions. Because the nine and half hour schedule does not divide neatly into a twenty-

⁸ The City speculates that the cost of adding an additional forty police officers would cost approximately \$5.4 million dollars in the first year of the contract. (City Brief at p. 19).

four-hour day, there is an overlap of patrol officers.⁹ In addition, there is a limited number of patrol cars, making the provision of police services inefficient.

The City contends that, because the superior officers work schedules that are different than those worked by employees in the Local 7 bargaining unit, there is inconsistent supervision. The City cites *Teaneck v. Teaneck Fireman's Mutual Benefit Association, Local No. 42*, 353 N.J. Super. 289 (App. Div. 2002) for the proposition that there is a strong policy interest in ensuring appropriate discipline, supervision, and efficient operations in a public safety department.

The City concedes that it has the burden of establishing the need for its proposed schedule change. The City notes that members of the Local 7 bargaining unit will be required to work an additional 2.5 hours per day but will receive “dollar for dollar” compensation. The City maintains that the new schedule would: 1) assure proper supervision; 2) assure the most efficient and cost-effective police force; and 3) provide a greater level of service without hiring an additional forty police officers. The City contends that its proposal is in the public interest.

The City also relies on its expert Chief Hayducka whose report focused on supervisory issues in a police department. (City Ex. 83). Chief Hayducka described three concepts: 1) Unity of Command; 2) Span of Command; and 3) Continuity of Supervision. Chief Hayducka described Unity of Command as making sure that each organizational component is under the direct control of one supervisor, who provides clear and consistent direction. Chief Hayducka noted that the Bayonne Police Department has

⁹ Even the Union's witness, Mr. DeMarco, who was called upon to testify about other issues stated: “The police schedule was always problematic because the nine-and-a-half-hour schedule does not divide well into a 24-hour shift.” (Tr. 209).

relatively junior officers, and Unity of Command is even more important in this context. (Tr. 322). Chief Hayducka also noted that it was important to have strict supervisory structures because of increased pressures on police departments. (Tr. 323-324). Because superior officers are working twelve-hour shifts and members of the Local 7 bargaining unit are working nine and a half hour shifts, members of the bargaining unit are required to report to more than one supervisor. The City contends that this undermines the Unity of Command.

Span of Command refers to the number of subordinates reporting to one superior officer – usually a sergeant. Chief Hayducka testified that the ideal ratio is one superior officer for three to five police officers. Chief Hayducka reasons that a younger department requires more supervision. Chief Hayducka stated that because of the different schedules, the ratio of supervisors to police officers now ranges from 1:7.5 to 1.8 depending on the shift. Chief Hayducka stated that if the twelve-hour shift were to be awarded the ratio of supervisors to police officers would be 1:5, and in his opinion would be ideal. (Tr. 328). Chief Geisler echoed Chief Hayducka's report noting that occasionally there were only two sergeants supervising thirty officers. (Tr. 736).

The City maintains that, like the issue of Unity of Command, it is important for the police department to establish Continuity of Supervision. In addition to providing clear and consistent direction to subordinates, Chief Hayducka contends that having Continuity of Supervision permits superior officers to mentor police officers. Chief Hayducka also noted that the New Jersey Internal Affairs Policy section on the Prevention of Misconduct has found that "inadequate training and lack of guidance are too often factors that contribute

to inappropriate behavior and misconduct.” (City’s Brief at 44). The City argues that Continuity of Supervision makes for better police officers.

The City is critical of Dr. Amendola’s findings. The City notes that Dr. Amendola did not do a study of the Bayonne Police Department and did not analyze the staffing requirements of the Bayonne Police Department. The City posits that the change in supervisory structure outweighs the issues of fatigue identified by Dr. Amendola.

B. Analysis and Award Concerning Schedule and Salary Adjustments

Having reviewed the economic proposals of both the Union and the City, I conclude that, with a slight modification, the City’s proposal is consistent with the statutory scheme. As such, I will award the City’s request for a twelve-hour schedule as of July 1, 2023, together with the following wage increases: 7/1/21 – 1.5%, 7/1/22 – 1.5%, 7/1/23 – 1.75%, 7/1/24 – 1.75%, and 7/1/25 – 1.75%. As demonstrated by the City’s final offer, the City assumed that the twelve-hour schedule would go into effect as of January 1, 2023. Clearly, that is not possible. In response to a question by me, Chief Geisler asserted that he could implement the change in schedule within a week. (Tr. 763). As will be discussed below, I conclude that such an immediate change in schedule would unduly disrupt the lives of members of the Local 7 bargaining unit. I conclude that a July 1, 2023 implementation of the twelve-hour schedule would permit a more orderly transition for the members of the bargaining unit.

