

# **NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between the

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**OCEAN COUNTY BOARD OF CHOSEN  
FREEHOLDERS,**

**"County"**

**and**

**OCEAN COUNTY SHERIFF'S OFFICE,**

**"Sheriff,"**

**and**

**PBA LOCAL 379A (SUPERIORS),**

**"Union."**

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**INTEREST  
ARBITRATION  
DECISION & AWARD**

Docket No. IA-2013-002

**Before  
Robert C. Gifford, Esq.  
Arbitrator**

## **Appearances:**

### **For the Employer:**

Robert T. Clarke, Esq.  
Apruzzesse McDermott Mastro & Murphy

### **For the Union:**

James M. Mets, Esq.  
Mets Schiro & McGovern

On August 23, 2012, the Union filed a Petition to Initiate Compulsory Interest Arbitration. On September 10, 2012, I was randomly selected from PERC's Special Panel of Interest Arbitrators to serve as interest arbitrator. The law requires that I issue an Award within 45 days of my appointment.

On September 10, 2012, I notified the parties by letter that an interest arbitration hearing was scheduled for September 13, 2012. The parties submitted their final offers to me in accordance with my request. Each party modified its final offer at the conclusion of the testimony presented.

An interest arbitration hearing was held at the County Administration Building in Toms River, New Jersey on September 13, 2012 at which time the parties argued orally, examined and cross-examined witnesses and submitted substantial documentary evidence into the record. A stenographic recording of the proceedings was taken. Testimony was received from Captain Stephen Bauman, Chief Sheriff's Officer Michael Osborn, and Director of Employee Relations Keith Goetting. The parties provided post-hearing briefs on October 2, 2012, whereupon the record was declared closed.

## **FINAL OFFERS OF THE PARTIES**

### **The PBA's proposals:**

1. **ARTICLE V, PERSONAL DAYS**

Add the following: "Upon the death of an Officer, earned and unused Personal Time shall be paid to the Officer's estate."

2. **ARTICLE VIII, VISION CARE PLAN**

Include the actual language from the current County Vision Care Plan in the agreement.

3. **ARTICLE XI, VACATION LEAVE**

Add a Paragraph D as follows: "Upon the death of an Officer, unused and earned vacation leave shall be paid to the Officer's estate."

4. **ARTICLE XIII, OVERTIME AND CALL-IN**

Add Section F as follows: "Time spent by an Officer in obtaining duty-injury medical treatment or therapy during off-duty hours shall be compensated at the rate of one and one-half (1 ½) times the regular hourly rate if such medical treatment is scheduled by the Employer or its medical provider. Officers shall not be compensated while pursuing such medical treatment or therapy during off-duty hours if the treatment was scheduled by the Officer."

5. **ARTICLE XXV, NEGOTIATION FOR A SUCCESSOR AGREEMENT**

Conform to the duration of the successor Agreement.

6. **ARTICLE XXVI, SALARIES and APPENDIX A (See attached spreadsheet)**

A. Effective and retroactive to April 1, 2010                      3.0% ATB

- B. Effective and retroactive to April 1, 2011 3.0% ATB
- C. Effective and retroactive to April 1, 2012 3.0% ATB
- D. Effective and retroactive to April 1, 2013 3.0% ATB
- E. Effective and retroactive to April 1, 2014 3.0% ATB

7. **ARTICLE XXVII, SENIORITY**

Replace A and B with:

A. SENIORITY SYSTEM AND SHIFT BIDDING

1. Subject to manpower needs, special skills, and maintaining efficiency of the Division/Detail, seniority shall be the prime factor in the selection of shifts and days off provided the Officer is otherwise qualified.

2. Bidding for shifts and days off will be done during the first week in November. The bidded shifts and days will be posted in the first week of December for the upcoming year. The bids will take effect on January 1<sup>st</sup>. All bidding will be in writing.

3. The Sheriff will determine the proper staffing levels on all shifts. If shifts need to be readjusted to arrive at acceptable staffing levels, the Sheriff retains the right to transfer to accomplish the proper staffing levels according to the provisions set forth in this Article. All such transfers shall be first offered to volunteers on a seniority basis. If not enough officers volunteer they shall be reassigned by inverse seniority in rank.

4. A shift change will require ten (10) business days written notice from the Employer prior to the date of the change except in emergent

situations. When the emergent situation ends, the Officer shall be returned to his/her prior shift. The notice and return provision applies shift changes to perform required, voluntary, or unit specific departmental training. An Officer who declines a shift change will not be subject to any adverse actions, including but not limited to the denial of training opportunities or overtime compensation.

5. All vacancies on shifts will be posted for bid on the SOA bulletin board and sent to all SOA unit members via email. The most senior volunteers, who possess in the Sheriff's discretion the necessary training and experience, will have an opportunity to fill the vacant position. If there are not enough volunteers, vacancies shall be filled by inverse seniority in rank to the least senior officer who possesses, in the Sheriff's discretion, the necessary training and experience. The Officer subject to the involuntary shift placement will be given ten (10) business days written notice from the Employer prior to the effective date of the shift change unless an emergent situation arises. While bidding takes place, the position may be filled temporarily.

8. **ARTICLE XXX, CEREMONIAL ACTIVITIES**

A. In Section A, change "uniformed Officer of the County" to "SOA bargaining unit member..."

B. In Section B, change "a County vehicle" to "a marked" Sheriff's Department vehicle, if available..."

9. **ARTICLE XXXIII, DURATION**

Change dates to April 1, 2010 through March 31, 2015.

10. **ARTICLE XXXIV, LAW ENFORCEMENT PROTECTION ACT**

A. Designate the language of this Article as paragraph A and add the following: "The Employer agrees to conduct all in person and questionnaire Departmental investigations and drug testing pursuant to the relevant Attorney General Guidelines."

B. Add paragraph B as follows: "Complaints against bargaining unit members that are determined to be "unfounded" or "unsubstantiated" shall not be included in Officers' personnel files and shall not be used in any subsequent disciplinary proceedings or in making promotion decisions."

11. **ARTICLE XXXVI, OUT OF COUNTY TRAVEL**

The County travel Policy, as it may be amended from time to time, shall apply to SOA unit members.

12. **ARTICLE \_\_\_\_\_, LEGAL DEFENSE (New)**

The County's Resolution regarding legal defense, as it may be amended from time to time, shall apply to SOA unit members.

13. **ARTICLE \_\_\_\_\_, HOURS OF WORK (New)**

A. The normal workweek shall be either 5 consecutive workdays on duty followed by 2 consecutive days off duty or 4 consecutive workdays on duty followed by 3 consecutive days off duty.

B. The workday shall consist of 8 consecutive hours on duty on the 5/2 schedule and 10 consecutive work hours on duty on the 4/3 schedule.

14. **ARTICLE \_\_\_\_\_, TRANSFERS (New)**

If an Officer's permanent work assignment is changed from one division to another, the Officer shall be provided with ten (10) business days' written notice from the Employer before it becomes effective.

15. **ARTICLE \_\_\_\_\_, WORK RULES (New)**

The Employer agrees to furnish the SOA President with a minimum of 14 calendar days' written notice prior to making changes to departmental rules, policies or procedures. Such notice as possible shall be given under emergent circumstances.

16. **ARTICLE \_\_\_\_\_, TABLE OF ORGANIZATION (New)**

During the first week of January of each year, the Sheriff shall provide a copy of the up-to-date Table of Organization to the SOA President.

All mid-year changes to the Table of Organization shall be provided to the SOA President with at least 10 business days' written notice prior to the effective date of the change.

**APPENDIX A**

**SALARIES**

	<b>Current</b>	<b>4/1/10</b>	<b>4/1/11</b>	<b>4/1/12</b>	<b>4/1/13</b>	<b>4/1/14</b>
<b>Captain</b>	<b>\$115,574</b>	<b>\$119,041</b>	<b>\$122,612</b>	<b>\$126,291</b>	<b>\$130,080</b>	<b>\$133,982</b>
<b>Lieutenant</b>	<b>\$106,080</b>	<b>\$109,262</b>	<b>\$112,540</b>	<b>\$115,916</b>	<b>\$119,394</b>	<b>\$122,976</b>
<b>Sergeant</b>	<b>\$96,585</b>	<b>\$99,483</b>	<b>\$102,467</b>	<b>\$105,541</b>	<b>\$108,707</b>	<b>\$111,968</b>



**The County's proposals:**

1. Duration – April 1, 2010 through March 31, 2013.
2. Salary – Article XXVI, Section 1, shall be deleted and replaced with the following language:

Base annual salaries for employees covered by this Agreement shall be as follows and as set forth on Schedule A annexed:

1. Effective April 1, 2010, all employees covered by this Agreement shall receive a 1.5% increase to their March 31, 2010 base salary or a minimum annual salary of \$98,034 for Sergeants, \$107,671 for Lieutenants, and \$117,308 for Captains, whichever is greater.
  2. Effective April 1, 2011, all employees covered by this Agreement shall receive a 1.5% increase to their March 31, 2011 base salary or a minimum annual salary of \$99,504 for Sergeants, \$109,286 for Lieutenants, and \$119,067 for Captains, whichever is greater.
  3. Effective April 1, 2012, all employees covered by this Agreement shall receive a 1.5% increase to their March 21, 2012 base salary or a minimum annual salary of \$100,997 for Sergeants, \$110,926 for Lieutenants, and \$120,853 for Captains, whichever is greater.
3. Longevity – Effective April 1, 2012, Article XII shall be amended to provide the following:

The longevity schedule for any Superior Officer hired into the Sheriff's Department on or after April 1, 2012 shall be as follows:

Completion of 15 years	-	2% of base rate
Completion of 20 years	-	4% of base rate
Completion of 25 years	-	6% of base rate

4. Holidays – Article 12, paragraph 1, shall be deleted and replaced with the following:

Each full-time employee covered by this Agreement shall receive the State employees' holiday schedule with pay if, and when, the County implements the State employees holiday schedule for other County employees.

5. Health Benefits – Article VI, Hospital, Surgical, Prescription and Major Medical Benefits, sections A through G shall be deleted and replaced with the following:

- A. The County of Ocean currently provides medical coverage to the County employees through the New Jersey State Health Benefits Program as supplemented by NJ Local Prescription Drug Program and Chapter 88. P.L. 1974, as amended by Chapter 436 P.L. 1981. The parties recognize that the State Health Benefits Program is subject to changes enacted by the State of New Jersey that may either increase or decrease benefits.
- B. The County shall not change the health insurance coverage referred to in paragraph A except for a Plan that is equivalent or better. Provided, however, that the parties expressly recognize that the components of HMO plans are changed periodically by the plan providers and that the County has no control over or any obligations regarding such changes.
- C. All employees, current and future, who retire on or after January 1, 2012, in order to be eligible for the lifetime health benefits upon retirement, must have served a minimum of fifteen (15) of the required twenty-five (25) years with the County.
- D. An eligible employee may change his/her coverage only during the announced open enrollment period for each year after having been enrolled in the former plan for a minimum of one (1) full year. Regardless of this election,

employees are specifically ineligible for any deductible reimbursement.

- E. When a member of this bargaining unit is granted the privilege of a leave of absence without pay for illness, health coverage will continue at County expense for the balance of the calendar month in which the leave commences plus up to three (3) additional calendar months next following the month in which the leave commences. After that time has elapsed, if necessary, coverage for an additional period of eighteen (18) months may be purchased by the employee under the C.O.B.R.A. plan.
- F. In the case of consecutive leaves of absence without pay, it is understood and agreed that the responsibilities of the County to pay for benefits remains limited to the original period of up to four (4) months.
- G. Effective June 1, 2012, the following changes will affect all new hires:
  - 1. Employees will be offered the NJ Direct 15 plan, or its replacement. New hires may elect a higher level of coverage at their expense.
  - 2. Continuation of spousal coverage after the death of the retiree will no longer be offered at the County's expense.
  - 3. The County will no longer reimburse Medicare Part B premiums.

## **BACKGROUND**

Ocean County has a land area of 636 square miles and a population of over 576,000 people. Recent statistics show that the median household income in the County is \$60,787, a median family income of \$74,142, and a poverty rate that is below 8%.

PBA Local 379A represents "all permanent Sheriff's Superior Officers holding the rank of Sergeant, Lieutenant or Captain and excluding all Sheriff's Officers, Chief Sheriff's Officer and all other County employees." As of January 2011, there were 27 bargaining unit members – 14 Sergeants, 8 Lieutenants and 5 Captains. Captain Stephen Bauman testified that at the time of the interest arbitration hearing there were 26 bargaining unit members - 15 Sergeants, 7 Lieutenants and 4 Captains. [T:7]. The parties' prior Agreement was effective from April 1, 2006 through March 31, 2010.<sup>1</sup>

The parties submitted substantial evidence in support of their respective positions. I thoroughly reviewed that information. Because of the thousands of pages of evidence admitted into the record and the strict time constraints under the statute I have extracted the legal arguments from the parties' briefs rather than providing a general summary herein.

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<sup>1</sup> This Award is not subject to the 2% base salary cap imposed by P.L. 2010, c. 105.

## **The PBA's Position**<sup>2</sup>

### **LEGAL ARGUMENT**

#### **APPLICATION OF THE STATUTORY CRITERIA**

Set forth below is a discussion and analysis of the PBA's Final Offer compared with that of the County in light of N.J.S.A. 34:13A-16(g) and the evidence presented during this interest arbitration proceeding.

The PBA submits that when the evidence is applied to each proposal in the parties' Final Offer and is reviewed against the statutory criteria, the Arbitrator must award the PBA's Final Offer in its entirety.

#### **A. THE INTEREST AND WELFARE OF THE PUBLIC**

An Arbitrator must give due weight to the interest and welfare of the public when issuing his award. The PBA's Final Offer was presented to the Arbitrator with the interest and welfare of the public in mind. As Arbitrator Osborn recognized in Borough of Roselle Park -and- PBA Local 27 / SOA, IA-2012-024, IA-2012-026 (Osborn, S., 2012): "the interest and welfare of the public is entitled to the most weight because it is a criterion that embraces many other factors and recognizes the interrelationships among all of the statutory criteria." "Arbitrators have reviewed the public interest as encompassing the need for

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<sup>2</sup> The PBA's Legal Argument is set forth in pages 48-126 of its Brief. The footnotes extracted from the PBA's Brief are misnumbered in this Award because I was unable to renumber the footnotes after I performed the "cut and paste" function in Word format. Footnotes 3-50 in this Award are actually numbered 2-49 in the PBA's Brief.

both fiscal responsibility and the compensation package required to maintain an effective public safety department with high morale." See Sayreville -and- PBA Local 98, IA-2006-047 (Hartigan, T., 2008). Arbitrator Osborn noted in Borough of Roselle Park, "it is also in the public interest that the municipal police force maintains a high degree of morale and professionalism while performing their duties...In the bigger picture, it is in the interest of the public that it receives the highest quality of police protection and services for the most reasonable price."

Thus, in considering what is in the best interest and welfare of the public, the Arbitrator must consider the impact on the morale of the bargaining unit when rendering an award. Here, awarding the County's Final Offer will irreparably damage the morale of the bargaining unit and therefore it is not in the interest and welfare of the public. Indeed, the PBA Local 379A bargaining unit is well aware that the rank and file officers they supervise received raises in excess of what the County has offered. (See Exh. G-1). In addition, many non-unionized employees received raises greater than the 1.5% annual increases proposed by the County. (T. 126:7-127:25). On the other hand, awarding the PBA's Final Offer would benefit the public and boost the morale of bargaining unit members.

This section begins by analyzing the County's finances. This analysis reveals that there is no doubt that the County can afford the PBA's Final Offer and pay for it within its lawful restrictions. Next, the Final Offers of the parties are analyzed with regard to the interest and welfare of the public. As set forth more fully below, the Arbitrator must award the PBA's Final Offer in its entirety.

**1. The County Can Legally Afford the PBA's Final Offer.**

The County's financial records clearly show that it can afford the PBA's Final Offer. Awarding this Final Offer will certainly raise the morale of a bargaining unit that is fully aware that the County can afford the reasonable wage increases it seeks. Indeed, rank-and-file officers in the PBA Local 379 bargaining unit received raises in excess of the County's proposed wage increases. Awarding the County's Final Offer will decimate the morale of PBA Local 379A unit members.

The PBA's financial expert, Joseph Petrucelli, analyzed the County's finances and found, unequivocally, that the County has the ability to fund the PBA's Final Offer. (Exh. K-2). There is no doubt that the County is the fastest growing County in the state. (Exh. B-2). The County's ratable value has grown 163.28% since December 31, 2000. (Exh. K-2, p. 34). The County has added "New Ratables Assessments" of \$1,567,470.00 in the 2011 calendar year budget and \$1,460,713.00 in the 2012 calendar year. Id.

In addition to new ratables, the County has enjoyed increased revenues. Id. at 34. Despite the recent economic turmoil, the County's actual increase in revenue was \$6,995,123.76, or 2.76% between January 1, 2006 and December 31, 2011. Id. From 2010 to 2011, the actual revenue collected increased by \$6,276,286.00. Id.

The County has \$4,282,146.41 worth of additional miscellaneous revenue that it did not anticipate in the calendar year 2011 budget. Id. There is also \$4,885,577.39 of additional miscellaneous revenue available from the calendar year 2010 budget. Id. The County has continued to generate excess results from operations as well. Id. This indicates that the County will continue to collect additional revenues not anticipated and/or spend less than appropriated. Id. The December 31, 2011 unaudited annual financial statement reveals that the excess results from operations for the calendar year 2011 budget was \$17,671,562.00. Id.

The County also receives revenue from the Sheriff's Department. Id. at 34-35. In 2011, the Sheriff generated \$2,240,163.92 of miscellaneous revenues and \$331,407.20 of non-budgeted revenues for a total of \$2,571,571.12. Id. In addition to these revenues, the Sheriff's Department has received various grants and other revenues that are available to offset the costs of certain program expenses provided by the Sheriff. Id. at 34.



The County has also been successful in creating and maintaining surplus. Id. After using \$17,000,000 of surplus revenue in the 2012 budget, the County had a remaining surplus balance of \$17,403,041.77. Id. at 33. Similarly, in 2010, after using \$17,200,000 of surplus revenue in the 2011 budget, the County still had a remaining surplus balance of \$16,731,146.77. (Exh. K-1, p. 27). Thus, the County has actually increased its surplus since 2010.

The County's "free" cash balance as of December 31, 2011 was \$34,403,041.77. (Exh. K-2, p. 34). Since 2006, the County has created fund balances and generated excess results from operations to enable the use of fund balance as surplus revenue, and in turn, hold down taxes. Id.

Further, the County has actually increased the budgeted Sheriff's salaries and wages by 4.168% in 2012 compared to amounts actually paid in 2011. Id. at 33. Other budgeted County salaries and wages have increased by 5.126% over 2011 budgeted amounts. Id.

The County currently maintains an exceptional bond rating and a low net debt. Id. at 21. This is a clear indication that the County is not financially extended. Id. The County's bond rating from Moody's Investment Services is Aaa. Id. at 22. Bonds rated Aaa are of the highest quality and carry the smallest degree of investment risk. Id. The County's bond rating from Fitch

Ratings is AAA. Id. Bonds rated AAA by Fitch have the lowest expectation of default risk. Id. In addition to its exceptional bond ratings, the County carries a low net debt. Id. at 21. The County's net debt percentage sits at 0.41%, which is well below the statutory debt limit. Id. The County has over \$3 billion of borrowing ability remaining. Id. Maintaining a low net debt percentage without fluctuations in financial debt indicates financial stability. Id. at 34.

On its website, the County boasts that it saved \$2.3 million by refinancing its existing debt. (Exh. B-9). The County's credit ratings rate allowed it to reduce the interest rate on pre-existing debt from 4% and 5% to approximately 2.5%. Id. A similar refinancing in the County saved approximately \$1 million in the 2012 budget. Id. Freeholder Deputy Director John C. Bartlett, Jr. expects to see similar savings in 2013 and 2014. Id.

The County argues, predictably, that the sky is falling. In her certification, County Comptroller and Chief Financial Officer Julie Tarrant claims that restrictions imposed by the State as well as a drop in foreclosures have contributed to the County's dire economic straits. (C-134, ¶¶11, 42). However, Ms. Tarrant has failed to provide any calculations or other arguments indicating that the County cannot afford the wage increase sought by PBA Local 379A.

The reason for this omission is because the financial impact of the PBA's proposal is minimal. Indeed, the difference between the County's proposal and the PBA's Final Offer amounts to a mere \$0.19 per year to the average residential taxpayer. (Exh. K-2, p. 32). \$0.19 is a small price to pay for the myriad of services provided by PBA Local 379A members.

Further, the County's own documents belie its claim of poverty. For example, Ms. Tarrant claims that the County's surplus balance has declined since 2007. (C-134, ¶¶26-30). However, the documentary evidence clearly shows that the County's surplus has stabilized and has already risen to its 2009 level. (Exh. K-3, p. 3). This trend is likely to continue as the economy continues to improve.

Ms. Tarrant also provides an incomplete picture with regard to revenues received from certain fees and grants. (C-134, ¶¶32-39). Ms. Tarrant states that Sheriff's fees were down in 2011, due to a moratorium on foreclosures. Id. at ¶42. However, the moratorium on foreclosures was lifted in September 2011, and therefore the County should expect to see the Sheriff's fees return at least to previous levels as foreclosures resume. (Exh. K-3, p. 3). Similarly, the County's financial certification is incomplete in its discussion of grants. Ms. Tarrant fails to disclose the amount of Sheriff's Department appropriations that are paid for by grants. Id. These grants, which amounted to \$2,240,163.92 in 2011, relieve the

County and the taxpayers from being forced to use surplus or taxation to pay for those specific budgeted appropriations. (Id., see also, Exh. K-2, p. 24).

Moreover, the alleged reduction in revenues is offset by the County's success in the area of excess results from operations. The County fails to point out that it ended 2009 with \$13,101,170.82 in excess results from operations and ended 2010 with \$17,238,385.91 excess results from operations. (Exh. K-3, p. 4). The excess results of operations in 2010 effectively replenished the \$17,700,000.00 of surplus utilized in the 2010 budget as revenue. Id. In 2011, the excess results of operations of \$17,761,895.00 completely replenished the \$17,200,000.00 of surplus that was used as revenue in the 2011 budget. Id.

The County further obfuscates the objective evidence by claiming that there was a "deficit in surplus" in 2010. (C-134, ¶194a). A deficit in surplus implies that the surplus balance was below zero. Id. at 5. This, however, was never the case. Although surplus was used in 2009 and 2010 as budget revenue, \$13,101,170.82 was replenished in 2009 and \$17,238,385.91 was replenished in 2010. Id. At no time was there ever an actual deficit in the fund balance. Id.

The County has attempted to buttress its inability to pay argument by claiming that ratables fell 4% between 2009 and 2010. (C-134, ¶¶178-79). This contention is exceedingly myopic. As set forth above, ratables have increased

by \$62,499,519,737.79 since December 31, 2010. (Exh. K-3, p. 3). In eleven years, the County's ratables increased from \$38,276,387,303.21 on December 31, 2000 to \$100,775,907,041 on December 31, 2011. Id. Thus, the County's claim that ratables have been reduced does not consider the larger picture, and must be rejected.

The County has also conveniently ignored the windfall it has received through legislation. P.L. 2010, c. 2 and subsequently P.L. 2011, c. 78 require public employees to contribute towards their health benefits. Members of the PBA Local 379A unit will contribute \$74,864.92 in 2012, \$112,297.38 in 2013 and \$149,729.84 in 2014 (based on the PBA's Final Offer) to offset the cost of health benefits. (Exh. K-3, p. 6). Thus, the PBA unit alone will be returning \$336,892.14 of its salary to the County.