The statutory requirements are set forth at *N.J.S.A. 34:13-16(g)*. The primary statutory requirement is that the Award comports with the interests and welfare of the public. *N.J.S.A. 34:13-16(g)(1)*. Although the Union has made a number of compelling arguments against the twelve-hour schedule, including officer fatigue, disruption of an

officer's home life, and perhaps fatigue leading to more dangerous confrontations with the public, I conclude that, on balance, the City's proposal is still consistent with the public interest. This is because under a twelve-hour schedule the Bayonne Police Department will operate more efficiently. The City has established through the testimony of Chief Geisler and Chief Hayducka that the issues of unity of command, continuity of command, and the span of command would be addressed. Under the City's proposal, there will be clearer lines of authority including reducing the possibility of inconsistent commands and that there will be enhanced opportunities for mentoring officers. The City's proposal will also permit supervisors to work on the same schedule as their subordinates.

In addition, Chief Geisler's testimony established that by moving to a twelve-hour schedule, the police department would essentially be able keep the same headcount of officers and provide enhanced police services to the public. Chief Geisler stated that he would have to hire an additional forty officers to be fully staffed if members of the police department continued to work nine and a half hour days. The Union suggests that in lieu of moving to a twelve-hour schedule, with the concomitant savings, the City could hire an additional eighteen to twenty officers. However, I do not have the power to direct the City to hire additional police officers, which would cost in excess of five million dollars during the first year of implementation. In addition, the City has established that recently it has had difficulty recruiting police officers. On balance therefore, I conclude that this award is consistent with the public interest.

The next statutory factor requires a "[c]omparison 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." N.J.S.A. 34:13-16(g)(2). Because in this case the public employer is actually proposing to pay a larger salary than the Union is proposing, the issue of comparison wages is less central to my analysis than it might otherwise be. Under this provision, I am required to analyze the wages and benefits of the Local 7 bargaining unit with those of both public and private sector employees. Here, because of the specialized nature of the work performed by the members of the bargaining unit, I conclude that comparisons to employees in the private sector are of limited utility. However, I would note that per capita income for residents of the City is only \$34,000, while under the City's proposal members of the bargaining unit who reach the top step of the salary guide after their seventh year will earn in excess of \$130,000.

Similarly, except for members of the firefighter bargaining units, other City employees make significantly less than members of the Local 7 bargaining unit. Although there was no direct comparison of their wages, the City has submitted evidence that from 2013 to 2022, the average salary increase of Bayonne police officers was 37% (City Ex. 34), while nationwide the average public sector salary increased by 19.4% for the same period. (City Ex. 35).

As noted above, the public safety bargaining units have historically negotiated together, and the percentage increases between the various bargaining units has remained consistent. For the purposes of this proceeding, it is crucial to note that the SOA bargaining unit has agreed to both the twelve-hour schedule and the percentage wage increases that I am awarding to the PBA bargaining unit.¹⁰ This is also the basis for

¹⁰ Given the nature of firefighting, there is no direct comparison between the schedules of the FMBA bargaining units and the Local 7 bargaining unit.

awarding a five-year term. The contracts for all the public safety bargaining units will expire simultaneously, and this will ensure that the issues these units face will be resolved in a consistent manner.

Consistency in treatment among bargaining units of the same employer is unquestionably a generally accepted element of good labor relations policy. Sound and consistent labor relations are certainly in the public interest. It prevents whipsawing in negotiations and it reduces the potential for decline in morale which often accomplishes the perception of disparate treatment.

In the Matter of the Interest Arbitration between City of Jersey City and Jersey City Police Officers Benevolent Association, IA-2017-012 (2017) (Mastriani, J) (quoting, *In the Matter of the Interest Arbitration between Township of Holmdel and PBA, Local 239*, IA-93-163). I conclude that there is no basis for departing from the existing pattern of settlement.