The County has failed to support its claim that it cannot afford the PBA's Final Offer. Indeed, it has increased rank-and-file Sheriff's Officers' salaries by more than it has offered members of the PBA Local 379A unit. (Exh. G-1). It has also provided raises to non-union employees that are greater than those it has offered the PBA unit. (T. 127:7-14). Accordingly, the County can fully afford the PBA's proposal and the Arbitrator must award the PBA's Final Offer.

## **2. The Interests and Welfare of the Public.**

The PBA's Final Offer is in the public's best interest. The County's proposal will undoubtedly destroy the morale of the unit. The County has proposed wage increases that are less than those received by rank-and-file officers – the same individuals that PBA Local 379A unit members supervise on a daily basis. (Exh. G-1). In addition, the County has provided wage increases in excess of those offered to certain non-union employees. (T. 127:7-14). In addition to the substandard wage increases, the County has proposed reducing the number of holidays, which will result in an increase in the number of days worked without a commensurate increase in pay. (See T. 121:21-122:8). If awarded, these proposals will negatively affect employee morale, especially in light of the fact that the County has not shown any colorable reasons it cannot pay the wage increases sought by the PBA. As set forth more fully below, the PBA's Final Offer is in the interest and welfare of the public, and must be awarded in its entirety.

### **a. Duration**

A long-term agreement is in the public's interest. The PBA has proposed a five-year agreement covering the period April 1, 2010 through March 31, 2015. (Exh. A-2). Conversely, the County has proposed a three-year agreement that will expire on March 31, 2013. (Exh. A-3). The public's interest is best served by a contract that will foster stable labor relations for more than six (6) months. Therefore, the Arbitrator must award the PBA's Final Offer.

Arbitrators favor long term contracts that will foster labor piece and prevent an immediate return to the negotiating table. In City of Passaic -and- Passaic Firefighters Assoc., IA-2002-027 (Mastriani, J., 2002), Arbitrator Mastriani recognized the inherent instability created by awarding a contract that would result in near term commencement of negotiations for a successor agreement. In that case, the Arbitrator awarded the union's proposal for a five-year contract to afford the parties time to implement the award. Id. Arbitrator Mastriani further recognized the need for a period of stability following contentious negotiations and declined to issue an Award that would result in a swift return to the negotiating table. Id.

In Borough of Roselle Park, Arbitrator Osborn similarly focused on labor stability in awarding a contract that expired at the end of 2014. "There is some attractiveness to locking in terms and conditions for a longer period...A longer contract would mean that the parties would not have to go through the negotiations process again so soon." Borough of Roselle Park -and- PBA Local 27 / SOA, IA-2012-024, IA-2012-026 (Osborn, S., 2012). In that case, Arbitrator Osborn awarded a contract that expired in 2014, believing that such a contract "strikes the appropriate balance" between economic factors and the public interest. Id.

Similarly, in Township of Springfield -and- PBA Local 76, IA-2012-003 (Gifford, R., 2011), Arbitrator Gifford determined that a longer term contract was in the public interest. "The longer duration will provide the Township with greater certainty as to its personnel costs for the bargaining unit for the next three (3) full years (2012, 2013 and 2014) and the record evidence shows that the Township's finances, notwithstanding the decrease in State aid, have been sufficiently stable so as to support the budgetary needs of the department into the foreseeable future." Id.

Here, the County has proven that it is financially stable. Indeed, it maintains a Aaa bond rating and low debt. (Exh. K-2, p. 33). Thus, a longer term contract would benefit both labor and management by providing a longer period between negotiations.

Further, there is no internal uniformity with regard to contracts in the County. The CNA between the County and the Ocean County Corrections Professionals Association expires on March 31, 2014. (Exh. G-7). The CNA between PBA Local 203, representing Assistant Superintendents of Weights and Measures expired on March 31, 2012, any subsequent agreement is unlikely to expire in March 2013. (Exh. G-3). Moreover, several other supervisory bargaining units within the County expire on March 31, 2014. These include the County's CNAs with O.P.E.I.U. Local 32 (White Collar Supervisors) (Exh. G-11) and O.P.E.I.U.



Local 32 (Information Technology Employees) (Exh. G-12). Thus, the County cannot rely on a “pattern of settlement” argument in this regard.

If a contract that ended on March 31, 2013 was such a priority for the County, it could have offered an inducement to settle pursuant to those terms. It did not. The County can attempt to negotiate two (2) year contracts with its other units if it wishes to have them all expire at the same time.

Awarding the County's proposal will provide no labor peace, as the parties will have to begin negotiating for a successor agreement within months of the Award. Indeed, the ink will still be wet on the signed contract when the parties will be forced to resume negotiations. Awarding the County's proposal will provide no labor stability as the parties will be forced to go from one hard-fought negotiation to another.

The PBA's Final Offer, on the other hand, will provide labor stability because the parties will be able to work under a settled agreement for more than six (6) months before resuming negotiations for a successor agreement. The public's interest is clearly fostered by awarding the PBA's proposed term because it promotes labor stability and peace. Conversely, the public's interest is harmed by parties that are continually engaging in contentious and costly

negotiations. Accordingly, the Arbitrator must award the PBA's proposed contract term.

**b. Wages**

In Monmouth County Sheriff -and- PBA Local 314, P.E.R.C. Docket No. I.A. 2002-061 (2003), Arbitrator Mastriani recognized that an increase in salary fosters the interest and welfare of the public by reducing turnover. In this regard, he stated: "[t]he interests and welfare of the public are served by a stable and well-trained workforce and the continuity and stability of employment will be enhanced as a result of salary guide compression and increase in salary maximums." Id. Thus, an analysis of this criterion must extend beyond the finances of the governing unit and include how wage increases will affect the public interest in other areas. Id., see also, Point Pleasant, P.E.R.C. Docket No. I.A.-2011-001 (Mastriani, J. 2011) at 34.

The PBA seeks reasonable raises. (Exh. A-2). The PBA seeks 3.0% across the board wage increases for the years 2010 through 2015. Id. The raises sought by the PBA are reasonable in light of the County's finances. Moreover, these pay increases will raise the morale of bargaining unit members who have had their pay reduced by statute twice since 2010. In reality, the raises sought by the PBA will barely cover the cost of recent legislation requiring all public employees to contribute towards their health benefits. These raises are further reduced by the

requirement that, effective October 1, 2011, all law enforcement officers in the PFRS contribute an additional 1.5% of their salary towards their pension for a total of 10%.

In 2010, the New Jersey Legislature passed P.L. 2010 c. 2, which requires public employees to contribute 1.5% of their salaries to offset the cost of employer-provided health benefits. P.L. 2011 c. 78, effective June 28, 2011, requires employees to pay a percentage of their health benefits premium, provided that amount is not less than 1.5% of their salary. This percentage substantially increases as the requirements of Chapter 78 are implemented; for this unit on July 1, 2012.

Pursuant to P.L. 2010, c. 2, a Sergeant currently earning \$96,585 will contribute \$1,448.75 per year. A Lieutenant earning \$106,080 will contribute \$1,591.20. A Captain earning \$115,574 will contribute \$1,733.61. Because PBA Local 379A is out of contract, unit members have been paying these contributions since May 22, 2010. On July 1, 2012, this amount was substantially increased as the percentage of premium requirements of Chapter 78 were applied.

The cost to PBA members, and the corresponding gain realized by the County, due to P.L. 2011, c. 78 is immense. If the Arbitrator were to award the

PBA's salary proposal, PBA members would return \$74,864.92 of their salaries to the County in 2012 to cover the cost of health benefits. (Exh. K-3, p. 6). That number will rise to \$112,297.38 in 2013. Id. By 2014, PBA members will be returning a combined \$149,729.84 of their salaries to offset the cost of health benefits. Id. This is a total contribution of \$336,892.14 in salary over the course of three years, if the PBA's wage proposal is awarded. See id. This amounts to an average return of \$12,957.39 of salary over three years for each of the twenty-six unit members.

Unit members' net income is further reduced by increased pension payments required by P.L. 2011, c. 78. The pay increase sought by the PBA will not impact the County's finances, but will provide a bare net increase to pay thereby immeasurably improving unit members' morale.

The County's proposed wage increases for the PBA Local 379A bargaining unit is lower than the wage increases awarded to rank and file Sheriff's Officers. Awarding such a proposal will have a detrimental affect on the morale of the Department, and therefore it is not in the interest and welfare of the public. Pursuant to Arbitrator Glasson's Award in Ocean County Sheriff -and- PBA Local 379, IA-2011-014 (Glasson, R., 2012), the top step on the rank and file Sheriff's Officer salary guide was increased by 2.0% on April 1, 2010, 2011 and 2012. (Exh. G-1, p. 78). In addition, the Senior Officer differential of \$1,500 was continued.

Id. Thus, senior Sheriff's Officers in the rank and file unit were earning \$89,890 in 2010, \$91,658 in 2011 and \$93,461 in 2012. Id. at p. 134. The salaries of senior rank and file officers are beginning to encroach upon the salaries of Sergeants in the PBA Local 379A unit. If the County's Final Offer were awarded, the pay difference between senior Sheriff's Officers and Sheriff's Officer Sergeants will decrease from \$8,462.80 in 2009 to \$7,536 in 2012. This amounts to a decrease of over 10.95% of the difference that existed in 2009.

Moreover, no recent Interest Arbitration Award has provided wage increases to superior law enforcement officers that were less than those received by rank and file officers. For example, in Borough of Madison -and- PBA Local 92 and PBA Local 92A, IA-2010-110 (Glasson, R., 2012), Arbitrator Glasson awarded a raise to Sergeants and Lieutenants, but did not provide a salary increase to rank and file unit members, aside from step increases. In Borough of Roselle Park -and- PBA Local 27 / Police Supervisor's Group of PBA Local 27, IA-2012-024, IA-2012-026 (Osborn, S., 2012), Arbitrator Osborn awarded wage identical wage increases to both units. Similarly, in Hudson County -and- PBA Local 109A, IA-2012-043 (Osborn, S., 2012), Arbitrator Osborn awarded across the board wage increases to the Superior Officers unit. While she awarded the same raises to the rank and file unit, in Hudson County -and- PBA Local 109, IA-2012-046 (Osborn, S., 2012), the increase was not "across the board" in all respects. Arbitrator Osborn also awarded a new salary guide to

rank and file corrections officers. Id. Thus, there is no justification for the County's wage proposal in this case. No other superior officer unit has been awarded a raise lower than rank and file officers in the same department. The County simply seeks to "take a shot" and see if the Arbitrator will award an unjustifiably low raise.

The County has also provided wage increases in excess of 1.5% to non-unionized personnel. Keith Goetting, the County's Director of the Department of Employee Relations testified that non-aligned employees earning \$98,000 or less received 1.9% raises in 2010. (T. 126:6-14). In 2011 and 2012 all non-aligned employees received raises of 1.5%. (T. 126:22-127:3). Thus, highly paid non-aligned employees that do not deal with the dangers of law enforcement employment received raises higher than PBA Local 379A members.

Many unionized employees did receive 1.5% across the board salary increases in recent years. However, these unions settled long-term contracts prior to the imposition of statutorily mandated health benefits contributions. This allowed these units to avoid paying health benefits contributions. For example, Director Goetting testified that the Blue Collar Supervisors, Assistant Fire Marshals and Juvenile Detention Officers all settled their contracts in 2010 for raises at or under 2.0%. (T. 123:1-25). These units avoided paying health benefits

contributions, and therefore realized salary increases in excess of 3.0% when the savings for the contribution is factored in.

If the Arbitrator were to award the County's proposal, the morale of the unit will be diminished. Superior Officers will have to go to work each day knowing that the men and women they supervise received a better raise. Such a situation is certain to have a deleterious effect on the *esprit de corps* of the unit.

Moreover, the County's proposed raises are not raises at all when the increased cost of health benefits and pension contributions are factored in. These wage increases will not improve the morale of the department and could impair the continuity and stability of employment. Pt. Pleasant at 38 (Arbitrator Mastriani stated that the terms of the Borough's award could "unduly erode [the PBA's] relative standing with other comparable law enforcement units, thereby having the potential to threaten the continuity and stability of the Borough's police officers"). Further, PBA Local 379A unit members will realize diminished spending power if the County's proposal is awarded.

Conversely, the PBA's proposed wage increases will raise the morale of the unit. Officers will realize a slight increase in their salaries and their buying

power will not be reduced. Accordingly, the Arbitrator must award the PBA's Final Offer in its entirety.

**c. Seniority and Shift Bidding**

The PBA has proposed a seniority and shift bidding system that allows PBA Local 379A unit members to select their shifts and days off by seniority, provided that the Officer is otherwise qualified for the Division or Detail that he or she selects. (Exh. A-2). The proposal does not infringe upon management's prerogative to dictate manpower needs, special skills or operational efficiency. Id. Currently, shifts in the Sheriff's Department are bid upon by seniority within each unit. (T. 41:8-11). The Sheriff assigns Officers to each unit so that he is assured that everyone assigned to a particular unit is qualified to perform the functions of the unit. (T. 41:12-17). Bids are conducted in December for January 1 implementation. Id. When a position becomes vacant, the position is filled by the Sheriff. (T. 42:5-9).

At the hearing, there appeared to be some confusion as to what the PBA was proposing regarding bidding. The PBA is proposing that unit members be permitted to bid on specific shifts and days off, not assignments. Captain Bauman testified:

Recently, within the last 18 months we have developed shifts, there's been management meetings on



developing further shifts that would encompass weekends and other night hours, so if those generate supervisory shifts where all the supervisors have common days off or hours worked we'd like to have the most senior person choose their shift first. (T. 82:7-14).

Thus, the PBA is not seeking to restrict the Sheriff's ability to assign qualified individuals to a particular Detail or Division, but to allow those with seniority to choose their shifts first. Effectively, PBA Local 379A seeks to make their shift bidding procedure the same as the rank and file shift bidding procedure, which allows Officers to bid for their shifts and days off by seniority. (T. 112:23-113:10).

Allowing PBA Local 379A unit members to bid for their shifts and days off by seniority will increase the morale of the unit and is therefore in the public's interest. The morale of the unit will be bolstered if unit members that have earned their seniority are permitted to use their years of service to their benefit. Senior unit members can select the shifts and days off that will fit best with their professional and personal lives. PBA Local 379A unit members with less seniority will have something to look forward to as they rise through the ranks in the Department and earn seniority.

Further, this proposal will likely make the Department run more efficiently, as unit members will be able to more seamlessly integrate their work lives with their personal lives. For example, if a senior unit member has childcare issues on

certain days of the week because of a spouse's work schedule, he or she could select those days as days off (if available). This proposal may reduce absenteeism and creates an incentive for officers to remain on the job. The interest and welfare of the public is fostered by this proposal, and therefore it must be awarded.

The County does not appear to strenuously object to this proposal. In fact, the PBA's proposal mirrors the way rank and file Sheriff's Officers currently select their shifts and days off. (T. 112:23-113:10). With regard to shift bidding, Chief Osborn was concerned with his ability to assign certain officers to particular divisions or details. (T. 95:5-23). However, this is not what the PBA is proposing. Rather, the PBA is proposing that shifts and days off, not assignments, be bid upon by seniority. (Exh. A-2).

Another concern the County has with the PBA's proposal is consistency. However, the PBA's proposal is consistent with the manner in which the rank and file select their shifts. Chief Osborn testified at the Interest Arbitration hearing for rank and file Sheriff's Officers. (See County Exhibit C-137B). In that hearing, he testified that the only problem he had with shift bidding was that he wanted it done on a calendar year basis. Id., at 479:9-12. His concern in this regard was because he sought consistency in the shift bidding. (T. 113:11-114:12).

Thus, it does not appear that the County has any real objection to the PBA's proposal so long as it is restricted to the selection of shifts and days off and not assignments. This is exactly what the PBA seeks. Indeed, the PBA's proposal reserves the right to determine proper staffing levels and make transfers to accomplish those staffing levels. (Exh. A-2). Accordingly, the Arbitrator must award the PBA's Final Offer.

The PBA has also included a provision within this proposal that requires the Employer to provide ten (10) days written notice to unit members of shift changes except in emergency situations. (Exh. A-2). When the emergency is over, unit members must be returned to their prior shift. Id. This provision applies to required, voluntary or unit specific departmental training. Id. This proposal simply provides Officers with the courtesy of notice when their shift is to be changed. It causes no hardship on the Employer. However, the notice and ability to plan for the change will increase the morale of the unit and is therefore in the interest and welfare of the public.

Currently, the Sheriff's Department does switch officers' shifts for training purposes. Chief Osborn testified that officers regularly have their shifts switched for training. (T. 97:15-98:6). For example, at the annual night firearms training, officers' schedules are switched to accommodate this training. Id. He further testified that officers are notified at least one month in advance of this training.

Id. Thus, the PBA is simply asking the Employer to provide the notice that it already provides at least ten days in advance of the shift. Further, the PBA seeks to ensure that officers that decline shift changes will not be subject to adverse action, "including but not limited to the denial of training opportunities or overtime compensation." (Exh. A-2).

Granting this proposal is in the interest and welfare of the public. The morale of the unit will improve if it is assured that it will be working consistent shifts that cannot be changed without notice absent an emergency. Obviously, all law enforcement officers are aware that emergency situations require a swift response, which is why the PBA has proposed that the Sheriff retains the discretion to switch shifts in an emergency. However, the main thrust of this provision is consistency. Officers can be assured that they will work on their selected shift, can only be switched upon proper notice, and cannot be denied training or overtime opportunities if they decline to switch shifts. This proposal will increase the morale of the unit and is therefore in the public interest.

The PBA also proposes that vacancies that occur within particular shifts be posted for bid on the SOA bulletin board and sent to SOA members via email. (Exh. A-2). The most senior officer that volunteers, who possesses in the Sheriff's discretion the necessary training and experience will have an opportunity to fill the position. Id. If there are no suitable volunteers, the position will be filled by

inverse seniority in rank to the least senior officer that possesses, in the Sheriff's discretion, the necessary training and experience. Id. This proposal allows the Sheriff to choose who he or she deems qualified for a particular position and allows him to fill a vacancy with whoever he deems most qualified out of the pool of volunteers. Id. The PBA's proposal also allows the Sheriff to temporarily fill the position voluntarily while the bidding takes place. Id.

This proposal will increase the morale of the unit. It will decrease the instances in which Unit members are placed on a shift involuntarily. Moreover, it will allow officers the opportunity to bid for posts they desire if they become vacant. While the Sheriff maintains the ultimate authority to fill the post, PBA members will at least be advised of its vacancy. Simply providing the opportunity to bid for a particular post will increase the morale of the unit. Accordingly, this proposal is in the interest and welfare of the public and must be awarded.

The PBA has made a similar proposal with regard to transfers. (Exh. A-2). While the Sheriff would retain the ultimate authority to determine which officers to transfer, the opportunity for the transfer from one shift to another will be open to all officers. If there are volunteers, the transfer will be provided to the unit member with the most seniority. Id. If there are no volunteers, the transfer shall be by inverse seniority by rank. Id. Of course, skill and ability must always come

into play. As set forth above, allowing officers flexibility to transfer between shifts will increase the morale of the unit. Unit members will not feel locked into their current shifts. Accordingly, the PBA's Final Offer must be awarded.

**d. Personal Days and Vacation Leave**

The PBA has proposed adding the following provision to Article V, Personal Days: "[u]pon the death of an Officer, earned but unused Personal Time shall be paid to the Officer's estate." (Exh. A-2). Similarly, the PBA has proposed the following addition: "[u]pon the death of an Officer, earned and unused vacation leave shall be paid to the Officer's estate." Id. Both of these proposals are merely expressions of the parties' current practice and must be awarded.

At the hearing, Director Goetting testified that the County's current practice is to pay the estate of a deceased Sheriff's Officer any earned but unused personal days and vacation leave. (T. 142:22-143:13). Thus, the PBA is not seeking anything new with this proposal. It merely seeks to include the current practice in the CNA. The County has not provided any testimony or evidence indicating that this practice should not be included in the CNA. Indeed, the testimony of the County's own witnesses evidences that this proposal must be awarded.

Moreover, the morale of the Department will increase if these provisions are added to the contract. Superior Sheriff's Officers can take solace in the fact that if they were to die prior to retirement, their families will receive payment for days the officer could not take while he or she was alive. Accordingly, the Arbitrator must award the PBA's Final Offer in its entirety.

**e. Vision Care Plan**

The PBA has proposed including language from the County's Vision Care Plan in the agreement. Currently, Article VIII of the CNA states: "[v]ision care benefits will be afforded to all members of the bargaining unit in accordance with the provisions as set forth in the Guidelines for 'Ocean County Vision Services Plan.'" (Exh. A-2, Art. VIII, p. 4). Director Goetting testified that the County's vision plan applies only to employees and not to their dependents. (T. 134:12-135:21). The plan, at its core, provides an eye exam by an appropriate doctor and a pair of glasses valued at \$100. (T. 134:22-135:8). While the plans change relatively frequently, the basic services the plan provides, an eye exam and a pair of glasses, have remained relatively constant for at least twenty-two years. (T. 135:9-136:10).

The PBA's proposal is in the interest and welfare of the public. As Director Goetting noted in his testimony, healthy eyes are imperative for employees to adequately perform services to the people of Ocean County. (T. 134:11-20).

Indeed, the County provides these benefits to its employees for this very reason. Id. Moreover, Director Goetting testified that he had no problem referencing the Vision Care plan in the CNA. (T. 144:2-11). He did however, express concern that if the exact parameters of the plan were included in the CNA, there might be an instance in which better benefits could be obtained at a better price, in which case he would be contractually restricted from providing these benefits to PBA Local 379A members. (T. 144:21-145:6). The PBA's concern, however, is that these longstanding benefits could be unilaterally changed in the event the County discontinues the policy.

To address the concerns of both sides, the Arbitrator may award this proposal with the caveat that the current vision benefits serve as a floor, and if the County is able to obtain better benefits, than those benefits will be provided to PBA Local 379A members. This will allay the Union's fears that the County could unilaterally terminate the benefit, while providing for the ease and consistency in administration that the County seeks.

Granting the PBA's proposal is in the interest and welfare of the public. Indeed, the County readily admits that eye health is an important factor in providing adequate services to the public. (T. 134:22-135:8). Accordingly, the Arbitrator must award the PBA's Final Offer.



**f. Overtime and Call-In**

The PBA has proposed an addition to Article XIII, Overtime and Call In. (Exh. A-2). The PBA's proposal is a memorialization of an Arbitration award providing for overtime in certain instances. Specifically, the PBA has proposed an additional paragraph to this Article, which states:

Time spent by an Officer in obtaining duty-injury medical treatment or therapy during off-duty hours shall be compensated at the rate of one and one-half (1 ½) times the regular hourly rate if such medical treatment is scheduled by the Employer or its medical provider. Officers shall not be compensated while pursuing such medical treatment or therapy during off-duty hours if the treatment was scheduled by the Officer. (Exh. A-2).

Both Captain Bauman and Director Goetting testified concerning this proposal. Captain Bauman testified:

Q. ...If an officer is injured on the job and is required to go to a medical appointment for that injury what is the practice of the department of when he would be sent.

A. I believe that the County would try to schedule him during working hours.

Q. If the officer is scheduled not on working hours does he receive compensation?

A. I believe he does.

Q. In the form of regular pay or overtime?

A. Overtime.

Q. Do you know if that practice or procedure was implemented as a result of an arbitration award?

A. It was what we refer to as the Cocci Clause...I believe it was an arbitration ruling dictating those terms.

(T. 46:17-47:10).

Director Goetting's testimony was similar. He testified that both the County and the injured officer will make doctor's appointments. (T. 145:10-146:20). The County tries to make doctor's appointments for injured officers during the employee's regular workday. Id. He further testified that if the County requires an officer to attend an appointment outside of their working hours, they are paid overtime. Id. However, if the officer schedules the appointment on their own, they are not paid overtime. Id. Director Goetting further testified that numerous arbitrations, including the "Cocci" arbitration, were the result of this policy. (T. 146:24-147:2).