As far as wages are concerned, the salaries of members of the Local 7 bargaining unit compare favorably to the salaries of other Hudson County police forces. The following chart shows that, exclusive of longevity, the members of the Local 7 bargaining unit have the highest salaries of any police force in Hudson County:

**Police Officer Salary without Longevity in Hudson County
Step 2 and Maximum Salaries**

2023		
<u>Municipality</u>	<u>Step 2</u>	<u>Max Salary</u>
Bayonne	\$ 73,046.37	\$ 133,859.71
Hoboken	\$ 57,758.75	\$ 125,822.87
Jersey City	\$ 45,000.00	\$ 114,570.00
Union City	\$ 56,966.00	\$ 113,733.00
Harrison	\$ 52,353.00	\$ 112,308.00
North Bergen	\$ 46,016.00	\$ 112,104.00
West New York	\$ 60,607.00	\$ 106,225.00

* Source – Collective Bargaining Agreements

(City Ex. 92).

Numerous New Jersey municipalities require police officers to work twelve-hour schedules.¹¹ (Union Ex. 5). Thus, the proposed schedule is consistent with that of other municipalities.

The next factor to be addressed is the “overall compensation” of the employees. Since the Union has admitted that police officers will be earning more money under the City’s proposal, this is not a factor that would preclude awarding the City’s proposal. As noted above, City police officers earn salaries that are competitive with other Hudson County police forces. In addition, this award will be consistent with the contracts of the other public safety bargaining units.

The Union has not asserted that there are any limitations upon my ability to impose the City’s schedule and wage proposals. Neither the Union nor the City have cited any legal objections to the implementation of this Award.

The statute also requires me to analyze the impact of the cost of living. *N.J.S.A. 34:13-16(g)*. I recognize that inflation continues to be an issue, however the change in schedule proposed by the City contains higher wages than that proposed by the Union. Therefore, the cost of living is not a factor which would preclude making this award.

Under *N.J.S.A. 34:13-16(g)(8)*, I am required to address the effect of this Award on the continuity and stability of employment. I recognize that the Union has made a

¹¹ Many of those municipalities that require police to work twelve-hour schedules work so-called Pitman schedules; that is two days at twelve hours per day, followed by two days off. While there are advantages to a Pitman schedule, I will not award such a schedule, because the members of the SOA bargaining unit have not agreed to work a Pitman schedule. As such, if I were to award a Pitman schedule there would still be unresolved issues concerning the command structure.

compelling case that the change to a twelve-hour schedule would disrupt the lives of the members of the bargaining unit. However, I do not believe that this Award will be so disruptive that it will affect the continuity and stability of the workforce. During cross-examination of the Union's rank and file members, the City was able to establish that each of the witnesses had taken the sergeant's examination and recognized that they would be required to work a twelve-hour schedule if they were promoted to sergeant. Moreover, I take arbitral notice that frequently it is Unions and not the public employer that propose twelve-hour schedules. (Tr. 694). In addition to added pay, there are other advantages to an employee working a twelve-hour schedule, including enhanced pensions.

Finally, under *N.J.S.A. 34:13-16(g)(9)*, I am required to consider any statutory restrictions placed on the Employer by the implementation of this Award, and I am unaware of any restrictions.

In sum, I am going to Award the City's proposal to amend Article 4: Salaries, to provide for an increase in wages as follows:

7/1/21 – 1.5%
7/1/22 – 1.5%
7/1/23 – 1.75%.
7/1/24 – 1.75%
7/1/25 – 1.75%

It should be noted that step increases occur on the anniversary date of the officer's employment and will be retroactive¹². Wage increases occur on July 1 and will also be retroactive. Upon implementation of this Award, the salary guide steps of the new work

¹² For purposes of costing out the wage increase, I have assumed step increases occur on January 1 of each year.

schedule, will be increased by the number of additional hours to be worked times the hourly rate for each step. The cost of this award is set forth in Appendix A attached at the end of this decision. Assuming that the City will continue to employ 130 officers in the bargaining unit, the payroll will rise from \$11,333,983.47 as of January 1, 2021, to \$17,512,545.61 as of July 1, 2025.

Article 4 § 3 shall be modified to provide: The hourly rate for all purposes shall be calculated by dividing the annual pensionable salary by 2080. In addition, Article 8 § 1 shall be modified to provide: "The work schedule for the Patrol Division shall be four (4) days on followed by four (4) days off. The workday for the Patrol Division shall be twelve hours per shift inclusive of a lunch period of one-half (1/2) hour, and a 10 hour and 40-minute workday for officers not assigned to the patrol division."

The CNA will expire on December 31, 2025.

VIII. OTHER UNION PROPOSALS

A. Proposals Seeking New Non-Salary Economic Benefits

In several of its proposals the Union seeks new non-salary economic benefits, including college incentives, overtime, time due, holiday calendar, and terminal leave.¹³ *N.J.S.A.* 34:13A-16.7(b) provides, in pertinent part, "An award of an arbitrator shall not include base salary items and non-salary economic items which were not included in the prior collective negotiations agreement." For the purposes of that section, "Non-salary economic issues" means any economic issue that is not included in the definition of base salary." *N.J.S.A.* 34:13A-16.7(a). In its Final Offer, the PBA has proposed the following non-salary economic issues:

¹³ In addition, there are other purportedly non-salary economic proposals including longevity and "PBA rights and privileges" which will be discussed separately.

1. College incentives which would compensate officers for receiving any college or university degree.
2. Hours of work and overtime. This would revise Article 8 of the CNA to provide compensatory time in lieu of a cash payment.
3. Article 9 Health Insurance seeking a change in the Dental payment.
4. Adding Juneteenth as holiday.
5. Asking the City to contribute to the PBA Good and Welfare Fund
6. That health benefits continue while an employee applies for disability pension benefits.

These proposals seek non-salary non-economic benefits not presently contained in the CNA, which the statute bars me from awarding.¹⁴ See, *Borough of Manasquan*, P.E.R.C. No. 82-128, 8 NJPER 403 (¶13185 1982); *Township of Byram*, P.E.R.C. No. 2013-72, 39 NJPER 477, 478 (¶151 2013).

Accordingly, I do not award these proposals.

B. Other Union Proposals

The Union has made other proposals including a modification of the clothing allowance. That proposal asks that: “[a]ll uniformed officers shall, at the Officer’s discretion, have the option to wear the departmentally approved class B uniform if they so choose.” In the course of the hearing, the Union established that the class B uniform was in many ways more practical than the class A uniform. The City has not opposed this demand in its closing brief, and I will award it.

Finally, the Union is seeking to amend Article 13: PBA Rights and Privileges. These proposals are based upon the deterioration of the relationship between the PBA

¹⁴ The Union is also seeking the reinstitution of longevity pay, which was eliminated during the negotiation of the 2013-2018 CNA, and will be discussed below.

and the Police Department's Administration. (See the Union's Brief Headnote VII: "The City's Mad Push to Impose A 12-Hour Schedule is Part and Parcel of a Pattern of Anti-Union Animus. Coercion, And Interference . . .").

I will discuss each provision separately.

a) The Union is first proposing to include in Section 4 a provision that the:

PBA State Delegate shall be given leave with pay to attend State, local, and County meetings for the 24-hour period in which the shift and/or meeting occur.

In his testimony, President Hoffman stated that the Union's delegate to state Patrolmen Benevolent Association meetings had previously been given leave to attend these meetings, if they conflicted with his or her schedule. President Hoffman stated that this practice was stopped unilaterally in the Summer of 2022. (Tr. 673-674). The unilateral cessation of the practice is also the subject of an unfair practice charge pending at PERC. I make no findings regarding the pending charge. However, I will not award this proposal, since it appears to be covered in the agreement.

b) The Union is also seeking to amend the Article 13 provisions concerning the Local 7

President's ability to conduct Union business. Article 13 § 5 states in pertinent part:

Unless prevented by manpower needs and at the discretion of the Chief of Police on a daily basis the President of [Local 7] shall work fifty (50%) percent of his normal work tour and shall be relieved of duty for the balance of fifty (50%) percent of his shift for conducting PBA business.

The Union is proposing that the "manpower needs" phrase be eliminated, and although not explicitly set forth, the Union suggests that the phrase be replaced with "emergency needs." In his testimony, President Hoffman said; "we're seeking that 'manpower permitting' be deleted from [Article 13 § 5]. Also, my PBA time would only be denied for emergency reasons." (Tr. 635). President Hoffman stated that before his

relationship with Chief Geisler deteriorated, he had been given more flexibility. I am going to award this proposal and substitute the word "emergency" for "manpower."

- c) Another aspect of the Union's proposal is: "PBA President's PBA time may only be denied for emergency reasons and shall not impact PBA President's lunch time.

President Hoffman stated that prior to November 20, 2020, when splitting his shift between his official Bayonne duties and his duties as a Local 7 President, he had flexibility to take his half-hour meal break. However, after the Union filed unfair practice charges with PERC, President Hoffman's immediate supervisor directed him to have a set mealtime. There is a charge regarding this change pending at PERC. I make no findings regarding the nature of this charge; however, I will not be awarding this proposal.