Like many of the other proposals set forth in the PBA's Final Offer, the PBA is merely trying to memorialize the current practice. Awarding this proposal is in the interest and welfare of the public. Initially, the public will benefit from the inclusion of the policy in the CNA. As Director Goetting testified, this policy has been the subject of numerous arbitrations. Grievance arbitrations are costly and diminish the County's resources. Simply placing the practice in the CNA will likely cut down on the uncertainty of the policy and decrease the amount of arbitrations over the practice.

Awarding the PBA's proposal will increase the morale of the unit. Suffering an on-the-job injury is a traumatic experience. Knowing that he will be paid overtime when ordered to do something by the Employer will provide officers with appropriate compensation just as he would receive for any other duty-related functions. After all, absent the injury that occurred while performing services for the Employer, there would be no need for the assignment to the doctor or therapy. This will increase the morale of the unit, and is therefore in the public's interest.

Further, PBA Local 379A members have obtained overtime payments for doctor's appointments scheduled by the County outside of an officer's regular workday through arbitration. Unit members obviously believe this is an issue that is important enough to grieve and arbitrate. Rejecting this proposal will undercut the headway made by the Union in this regard, and will negatively impact the morale of the unit. Moreover, rejecting this proposal could create a situation where the County begins scheduling officers for doctor's appointments without regard to whether they are on duty or off duty. Officers will lose valuable off duty time, if this proposal is not awarded.

The County will not be affected at all if the proposal is awarded. Indeed, the breadth of the proposal is extremely limited. It only applies to officers that suffer on-the-job injuries that are required, by the Employer, to attend medical

appointments or treatment outside of their regularly scheduled workday. (Exh. A-2). The County has complete control over whether it must pay the overtime required by this proposal. It can schedule individuals for treatment or appointments during work hours and thereby relieve its obligation to pay overtime. If an officer chooses to receive appointments or treatment on his own time, the County is similarly not obligated to pay overtime. Accordingly, the PBA's proposal is in the public interest, and must be awarded.

**g. Law Enforcement Protection Act**

The PBA has proposed two alterations to Article XXXIV, Law Enforcement Protection Act. (Exh. A-2). The CNA currently provides that "[t]he provisions of Public Law 1996, Chapter 115, known as the Law Enforcement Officers Protection Act are attached hereto and incorporated herein as if set forth at length. SOA bargaining unit members are acknowledged to be covered under the "New Jersey Law Enforcement Officers Protection Act." (Exh. A-1, Art. XXXIV, p. 18). The PBA seeks to designate the current language as Paragraph A, and include "[t]he Employer agrees to conduct all in person and questionnaire Departmental Investigations and drug testing pursuant to the Attorney General Guidelines." (Exh. A-2). In addition, the PBA seeks to add Paragraph B, which will state: "[c]omplaints against bargaining unit members that are determined to be 'unfounded' or 'unsubstantiated' shall not be included in Officers' personnel files and shall not be used in any subsequent disciplinary proceeding or in

making promotional decisions." (Exh. A-2). Both provisions are in the interest and welfare of the public and must be awarded.

This provision will raise the morale of the unit by providing a structure under in which the Department conducts in person and questionnaire Internal Affairs investigations. The interest and welfare of the public is best served by providing officers with a uniform and consistent level of due process in Internal Affairs investigations. Moreover, the Attorney General Guidelines on Internal Affairs Policy and Procedures must be adopted by each law enforcement agency operating in the state. N.J.S.A. 40A:14-181 (2012). Thus, simply memorializing the County's obligation to utilize the Attorney General Guidelines has no effect on the County.

Indeed, Sheriff's Officer Chief Michael Osborn testified that he was not adverse to this proposal. (T. 102:22-103:13). The Chief acknowledged that Internal Affairs interviews and drug testing is already conducted pursuant to the Attorney General Guidelines, because doing so is required by law. Id. The County has provided no evidence or testimony that would prevent this simple proposal from being awarded. Accordingly, the Arbitrator must award this proposal.

The PBA has also proposed a provision that would prevent unfounded or unsubstantiated Internal Affairs complaints to be included in an officers' personnel file. Pursuant to the Attorney General Guidelines on Internal Affairs Policy and Procedures, all Internal Affairs Complaints must be kept in an officers Internal Affairs file.<sup>3</sup> This file is distinct from an officers' personnel file and is available only to law enforcement personnel. Id. Awarding this proposal is in the interest and welfare of the public and must be awarded. Chief Osborn testified that currently, even complaints that are unfounded or unsubstantiated are included in unit members' personnel files as well as the members' Internal Affairs file. (T. 103:15-20). The PBA seeks to limit their retention to the Internal Affairs file.

Awarding the PBA's proposal will raise the morale of the unit. Law enforcement officers are subject to ever-increasing scrutiny by the public. At any time, an aggrieved citizen may file an Internal Affairs complaint. Pursuant to the Attorney General Guidelines, each complaint must be investigated. Id. The morale of the Department will improve if unit members are assured that the complaints that are deemed unfounded or unsubstantiated do not follow them throughout their careers.

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<sup>3</sup> The New Jersey Attorney General Guidelines on Internal Affairs Policy and Procedures is available at [http://www.state.nj.us/lps/dcj/agguide/internalaffairs2000v1\\_2.pdf](http://www.state.nj.us/lps/dcj/agguide/internalaffairs2000v1_2.pdf).

This proposal will also be beneficial to the County. While personnel files are readily discoverable in litigation, Internal Affairs files are not. Thus, if the County is sued based on allegations against an officer, having a plethora of unfounded or unsubstantiated complaints in the file may assist a Plaintiff's lawyer in attacking the officer regardless of the complaint outcomes.

This proposal will also foster the interest and welfare of the public for another reason. Unit members may have Internal Affairs complaints filed against them for any time or for any reason. Awarding this proposal will prevent the unfounded or unsubstantiated complaints from affecting a unit members chances for promotion. The benefit here is twofold. First, otherwise capable and deserving officers can be assured that no long-disposed of unfounded or unsubstantiated complaint will hurt their chances of promotion. This will prevent a less qualified officer from receiving a promotion and will benefit the public. Further, assuring unit members that unfounded or unsubstantiated complaints will not affect discipline or promotions may help reduce litigation over these issues. This will benefit the public as resources that would be spent on litigation could be spent elsewhere.

The PBA's proposal does not seek to prevent substantiated complaints from being placed in any particular file. Moreover, the Chief's concern that officers may be engaging in a pattern of activity is not hampered by this

proposal, because the complaints are still present in the Internal Affairs file. Thus, the Arbitrator must award the PBA's proposal.

**h. Out of County Travel**

The PBA has proposed a change to Article XXXVI, Out of County Travel that will clarify the current language. (Exh. A-2). As it stands, the current Article XXXVI is somewhat confusing. It states: "All travel related expenses shall be reimbursed pursuant to County policy provided the Superior Officer completes the approved County "Travel Authorization" form (M.B. 103). The travel policy may be modified at the discretion of the Board of Chosen Freeholders." (Exh. A-1, Art. XXXVI, p. 19). The PBA has proposed much simpler language, which states: "The County Travel Policy, as it may be amended from time to time, shall apply to SOA unit members." (Exh. A-2). Clarifying this vague language is in the interest and welfare of the public, and therefore the PBA's proposal must be awarded.

Director Goetting testified concerning this proposal. He indicated that the County maintains a travel policy. (T. 139:1-13). The County has adopted the Federal reimbursement rate, which changes from year to year. Id. Director Goetting also testified that the policy is a lengthy document. Id. The fact that the County's Travel Policy is a lengthy document and including the entire policy



in the CNA would create a lengthy contract is, apparently, the Director's only argument against this proposal. (T. 148:14-20).

The PBA's proposal, however, merely seeks to ensure that the County's travel policy, which is in effect for all employees, remains in effect for PBA Local 379A unit members as it may be amended. This proposal is in the interest and welfare of the public because it will help to avoid any confusion about the policy and the subsequent grievances that could follow. In essence, awarding this proposal, like many of the other PBA proposals, will help to ensure stable labor relations. This is in the interest of the public, and therefore this proposal must be awarded.

**i. Legal Defense**

The PBA has proposed a new article concerning Legal Defense. Director Goetting testified that the County currently provides legal defense for its law enforcement officers pursuant to applicable statutes. (T. 139:17-140:5). The PBA seeks contractual language that states: "[t]he County's Resolution regarding legal defense, as it may be amended from time to time, shall apply to SOA unit members." The PBA's proposal is in the interest and welfare of the public and therefore it must be awarded.

By virtue of the nature of their occupation, law enforcement officers are at a high risk of getting sued by the members of the public they are sworn to protect. The members of the PBA Local 379A unit are well aware that each day they will be placed in situations that could cause them to become defendants in a lawsuit. Accordingly, the inclusion of a contract provision that ensures that the County's policy concerning legal defense applies to them will raise the morale of the unit. PBA members will be contractually assured that if they are to become defendants, the County's policy will apply with regard to their defense. PBA Local 379A members will not have to worry about whether they will get sued when performing their jobs, which will result in better services to the public. Accordingly, the Arbitrator must award the PBA's Final Offer.

#### **I. Transfers**

The PBA has proposed a new article concerning transfers. The proposal provides: "[i]f an officer's permanent work assignment is changed from one division to another, the Officer shall be provided ten (10) business days' written notice from the Employer before it becomes effective." (Exh. A-2). Currently, the Sheriff regularly transfers officers from one assignment to another. (T. 47:16-48:3). Chief Osborn testified that he tries to provide ten (10) business days notice for a change in shift unless its an emergency situation. (T. 98:14-18). However, the Sheriff is not required to provide notice prior to the change in assignment. (T.

47:16-48:3). Providing the requested notice will increase the morale of the Department and therefore it must be awarded.

A change to an officer's permanent work assignment can cause upheaval in the officer's life. Indeed, the time and place an officer reports to work may change due to the change in work assignment. This may cause childcare issues or other issues in an employee's personal life. Providing ten (10) business days' notice of these changes will improve the morale of the unit, as officers can be assured that their working and personal lives will not be changed without notice. By affording this notice, PBA unit members will be able to take care of any personal issues resulting from the assignment change. This proposal boils down to common courtesy.

Moreover, PBA members will be mentally prepared to begin their new assignments, without having their minds clouded by issues that could arise as a result of a last-minute change. This will result in better services to the public, which is in the public's interest. Accordingly, the Arbitrator must award the PBA's Final Offer.

**k. Work Rules and Table of Organization**

The PBA has proposed two new proposals that, if awarded, will help PBA Local 379A unit members to perform their jobs. With regard to work rules, the

PBA has proposed a provision that states: "[t]he Employer agrees to furnish the SOA President with a minimum of fourteen (14) calendar days' written notice prior to making changes to departmental rules, policies or procedures. Such notice as possible shall be given in emergent circumstances." (Exh. A-2). This proposal is in the interest and welfare of the public and must be awarded.

PBA Local 379A unit members are charged with enforcing the policies and procedures promulgated by the Department. This proposal will provide PBA Local 379A unit members with an opportunity to familiarize themselves with the proposed rules and provide an opportunity for the officers to determine the best and most effective way to implement the new rules, policies or procedures. This notice period will allow PBA Local 379A unit members to voice concerns they may have about implementing the policies. It will also provide a time frame by which management can instruct unit members on how to implement the policies. Such a notice period may even serve to improve relations between management and the Union by allowing a back and forth between management and the individuals that are tasked with carrying out management's instructions. This will, in turn, allow the department to run more smoothly. Accordingly, this proposal is in the public's interest.

Moreover, awarding this proposal will have no effect on the County. Chief Osborn testified that work rules are currently posted on the County's

document management system ("DMS"). (T. 104:14-21). Thus, the County is already disseminating the rules. Providing new rules, policies and regulations to the PBA President fourteen (14) days prior to their imposition will not cause the County to incur any expense or perform more work. It may, however, improve the work environment. Accordingly, this proposal furthers the interest and welfare of the public and must be awarded.