- d) The Union is also proposing a new section which provides: "In the PBA President's absence due to a previously scheduled and approved vacation or other leave, the State PBA President's designee, such as the PBA Vice President, shall have the rights, privileges, and abilities appending to the Office of the PBA President."

I will award this proposal because it will permit the smooth functioning of labor relations.

- e) Finally, the Union is proposing a new section which provides: All members shall be notified of any and all information and/or documentation that is being placed in their personnel file, medical file, and/or internal affairs file. Upon receiving such notification, the member may then dispute such documentation and/or information.

The record is unclear on the need for this provision, and I will not be awarding this proposal.

IX. OTHER CITY PROPOSALS

The City has made a number of other proposals which will be discussed separately.

A. Article 1 Recognition

The first proposal seeks to modify Article 1 § 2 "Recognition." The provision in question currently reads: "Any employee in the bargaining unit on the effective date of this Agreement who does not join the Union within thirty (30) days thereafter . . . shall, as a condition of employment pay a Representation Fee to the Union by payroll deduction." The City proposes adding the following language: "only upon City receipt of a written document from the employee expressly authorizing said Representation Fee payment in accordance with applicable law."

I will award this proposal because it appears to be consistent with the United States Supreme Court's decision in *Janus v. AFSCME, Council 31, et.al.*, 138 S.Ct. 2448 (2018).

B. Grievance Procedure – Article 3

The City is also seeking to amend the grievance procedure. The proposal states:

Add clarifying language to Article to provide that (1) the PBA or employee shall move the grievance to the next step if not satisfied with the response within 5 days of the decision at Step 2, and within 7 days of the decision at Step 3 and (2) if the time limits at each step of the process are not adhered to by the employee or PBA, the grievance shall be deemed settled or abandoned and not arbitrable.

Although the SOA has agreed to this proposal, there has been no showing that such a change is necessary, and I will not award this proposal.

C. Article 8 § 7 Hours of Work and Overtime

The City proposes modifying Article 8 § 7 concerning hours of work and overtime. Presently Article 8 § 7 provides: "Whenever a police officer completes a tour of duty, returns home, and is then required to report back to headquarters or duty, the officer will be paid a minimum of four (4) hours at time and one-half (1 1/2x). The City is proposing

to add the following language to the end of the first sentence of Section 7: "unless the necessity to return to work is due to the officer's negligence, misconduct or failure to perform a duty required during his previous shift."

The City is arguing that this proposal should be granted to assure consistency with the unity of command issues discussed above. There has been no showing that such a change is necessary, and I will not award this proposal.

D. Article 9 § 10 Health Insurance

At present Article 9 § 10 provides for free retiree health insurance. Subsection 7 provides in pertinent part:

Certain retirees shall be eligible to continue health insurance under the following conditions:

To be eligible, the employee must have been actively employed as a police officer for the City of Bayonne, must have at least twenty (20) years of service with the City of Bayonne and must not be on disability retirement. An officer injured in the line of duty who receives a traumatic injury from PFRS shall be eligible to receive continuation of health insurance coverage as provided under this agreement.

The City is seeking to modify this subsection to:

provide that, irrespective of the language of Section 10, all officers who retire after 12/31/24 shall contribute, upon retirement and eligibility to receive City-provided retiree health insurance benefits, 10% of the cost of their City-provided retiree health insurance. This contribution will not apply to officers who retire based on a traumatic injury disability pension.

This modification was agreed to by the three other public safety unions including the SOA. Indeed, a similar agreement was reached during the negotiation of the 2019-2020 extension. Local 7 vigorously opposes this change. In support of its position, the Union subpoenaed former Business Administrator DeMarco who testified that when the

2013 CNA was negotiated, there was an explicit agreement (or trade) concerning retiree health insurance. Mr. DeMarco testified:

Q: And did, in fact, did you participate in negotiations where agreements were made with regard to items such as health, retired health benefits, and in addition to retired health benefits, longevity?

A. Yes those were always two items that were discussed in negotiations.

Q. And during the negotiations, say in 2013, was there any sort of resolution to those negotiations?

A. Yeah. The 2013 contract resolved those two issues, the one with salary and things of that nature. But it was predominantly longevity was removed from the contracts for anyone who to be a member of any of the bargaining units and this also applied for fire. So it was all done at one time, police. Fire, rank and file and superiors. And there was an exchange, or also bargained for was the continuation of health benefits, which was set to expire under the old contract.

Arbitrator Cure: Mr. DeMarco, I'm sorry, just to make sure, so the trade, as you understand it, was for longevity to continue the health insurance; is that correct?

A. Yes. . . .

(Tr. 205-206).

The Union vigorously objects to modifying the CNA to provide for any payments by qualified retirees for health insurance, reasoning that the right to this coverage was secured in the 2013-2018 CNA. The City contends that due to the dramatic increase in the cost of insurance the request for a contribution from retirees is reasonable. The City also notes that the other public safety unions have agreed to these contributions.

I will award this proposal. I recognize that the Union thought that it secured an assurance from the City that retired police officers would not be required to contribute to

their health insurance. Nevertheless, whenever a collective negotiations agreement expires the parties are free to modify that CNA. Here this proposal is consistent with the pattern of settlement agreed to by the other public safety unions, and I cannot justify departing from that pattern for this proposal.

E. Article 13 – PBA Rights and Privileges

Like the Union, the City has a proposal concerning the rights and privileges of Union officers. The SOA has agreed to the following provision: “Modify Section 5 to provide for PBA union leave time to no more than 8 hours per 4-on/4-off tour of duty, or 2 hours per day, subject to the Chief’s discretion and manpower availability.”

I have already discussed related proposals made by the Union, and I will not award this proposal. While I recognize that SOA has agreed to this provision there are significant differences between the SOA and Local 7. First, the Local 7 membership is twice the size of the SOA membership, and therefore Local 7 officers have more responsibilities than SOA officers. In addition, the Local 7 President is intimately involved in assigning “extra duty” or “off duty work.” Therefore, I conclude that the SOA and Local 7 are not comparable on this issue, and I will not Award it.

F. The City is also seeking to modify Article 15 the Leaves of Absence provision.

The City is proposing the following changes to Article 15:

- a. Add as new Section E: If a paid holiday, vacation day, personal day, floating vacation day or any other paid day falls on a day when an officer is on sick leave, the officer shall not have the day counted as sick but charged for the paid leave day as applicable, except that this shall not apply to officers with on-duty injuries who will not be charged with paid leave days.
- b. Add as new Section F: PBA members assigned to Patrol will earn four (4) Kelly Days per year, or forty-eight (48) hours leave, to be used one (1) day per quarter (1 day Jan-March, 1 day April-June, 1 day July-Sept, 1 day Oct-

Dec) subject to the Chief's discretion. Kelly Days must be used in the quarter they are earned and cannot be carried over to another quarter.

Detailed PBA members will earn two (2) Kelly Days leave per year to be used one (1) day per half of the year (1 day Jan-June, 1 day July-Dec). Kelly Days must be used in the 6 months they are earned and cannot be carried over into another 6-month period.

The SOA has agreed to this proposal and, it is consistent with my Award of a twelve-hour schedule. I will award the modification concerning Kelly Days. This will be new Section E. I will not award the proposed modification to paid time off because there was no showing that such a modification was necessary.

G. Off Duty Police Action and Off Duty Pay

The City has proposed increasing the "off-duty" or "extra duty" rate to \$70.00 on weekends and \$85.00 for weekends, holidays, and after 8-hours. The SOA agreed to this adjustment, and I will award it.

IX AWARD

A. Pursuant to my discussion above the CNA shall be amended as follows:

AMEND ARTICLE 1 – RECOGNITION

Section 2.

Any employee in the bargaining unit on the effective date of this Agreement who does not join the Union within thirty (30) days thereafter . . . shall, as a condition of employment pay a Representation Fee to the Union by payroll deduction. Said payroll deduction shall occur only upon City's receipt of a written document from the employee expressly authorizing said Representation Fee payment in accordance with applicable law.

AMEND ARTICLE 4 – SALARIES

Revise Section 1 as Follows:

All police officers shall receive the following increases effective:

7/1/21 – 1.5%
7/1/22 – 1.5%
7/1/23 – 1.75%.
7/1/24 – 1.75%
7/1/25 – 1.75%

Wage increases shall be retroactive, and step increases not paid shall be retroactive.

Revise Section 3 as follows:

The hourly rate for all purposes shall be calculated by dividing the annual pensionable salary by 2080.

AMEND ARTICLE 6 – CLOTHING ALLOWANCE

Add New Section: Section 4

All uniformed officers shall, at the Officer's discretion, have the option to wear the departmentally approved class B uniform if they so choose.