The PBA has also proposed that the Table of Organization be provided to the SOA President during the first week of January each year. (Exh. A-2). In addition, mid-year changes to the Table of Organization shall be provided to the SOA President with at least 10 business day's written notice prior to the effective date of the change. Id. Captain Bauman testified that the table of organization is available to officers on a website. (T. 48:8-11). However, there is no policy to ensure that the PBA Local 379A President receives the document in January of each year. Id. The table of organization that is on the website can be changed, however, and those changes may not be memorialized on the website. (T. 48:17-20). Moreover, the website is only two-months old. (T. 48:23-25). Providing the PBA Local 379A President with the table of organization is in the interest and welfare of the public, has minimal, if any impact on the Employer, and therefore it must be awarded.

Chief Osborn testified that the PBA has access to the table of organization because it won that right through arbitration. (T. 109:12-20). The only problem he had with the proposal was that it would create a redundancy whereby the table of organization would be placed on the website and then handed to the PBA Local 379A President. (T. 111:4-25). The Chief also testified that the policy could change and the PBA would no longer be entitled to receive the document. Id.

The public interest is fostered when supervisory officers are aware of who comprises the Sheriff's Department and where they and their subordinates stand in its hierarchy. This allows them to perform their jobs more effectively. The public interest is fostered by awarding such a proposal. Accordingly, the Arbitrator must award the PBA's Final Offer.

#### **I. Hours of Work**

The PBA has proposed adding a new Article entitled "Hours of Work." The PBA has proposed:

A. The normal workweek shall be either 5 consecutive workdays on duty followed by 2 consecutive days off duty or 4 consecutive workdays on duty followed by 3 consecutive days off duty.

B. The workday shall consist of 8 consecutive hours on duty on the 5/2 schedule and 10 consecutive hours on duty on the 4/3 schedule.

(Exh. A-2). Captain Bauman testified that PBA Local 379A members currently work five (5) days per week, Monday through Friday. (T. 35:10-16). Unit members work for eight (8) hours on the 5/2 shift. Id. "The 4/3 schedule would entail four 10-hour shifts and three consecutive days off." (T. 43:19-20). The PBA's proposal will save the County substantially in overtime costs, and therefore it is in the interest and welfare of the public.

Captain Bauman testified with regard to the substantial economic benefits of the 4/3 schedule. He testified that in the Criminalistics Investigation Unit, he would be able to broaden coverage to 20 hours per day 7 days per week. (T. 43:19-46:14). This is important because this particular unit is, in reality, a 24 hour per day, 7 days per week operation. Id. Some of the hours that PBA Local 379A unit members must work have to be covered with overtime. Id. Captain Bauman estimates that a PBA member in the Criminalistics Investigation Unit earns on average \$12,000 in overtime per year. Id. This number could even be more for the rank and file officers assigned to the Unit, because crimes occur at nights and on weekends, when Sheriff's Officers are not regularly working.

PBA Local 379A members maintain a duty coverage list so that rank and file officers that are on-call have access to a supervisor. Id. On-call supervisors are assigned by unit and are obligated to answer calls and respond to crime

scenes if necessary. Id. PBA Local 379A unit members do not receive extra compensation when they are on call.<sup>4</sup> Id.

Adding a 4/3 schedule is in the public's interest. As Captain Bauman testified, the addition of this schedule will result in enhanced coverage and a reduction in overtime coverage. Id. For the public, this is a win / win situation. The public receives the benefit of more hours of coverage per day without the burden of having to pay overtime for them. Accordingly, this proposal is in the interest and welfare of the public and must be awarded.<sup>5</sup>

The County has not advanced any objection to this proposal. Neither Chief Osborn nor Director Goetting testified in opposition to this proposal. The PBA's proposed additional schedule will benefit the taxpayers of Ocean County. Therefore, it is in the interest and welfare of the public and must be awarded.

Section B of the PBA's "Hours of Work" proposal simply clarifies the hours that each shift requires. In order to provide the services that this proposal will provide, officers working the 4/3 schedule will be required to work 10 hours per day. (Exh. A-2). Unit members on the 5/2 schedule will still be required to work 8

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<sup>4</sup> Captain Bauman acknowledged that an "on-call" stipend of \$2,500 was rolled into base pay in March 2007, however, this stipend represented a significant decrease in take-home pay as opposed to PBA members' being paid overtime when they were on-call. (T. 70:20-71:14).

<sup>5</sup> The PBA suggests to the Arbitrator that if this proposal were to be awarded, the parties be ordered to meet within 30-days of the Award to work out the details. The Arbitrator should retain jurisdiction to resolve disputes.



consecutive hours per day. Accordingly, the Arbitrator must award this proposal.

**m. Health Benefits**

The County has proposed changes to Article VI, Hospital, Surgical, Prescription and Major Medical Benefits despite the fact that PBA members must now pay a substantial portion of their salaries to offset the cost of those benefits. As set forth above, these contributions will return approximately \$336,892.14 to the County over the course of three years, if the PBA's salary proposal is granted in its entirety. Needless to say, the parties are not negotiating with a clean slate, but rather a playing field that is tilted markedly in favor of the County. The County's proposal, however, seeks to remove any control officers have concerning the health benefits that they are paying for. This proposal will destroy the morale of the unit and must be denied.

The County's Final Offer seeks to completely abdicate any responsibility for health benefits to the SHBP. Id. Both the current CNA and the County's proposal provides that medical coverage shall not be changed except for a plan that is "equivalent or better." (Exh. A-1, Art. VI, pp. 3-4, Exh. A-3). However, in two sections of its health benefits proposal, the County attempts to disclaim any responsibility for changes to health benefits. (Exh. A-3). Despite the fact that the County is contractually required to maintain the current level of benefits

offered to PBA Local 379A unit members, it has proposed that any changes implemented by the SHBP automatically become part of the agreement. Id. In addition, the County attempts to disclaim any changes to the components of the HMO plans it offers. Id. The County further proposes that employees are not eligible for any deductible reimbursement upon an employee elected change in health plans.

The County's proposal is not in the interest and welfare of the public and therefore it must be denied. First and foremost, the morale of the unit will be significantly diminished as officers will be required to pay a substantial sum for benefits that are left at the whim of the SHBP. Effectively, PBA Local 379A unit members will be paying for fluid benefits that could disappear without notice and without their input. Moreover, this decrease in benefits may harm the continuity and stability of employment. Unit members that chose to work for the County because of its health benefits may be compelled to leave to find better benefits elsewhere. This could increase turnover, which would harm the public. Accordingly, the Arbitrator must not ward the County's proposal.

The County has also proposed a change to retiree health benefit eligibility. (Exh. A-3). Currently, PBA Local 379A members receive fully paid health benefits when they retire. (Exh. A-1, Art. VI, pp. 3-4). The only requirement for unit members to receive this benefit is that they obtain twenty-

five (25) years of service in the retirement system. (T. 51:6-17). There is no particular amount of time that an employee must work for the County to receive these benefits. Id.

This proposal will similarly reduce the morale of the unit. Certain officers may be forced to work for more years than they had originally planned in order to be assured health benefits in retirement. This will certainly reduce the morale of the department as any affected officer will be forced to reconsider his life plans concerning retirement. Although Captain Bauman could not recall any Superior Officer that this change might affect, this does not mean that there are no officers in the department that will be affected by this change in health benefits.

In addition, the public may be harmed by this proposal. An experienced law enforcement officer that is considering employment with the County's Sheriff's Department may be dissuaded from taking the job because he or she would have to work more years to receive retirement health benefits. The County's proposal is not in the interest and welfare of the public and must be denied.

**n. Longevity**

The County has proposed a longevity schedule for any officer hired into the Department on or after April 1, 2012. Current employees receive longevity pay pursuant to the following schedule:

7 years	3.0% of base salary
12 years	4.6% of base salary
17 years	5.7% of base salary
22 years	6.5% of base salary
27 years	7.3% of base salary
32 years	8.0% of base salary

(Exh. A-1, Art. XII, p. 7). The County seeks to have longevity pay for new hires reduced to 2.0% of base salary after fifteen years, 4.0% of base salary after twenty years and 6.0% of base salary after 25 years. (Exh. A-3). This proposal is detrimental to the morale of the unit. Moreover, it may harm the continuity and stability of employment. Accordingly, the Arbitrator must not award this proposal.

The County's proposal could create a disparity in pay between officers of the same rank. This, in turn, will harm the morale of the unit. Newly hired officers that show particular skills in their role as rank and file Sheriff's Officers may be quickly promoted to Sergeant. Upon their promotion, these officers will earn less than similarly situated officers hired prior to April 1, 2012. These new Superior Officers will earn substantially less money under the County's proposed longevity

system. Morale will certainly decrease when officers of the same rank that are performing the same duties earn different salaries. To avoid this situation, the County's proposal must be denied.

In addition, the County's reduced longevity proposal may serve as a disincentive for young officers to apply for positions in the Ocean County Sheriff's Department. Instead, they may opt for more lucrative positions in a municipal police department. This circumstance will eventually harm the continuity and stability of employment within the Sheriff's Department. Accordingly, the County's proposal is not in the interest and welfare of the public and must be denied.

**o. Holidays**

The County has proposed changes to Article IX, Holidays. (Exh. A-3). PBA Local 379A members currently enjoy fourteen (14) holidays each year. (Exh. A-1, Art. IX, pp. 5-6). The County has proposed changing the first paragraph of this Article to state: "[e]ach full-time employee covered by this Agreement shall receive the State employees' holiday schedule with pay if, and when, the County implements the State employees holiday schedule for other County employees." (Exh. A-3). Director Goetting testified at the hearing that this change to the CNA will result in a reduction in the number of holidays. (T. 121:1-8). If the proposal were awarded today, the number of holidays would be

reduced from fourteen (14) to twelve (12). Id. This reduction in holidays will destroy the morale of the unit and must be denied.

First and foremost, the County has provided no evidence to support this proposal. The County has not provided any projected cost savings to support this proposal. It has only alleged that several non-law enforcement units have agreed to a similar change to the holiday language contained in their respective CNAs. (T. 120:14-20). However, no law enforcement or public safety unit has agreed to such a reduction in holidays.

Notably, the members of PBA Local 379, the union representing the County's rank and file Sheriff's Officers successfully rebuffed the County's attempt to change the holiday language in their CNA. In Ocean County Sheriff -and- PBA Local 379, IA-2011-006 (Glasson, R., 2012), Arbitrator Glasson declined to award the County's identical holiday proposal to that unit. (Exh. G-1, p. 109). If the Arbitrator were to award the County's proposal, PBA Local 379A would receive a different holiday schedule than the officers they supervise. Such an inequitable result must not be ratified here.

Moreover, the County has not offered a corresponding pay increase in exchange for working two extra days each year. If the County's proposal is awarded, PBA Local 379A members will be working two extra days each year

for free. In addition, unit members' opportunity for premium pay will decrease, similarly reducing compensation. Currently, PBA members that work on a holiday are paid pursuant to the formula set forth in Article IX. (Exh. A-1, Art. IX, pp. 5-6). An officer that works up to eight (8) hours on a holiday is paid for the day at straight time and also receives time and one half ( $1\frac{1}{2}$ ) for the hours actually worked. Id. If an officer works over eight hours, he or she is entitled to double time and one half ( $2\frac{1}{2}$ ). Id. By reducing the number of holidays, the number of opportunities for premium pay is similarly reduced. This is a further reduction of compensation for unit members.

Further, the morale of the unit will be decimated if the Arbitrator awards the County's proposal. First and foremost, PBA Local 379A members will have to work on two days that were formerly days off with no additional compensation. Unit members will lose valuable time with family and friends. Holidays are also days that unit members can relax without the stress of having to work. The morale of the unit will undoubtedly decrease if the number of holidays is decreased. To make matters worse, if the County's proposal is awarded, PBA members will have to work on days that their subordinate officers do not. Moreover, if a rank-and-file officer is called-in, he will be paid premium time and could actually be earning more than his supervisor for the day. This will further decrease the morale of the unit and could potentially create a disincentive for qualified rank and file officers to seek promotions.