AMEND ARTICLE 8 – HOURS OF WORK AND OVERTIME

Section 1, first sentence shall be amended to provide:

The work schedule for the Patrol Division shall be four (4) days on followed by four (4) days off. The workday for the Patrol Division shall be twelve hours per shift inclusive of a lunch period of one-half (1/2) hour, and a 10 hour and 40-minute workday for officers not assigned to the patrol division.

AMEND ARTICLE 9 – HEALTH INSURANCE

The following sentence shall be added at the end of Section 10 (7):

Irrespective of the language of Section 10, all officers who retire after 12/31/24 shall contribute, upon retirement and eligibility to receive City-provided retiree health insurance benefits, 10% of the cost of their City-provided retiree health insurance. This contribution will not apply to officers who retire based on a traumatic injury disability pension.

AMEND ARTICLE 13 – PBA RIGHTS AND PRIVILEGES

Section 5 shall be amended as follows;

Unless prevented by ~~manpower needs~~ an emergency and at the discretion of the Chief of Police on a daily basis the President of [Local 7] shall work fifty (50%) percent of his normal work tour and shall be relieved of duty for the balance of fifty (50%) percent of his shift for conducting PBA business.

New Section 9

In the PBA President's absence due to a previously scheduled and approved vacation or other leave, the State PBA President's designee, such as the PBA Vice President, shall have the rights, privileges, and abilities appending to the Office of the PBA President.

AMEND ARTICLE 15 – LEAVES OF ABSENCE

Add New Section E:

PBA members assigned to Patrol will earn four (4) Kelly Days per year, or forty-eight (48) hours leave, to be used one (1) day per quarter (1 day Jan-March, 1 day April-June, 1 day July-Sept, 1 day Oct-Dec) subject to the Chief's discretion. Kelly Days must be used in the quarter they are earned and cannot be carried over to another quarter.

Detailed PBA members will earn two (2) Kelly Days leave per year to be used one (1) day per half of the year (1 day Jan-June, 1 day July-Dec). Kelly Days must be used in the 6 months they are earned and cannot be carried over into another 6-month period.

ARTICLE 27 – DURATION

This Agreement shall be effective retroactive to January 1, 2021 and shall extend through December 31, 2025.

B. Other Proposals

All proposals by the PBA, Local 7 and the City of Bayonne not awarded herein are denied and dismissed. All provisions of the existing Collectively Negotiated Agreements shall be carried forward except for those which have been modified by the terms of this Award and any prior agreements between the parties.

Appendix A – COST OF AWARDED WAGE INCREASES WITH STEP MOVEMENT

<u>Step</u>	<u>2018</u>	<u>1/1/2019</u>		<u>7/1/2020</u>			<u>1/1/2021</u>	
Academy	\$37,922.00	\$38,680.44	18	\$39,454.05	\$710,172.88		\$39,454.05	
1	\$55,804.22	\$56,920.30	12	\$58,058.71	\$696,704.53	18	\$58,058.71	\$1,045,056.78
2	\$63,547.76	\$64,818.72	26	\$66,115.09	\$1,718,992.33	12	\$66,115.09	\$793,381.08
3	\$71,291.29	\$72,717.12	7	\$74,171.46	\$512,200.21	26	\$74,171.46	\$1,928,457.96
4	\$79,034.84	\$80,615.54	6	\$82,227.85	\$493,367.09	7	\$82,227.85	\$575,594.95
5	\$86,778.39	\$88,513.96	5	\$90,284.24	\$451,421.18	6	\$90,284.24	\$541,705.44
6	\$94,521.93	\$96,412.37	12	\$98,340.62	\$1,180,087.39	5	\$98,340.62	\$491,703.10
7	\$102,262.94	\$104,308.20	44	\$106,394.36	\$4,681,351.96	56	\$106,394.36	\$5,958,084.16
			130		\$10,451,297.56	130		\$11,333,983.47
					\$5,225,648.78			\$5,666,991.74