The County has failed to support its proposal that will ultimately lead to the reduction of holidays. Accordingly, the Arbitrator must deny this proposal in its entirety.

**p. Honor Guard**

There is no doubt that the County is proud of its Honor Guard. The Honor Guard is prominently displayed on the Ocean County Sheriff's website, which provides: "[t]he Honor Guard is the formal representative of the Sheriff at all types of functions in the County and throughout the State of New Jersey." (Exh. C-1). Captain Bauman testified that the Honor Guard typically appears at flag raising ceremonies, police funerals, police academy graduates and parades. (T. 42:16-19). Chief Osborn testified that a Sergeant oversees the Honor Guard, and almost always appears at ceremonial activities with the Honor Guard. (T. 101:7-23).

Currently, Article XXX, paragraph A provides that "[i]n the event an Officer in another Department in the State of New Jersey is killed in the line of duty, the Employer will permit at least one (1) uniformed Officer of the County to participate in funeral services for the said deceased Officer." (Exh. A-2, Art. XXX, p. 17). The PBA has proposed changing the words "one (1) uniformed officer of the County" to "SOA bargaining unit member." (Exh. A-2). This change will ensure that at least one Superior Officer represents the Sheriff at the funeral of a



fallen officer. Chief Osborn testified that it could become more difficult to send PBA Local 379A members to ceremonial activities because the number of Superior Officers has decreased. (T. 102:20-103:2). Thus, it is imperative that this provision spell out which officers are permitted to attend funerals. Including this proposal in the CNA will ensure that a Superior Officer represents the Sheriff. This will raise the morale of the unit as the proposal will ensure that a PBA Local 379A member will represent the Department at funerals.

The PBA has also proposed a change to Section B of Article XXX. (Exh. A-2). This provision states: "[s]ubject to the availability of same, the employer will permit a County vehicle to be utilized by the members in the funeral service." (Exh. A-1, Art. XXX, p. 17). The PBA has proposed changing this section to provide for a "marked Sheriff's Department vehicle, if available..." as opposed to simply a "County vehicle." (Exh. A-2).

Allowing a marked Sheriff's Department vehicle will raise the morale of the unit. PBA Local 379A members take great pride in their work and in their Department. Allowing these officers to travel to funerals in a marked vehicle will make the Ocean County Sheriff's Department visible to other law enforcement personnel and will only increase the pride officer's have for the Department.

Chief Osborn testified that he is not adverse to the proposal. (T. 103:3-12). Provided that a marked vehicle is available, the Chief did not voice any objection to the proposed language change. Accordingly, the Arbitrator must award the PBA's proposal.

**g. Negotiations for a Successor Agreement**

The PBA has proposed that the dates contained in Article XXV, Negotiations for Successor Agreement, should be conformed to the duration of the successor agreement. Thus, pursuant to the PBA's proposal, this Article should state: "The parties shall commence negotiations for a successor contract no later than April 1, 2015."

**r. The Interest and Welfare of the Public**

Awarding the PBA's Final Offer will certainly raise the morale of the bargaining unit by providing consistency in wages, scheduling and other terms and conditions of employment. Conversely, awarding the County's Final Offer will destroy the morale of the unit. The County's Final Offer will effectively reduce unit member compensation, The County is clearly trying to ride the coattails of other jurisdictions in the State and Country who cannot pay for such wage increases. However, the County's own financial documents belie any inability to pay.

In 2010, Arbitrator Hartigan issued a decision in County of Monmouth - and- PBA Local 314, IA-2009-073 (Hartigan, T., 2010), in which he noted that Sheriff's Officers provide some of the most important services offered by the Sheriff and the County. "It is in the best interest of the public to keep and attract the best employees to the important work done in the Sheriff's Department." Id. at 32. Because the Union showed that Sheriff's officers were underpaid, Arbitrator Hartigan Awarded wage increases to help bridge the gap between Sheriff's Officers and municipal police officers. Id. at 74. The circumstances facing Arbitrator Hartigan are the same in Ocean County. Municipal police salaries are outpacing Sheriff's Officer salaries by a wide margin.

As Arbitrator Mastriani found in Monmouth County Sheriff, "the interests and welfare of the public are served by a stable and well-trained workforce...and an increase in salary maximums." Id. PBA Local 379A members ensure that the Sheriff's Officers of Ocean County are well-trained and well-supervised. Accordingly, the Arbitrator must award the PBA's Final Offer in its entirety.

**B. COMPARISON OF WAGES, SALARIES, HOURS AND CONDITIONS OF EMPLOYMENT OF THE EMPLOYEES INVOLVED WITH THOSE OF SIMILARLY SITUATED EMPLOYEES IN COMPARABLE JURISDICTIONS**

This criterion requires a thorough comparative examination of the compensation package received by members of this bargaining unit with those

received by other employees in comparable public and private employment. When appraising this criterion, the Arbitrator must consider the duties required of unit members, training, job related hazards and overall working conditions. The following section compares public and private sector employment in New Jersey, as well as the PBA's Final Offer with other similarly situated public employees.

**1. Comparison to Private Employment In General**

As Arbitrator Osborn noted in Borough of Roselle Park -and- PBA Local 27 / SOA, Docket Nos. IA-2012-024, IA-2012-026 (Osborn, 2012):

[T]here is no particular occupation, public or private, that is an equitable comparison to police officers. The police officers are unique in a variety of ways, including the potential to be called upon to uphold the law at any time, on and off duty; the ability to carry a weapon even off duty; a unique recruitment and training process; the stress and dangers of the job, and the lack of portability of police officer skills beyond a certain age and beyond a geographic region. They are frequently required to work evenings, nights and holidays. Unlike the private sector, they do not compete in a global economy, which tends to depress wages. Id. at 58.

Thus, a comparability analysis with the private sector should be given little, if any, weight. Id. Even so, there is no question that the County's proposal to PBA Local 379A and will not provide wages comparable to those earned by employees in the private sector.

A paper published on July 30, 2010 by The Economic Policy Institute, entitled "Are New Jersey Public Employees Overpaid?" compared the wages of private sector employees in New Jersey versus public sector employees. (Exh. D-10). The data analyzed in this paper established that New Jersey public employees, both state and local government employees, are not overpaid. Comparisons, allotting for education, experience, hours of work, organizational size, gender, race, ethnicity, and disability, reveal no significant differences between the private and public sectors in the level of employee compensation costs on a per hour basis. Id.

Public employers contribute an average 34.1% of employee compensation expenses to benefits whereas private employers devote 30.8% to benefits.<sup>6</sup> Retirement benefits also account for a substantially greater share of public employee compensation, 8.1% compared to 3.7% in the private sector. On the other hand, public employees receive considerably less supplemental pay in vacation time, and public employers contribute significantly less towards legally mandated benefits. Id.

Standard Earnings Equation produces the result that full time state and local employees are under compensated by 4.05% compared to their private

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<sup>6</sup> Given the passage of Chapter 78 regarding employer healthcare contributions, subsequent to the publication of the paper, the public employer contribution to benefits will drop below 34.1%.

sector counterparts. This gap becomes wider as employee's educational level increases. High school graduates earn approximately equivalent compensation packages in both the private and public sector in New Jersey. That earning cycle reverses when comparing the college educated labor force, with the private sector paying substantially higher wages than the public sector. State and local workers with some college earn 4% less than private sector workers. Private sector wage premiums jumped to 43% for a Bachelor's Degree, 41% for a Master's Degree and 94% for professional degree. Id.

When comparing private sector employers with 100 or more employees, the private sector wage disparity is further increased to 13% for some college education, 10% for an Associate's Degree, 57% for a Bachelor's Degree, 121% for a professional degree, and 55% for a Master's Degree. When you factor in better benefits and fewer average working hours in the public sector, overall compensation levels are roughly the same between the public and private sector. Id. In sum, when comparisons are made taking into account education, experience, hours of work, organizational size, gender, race, ethnicity, and disability, there is no significant difference between the compensation costs between private and public sector employees in New Jersey. Id. However, if the Arbitrator awards the economic reductions proposed by the County, PBA unit members would see their annual compensation decrease when compared to private sector employees. Accordingly, the Arbitrator must award the PBA's

Final Offer to stop the growing disparity in salaries between public employees and their private counterparts.

**2. Comparison to Public Employment in the Same or Similar Jurisdictions**

**a. Comparison to Public Employment in the Same Jurisdiction**

The PBA's Final Offer seeks to ensure that Superior Officers retain their relative standing within the County with regard to salaries and wages. (See Exh. A-2). As set forth above, PBA Local 379A members perform many duties that are reserved for prosecutor's officers in other counties. (T. 26:9-16). Superior Officers in the Ocean County Prosecutor's Office, however, earn more than Superior Sheriff's Officers, in some cases, significantly more. (T. 153:13-154:5). If the Arbitrator were to award the County's Final Offer, this wage disparity would continue to grow. Further, salaries of top paid officers in the PBA Local 379 bargaining unit are beginning to encroach on the salaries of Sergeants in the PBA Local 379A bargaining unit. (Exh. G-1). If the County's Final Offer is granted, Sergeants will earn salaries that are only slightly higher than the officers they supervise. Accordingly, the Arbitrator must award the PBA's Final Offer.

Similarly situated superior officers employed by the County earn substantially more than PBA Local 379A members. Currently, Sheriff's Officer Sergeants earn \$96,585; Lieutenants earn \$106,080 and Captains earn \$115,574.

(Exh. A-1, Appendix A, p. 20). These wages have not increased since April 1, 2009. Id. In 2009, Sergeants employed by the Ocean County Prosecutor earned \$99,993. (Exh. G-5). Prosecutor's Lieutenants earned \$111,094.21, and Captains earned \$127,511.20. (Exh. G-6).<sup>7</sup> Thus, Prosecutor's Sergeants, Lieutenants and Captains earned \$3,408, \$5,014.21 and \$11,937.20 more, respectively, than PBA Local 379A unit members of the same rank in 2009. This is so, despite the fact that PBA unit members perform many of the functions that Prosecutor Detectives and Investigators perform in other counties.

Superior Officers employed by the Prosecutor will continue to earn substantially more than Superior Sheriff's Officers throughout the course of the next agreement. The PBA's Final Offer, however, will decrease this disparity. Captains employed by the Prosecutor will earn \$129,453.00 in 2010. (Exh. G-6, Article 32). Lieutenants employed by the Prosecutor will earn \$112,786.00. Id. Sergeants employed by the Prosecutor are currently out of contract, but if the average salary increase of all awards for 2010 is factored as the wage increase, the salary for this rank will rise to \$102,872.79.<sup>8</sup> The PBA's proposed wage increase would raise Sheriff's Officer Captains' salaries to \$119,041; Lieutenants' salaries to \$109,262 and Sergeants' salaries to \$99,483. (Exh. A-2). This results in a pay difference of \$10,412 for Captains, \$3,524 for Lieutenants and \$3,389.79 for

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<sup>7</sup> The 2009 salaries for Prosecutors Lieutenants and Captains was determined by taking the 2010 salaries set forth in the agreement and subtracting the 1.5% wage increase for 2010.

<sup>8</sup> The salary increase of all awards for 2010 was 2.88%. (Exh. D-11).



Sergeants. The County's proposal, on the other hand, would result in Sheriff's Officer Sergeants earning \$98,034, Lieutenants would earn \$107,671 and Captains would earn \$117,308. (Exh. A-3). The resulting difference in pay under the County's Offer is \$4,838.70 for Sergeants; \$5,115 for Lieutenants and \$12,145 for Captains. Thus, the County's Final Offer will increase the pay disparity between Superior Officers employed by the Prosecutor and Superior Officers employed by the Sheriff.