<u>Step</u>		<u>7/1/2021 (1.5%)</u>		<u>1/1/2022</u>			<u>7/1/2022 (1.5%)</u>	
Academy		\$40,045.86		\$40,045.86			\$40,646.55	
1	18	\$58,929.59	\$1,060,732.64	\$58,929.59			\$59,813.54	
2	12	\$67,106.82	\$805,281.79	\$67,106.82	18	\$1,207,922.76	\$68,113.42	\$1,226,041.53
3	26	\$75,284.03	\$1,957,384.78	\$75,284.03	12	\$903,408.36	\$76,413.29	\$916,959.49
4	7	\$83,461.27	\$584,228.86	\$83,461.27	26	\$2,169,993.02	\$84,713.18	\$2,202,542.79
5	6	\$91,638.50	\$549,831.00	\$91,638.50	7	\$641,469.50	\$93,013.08	\$651,091.55
6	5	\$99,815.73	\$499,078.63	\$99,815.73	6	\$598,894.38	\$101,312.96	\$607,877.77
7	56	\$107,990.28	\$6,047,455.58	\$107,990.28	61	\$6,587,407.08	\$109,610.13	\$6,686,218.08
	130		\$11,503,993.28		130	\$12,109,095.10		\$12,290,731.19
			\$5,751,996.64			\$6,054,547.55		\$6,145,365.59
		\$11,418,988.37					\$12,199,913.14	
		2021 Total	10.07%				2022 Total	6.84%

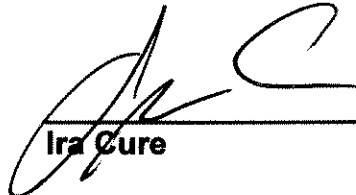
<u>Step</u>	<u>1/1/2023</u>			<u>7/1/2023* (1.75%)</u>			<u>1/1/2024</u>	
Academy							\$41,357.86	
1							\$73,046.38	
2							\$83,182.48	
3	18	\$76,413.29	\$1,375,439.22	18	\$93,318.57	\$1,679,734.31	\$93,318.57	
4	12	\$84,713.18	\$1,016,558.16	12	\$103,454.69	\$1,241,456.25	\$103,454.69	\$1,862,184.42
5	26	\$93,013.08	\$2,418,340.08	26	\$113,590.82	\$2,953,361.19	\$113,590.82	\$1,363,089.72
6	7	\$101,312.96	\$709,190.72	7	\$123,726.92	\$866,088.42	\$123,726.92	\$3,216,899.92
7	67	\$109,610.13	\$7,343,878.71	67	\$133,859.71	\$8,968,600.64	\$133,859.71	\$9,905,618.54
	130		\$12,863,406.89	130		\$15,709,240.82		\$16,347,792.60
			\$6,431,703.45			\$7,854,620.41		\$8,173,896.30
					\$14,286,323.86			
					2023 Total	27.81%		

Step		7/1/2024 (1.75%)			1/1/2025			7/1/2025 (1.75%)	
Academy		\$42,081.63			\$42,081.63			\$42,818.06	
1		\$74,324.69			\$74,324.69			\$75,625.37	
2		\$84,638.18			\$84,638.18			\$86,119.34	
3		\$94,951.65			\$94,951.65			\$96,613.30	
4	18	\$105,265.14	\$1,894,772.61		\$105,265.14			\$107,107.28	
5	12	\$115,578.65	\$1,386,943.85	18	\$115,578.65	\$2,080,415.70	18	\$117,601.28	\$2,116,823.05
6	26	\$125,892.14	\$3,273,195.61	12	\$125,892.14	\$1,510,705.68	12	\$128,095.25	\$1,537,143.02
7	74	\$136,202.26	\$10,078,966.94	100	\$136,202.26	\$13,620,226.00	100	\$138,585.80	\$13,858,579.54
	130		\$16,633,879.01	130		\$17,211,347.38	130		\$17,512,545.61
			\$8,316,939.50			\$8,605,673.69			\$8,756,272.80
								\$17,361,946.49	
		\$16,490,835.80						2025 Total	5.28%
		2024 Total	5.89%						
									\$6,910,648.93
								2021-2025 Total	66.12%

XI. CERTIFICATION

I have given due weight to the statutory criteria set forth in *N.J.S.A. 34:13A-16(g)*, and I conclude that the terms of this Award represent a reasonable determination of the issues.

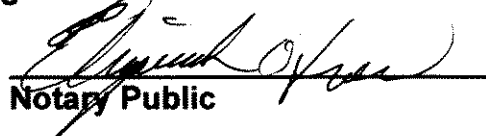
Dated: March 30, 2023
Brooklyn, New York



Ira Cure

State Of New York }
County of Kings }

On this 30th day of Marcy, 2023 before me personally came and appeared Ira Cure to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me he executed the same.



Notary Public

ELIZABETH ORFAN
Notary Public, State of New York
No. 02OR4976601
Qualified in Kings County
Commission Expires April 23, 2023