The same trend continues in 2011. Prosecutor's Sergeants will earn \$104,981.68 in 2011.<sup>9</sup> Prosecutor's Lieutenants will earn \$114,478.00 and Captains will earn \$131,395. (Exh. G-6, Article 32). The difference in pay between the salaries set forth in the PBA's Final Offer is \$2,514.68 for Sergeants; \$1,938 for Lieutenants and \$8,783 for Captains. (See Exh. G-6 and A-2). Pursuant to the County's Final Offer, the disparity becomes \$5,477.68 for Sergeants; \$5,192 for Lieutenants and \$12,328 for Captains. Thus, the disparity between units will continue to grow pursuant to the County's Final Offer.

In 2012, Sergeants in the Prosecutor's Office will earn \$106,892.34.<sup>10</sup> Lieutenants will earn \$116,195 and Captains will earn \$133,266. (Exh. G-6, Article

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<sup>9</sup> This wage is calculated using the 2010 salary as set forth in note 3, factoring in a raise of 2.05%, the average increase for all Interest Arbitration Awards in 2011, as reported by PERC. (See Exh. D-11).

<sup>10</sup> This wage is calculated the 2011 salary as set forth in note 4, factoring in a raise of 1.82%, the average increase for all Interest Arbitration Awards in the first four months of 2012, as reported by PERC.

32). The difference in salaries pursuant to the PBA's Final Offer is \$1,351.34 for Sergeants; \$279 for Lieutenants and \$6,975 for Captains. (See Exh. A-2). If the County's Final Offer were awarded, the wage disparity would grow to \$5,895.34 for Sergeants; \$5,899 for Lieutenants and \$12,413 for Captains. (See Exh. A-3, Exh. G-6). At the end of the current contract for Prosecutor's Lieutenants and Captains, the disparity in wages will grow if the County's Final Offer is awarded. The PBA's Final Offer, on the other hand, will reduce the disparity in pay among units, without unseating the Prosecutor's officers as the highest paid law enforcement officers employed by the County.

The County is likely to raise the argument that Superior Sheriff's Officers should be paid the same as Superior Corrections Officers. This argument must be dismissed. In County of Monmouth -and- PBA Local 314, IA-2002-61 (Mastriani, J., 2004), Arbitrator Mastriani cautioned against comparing Sheriff's Officers to Corrections Officers. He noted that Sheriff's Officers have been granted state-wide law enforcement authority, and are regularly called upon to perform law enforcement services both within County facilities and in the municipalities that comprise the County. Id. at 18. In County of Monmouth -and- PBA Local 314, IA-2009-073 (Hartigan, T., 2011), Arbitrator Hartigan recognized that the appropriate comparison is between Sheriff's Officers and municipal police officers.

Despite the myriad of services performed by Officers in the Sheriff's Department, as opposed to the singular service provided by Corrections Officers, both units earn the same wages. In 2009, Superior Officers employed in both the Department of Corrections and the Sheriff's Department earned identical salaries. In light of the services provided to Ocean County by the Sheriff's Department, the Arbitrator must not compare the salaries of Sheriff's and Corrections Officers.

The unit most comparable to PBA Local 379A is PBA Local 379, which represents rank and file Sheriff's Officers. PBA Local 379 recently concluded Interest Arbitration proceedings before Arbitrator Robert M. Glasson. (Exh. G-1). Arbitrator Glasson's award provided 2.0% wage increases to senior officers in that bargaining unit. Id. Salaries for these officers increased to \$89,890 beginning April 1, 2010, \$91,658 beginning April 1, 2011 and \$93,461 beginning April 1, 2012. Id. at p. 134. The County's proposal to Superior Officers is less than the salary increases awarded to the Sheriff's Officers they supervise. This inequity must not be awarded.

In 2009, Senior Officers in the PBA unit earned \$88,092 while Sergeants in the PBA Local 379A unit earned \$96,585. The difference in pay during that year was \$8,493 or approximately 9.625%. Pursuant to Arbitrator Glasson's Award, Senior Officer salaries for the rank and file unit will increase to \$89,890 in 2010;

\$91,658 in 2011 and \$93,461 in 2012. (Exh. G-1). The difference in salaries pursuant to PBA Local 379A's Final Offer is \$9,593, or 10.672% in 2010; \$10,809 or 11.793% in 2011 and \$12,080 12.925% in 2012. Pursuant to the County's Final Offer, the differential between a senior rank and file Sheriff's Officer is \$8,144 or 8.307% in 2010; \$7,846 or 7.885% in 2011 and \$7,536 or 7.462% in 2012. Thus, if the Arbitrator were to grant the County's Final Offer, the differential in pay between top paid Sheriff's Officers and their immediate supervisors would decrease by more than 2.0% between 2009 and 2012. Eventually, both senior rank and file officers would earn a similar salary, creating a disincentive for promotion.

The County may attempt to argue that a "pattern of settlement" has emerged because the Prosecutor's Investigators and Detectives were awarded a 1.5% wage increase by Arbitrator Glasson in Ocean County Prosecutor -and- Ocean County Prosecutor's Detective & Investigators Ass'n, Local 171, IA-2011-006 (Glasson, R. 2012). This argument, however, must be dismissed out of hand. In Essex County Sheriff -and- Essex County Sheriff's Officers PBA Local 183, IA-2003-37 (Glasson, R., 2004), Arbitrator Glasson refused to award a final offer that comported with an established pattern of settlement because the financial data and other interest arbitration awards did not support blind adherence to an established pattern.

Here, subsequent interest arbitration awards, chiefly, Ocean County Sheriff -and- PBA Local 379, IA-2011-014 (Glasson, R., 2012), awarded wage increases different than that awarded to Prosecutor's Detectives and Investigators. (Exh. G-1). He awarded 2.0% wage increases to senior Sheriff's Officers as opposed to the 1.5% wage increases he awarded Prosecutors Detectives and Investigators. Thus, a "pattern of settlement" argument cannot withstand the test of interest arbitration and must be dismissed. Moreover, Superior Prosecutor's Officers earn substantially more salary than PBA Local 379A unit members. 1.5% of the base pay is a substantially greater dollar for dollar increase. Thus, the economic factors do not support blind adherence to a pattern that does not exist.

Further, any "pattern of settlement" concerning non-law enforcement units must be dismissed out of hand. Director Goetting openly admitted at the hearing that there has not been a pattern of settlement between law enforcement units and civilian units either in Ocean County or anywhere else in the State. (T. 149:23-150:5).

Awarding the County's Final Offer will create a situation where Superior Sheriff's Officers are losing ground to their higher paid contemporaries in the Prosecutors Office and to the rank and file Sheriff's Officers that they supervise. Conversely, awarding the PBA's Final Offer will allow Superior Sheriff's Officers to

keep pace with similarly situated Prosecutor's Officers and provide breathing room between the salaries of senior Sheriff's Officers and Sergeants. Accordingly, the Arbitrator must award the PBA's Final Offer in its entirety.

**b. Comparison to Similar Jurisdictions**

**i. Wages**

The salaries of PBA Local 379A unit members must be compared to Sheriff's Officers salaries in similar counties, as well as municipal police officers within Ocean County. As set forth below, the salaries earned by PBA unit members are less than the salaries earned by many similarly situated Superior Sheriff's Officers and much less than municipal police officers in the County. Accordingly, the Arbitrator must award the PBA's Final Offer.

Ocean County is the fastest growing County in the State. (Exh. B-2). It is also home to one of the wealthiest communities in the Country. Id. While the County is traditionally grouped with other Southern New Jersey counties, its demographics and relative economic prominence requires a broader comparison. For example, Ocean County shares a AAA bond rating with Monmouth and Union Counties and is geographically proximal to Monmouth, Middlesex, Mercer, Burlington, Atlantic and Camden Counties. A State-wide comparison is necessary to place the salary proposals of both the County and the PBA in context. Awarding the PBA's Final Offer in its entirety will ensure that

PBA Local 379A unit members maintain their current standing among similarly situated Superior Sheriff's Officers.

A. Sergeants

The PBA's Final Offer will ensure that Sergeants maintain their current standing amongst Sheriff's Officer Sergeants in other counties. In 2009, Ocean County Sheriff's Officers ranked fifth amongst all other Sheriff's Officer Sergeants in terms of salary. (Exh. L-1). Sergeants in the PBA Local 379A bargaining unit earned \$5,897 less than Morris County Sergeants and \$1,645 more than Sergeants employed by the Sheriff in Mercer County. Id.

RANK	COUNTY	2009 SERGEANT'S SALARY
1	Monmouth	\$119,152
2	Bergen	\$111,289 <sup>11</sup>
3	Passaic	\$106,474
4	Morris	\$101,482
5	Ocean	\$95,585
6	Mercer	\$93,940 <sup>12</sup>
7	Middlesex	\$93,388 <sup>13</sup>
8	Somerset	\$89,881
9	Union	\$87,963
10	Sussex	\$84,717

<sup>11</sup> To determine the salary for Bergen County Sheriff's Sergeants, the 2011 salary of \$118,279 was used as a base and reduce by 3.0% in 2010 and another 3.0% in 2009. Thus, the salary reported in the chart assumes 3.0% wage increases for the years 2009 and 2010.

<sup>12</sup> As set forth in Exhibit L-2, Mercer County Sheriff's Superior Officers are out of contract. Therefore, the average increase for Interest Arbitration Awards, as reported by PERC, is utilized to estimate salaries. (See Exh. D-11).

<sup>13</sup> As set forth in Exhibit L-2, Middlesex County Sheriff's Superior Officers are out of contract. Therefore, the average increase for Interest Arbitration Awards, as reported by PERC, is utilized to estimate salaries. (See Exh. D-11).

(Exh. L-1)

The PBA has proposed 3.0% wage increases for 2010, which will raise salaries to \$99,483. (Exh. A-2). These increases will allow PBA Local 379A members to maintain their current standing. The County has offered a 1.5% salary increase, which will result in a salary of \$98,034. (Exh. A-3). Pursuant to the PBA's Final Offer, Sergeants will earn \$6,058 less than Sergeants in Morris County. (Exh. A-2, Exh. L-1). This disparity will grow to \$7,507 under the County's Final Offer. (Exh. A-3). In addition, Mercer County Sheriff's Officers, assuming they receive average wage increases, will gain ground on PBA Local 379A unit members if the County's Final Offer is awarded. If the Arbitrator were to award the County's Final Offer, Mercer County Sheriff's Sergeants would earn only \$1,388 less than Ocean County Sheriff's Sergeants, provided these officers received the average raise for Interest Arbitrations in that year. Therefore, if the Arbitrator were to award the County's Final Offer, the PBA would begin to lose ground on those Sheriff's Officers earning similar salaries, as set forth below:

RANK	COUNTY	2010 SERGEANT'S SALARY
1	Monmouth	\$121,535
2	Bergen	\$114,731 <sup>14</sup>
3	Passaic	\$109,402
4	Morris	\$105,541
5	Ocean	\$99,483 (PBA Offer) / \$98,034 (County Offer)
6	Mercer	\$96,646 <sup>15</sup>

<sup>14</sup> See note 10.

<sup>15</sup> See note 11.



7	Middlesex	\$96,078 <sup>16</sup>
8	Somerset	\$92,954
9	Union	\$87,935
10	Sussex	\$87,682

(Exh. L-1)

The PBA seeks a 3.0% wage increase for 2011, which will result in a salary of \$102,467 for Sergeants. (Exh. A-2). The County has offered a wage increase of 1.5%, for a salary of \$99,504. (Exh. A-3). The PBA's Final Offer maintains a \$5,238 difference between the salaries of Morris and Ocean County Sheriff's Sergeants. This is near the historical difference between Sergeants pay in the two counties. Pursuant to County's Final Offer, however, the wage disparity will increase to \$8,201. Similarly, the difference between Ocean County Sheriff's Officer Sergeants and Sergeants employed by Mercer County will be reduced to an estimated \$877 if the County's Final Offer is awarded. Accordingly, the Arbitrator must award the PBA's Final Offer.

RANK	COUNTY	2011 SERGEANT'S SALARY
1	Monmouth	\$123,966
2	Bergen	\$118,279
3	Passaic	\$112,410
4	Morris	\$107,705 <sup>17</sup>
5	Ocean	\$102,467 (PBA Offer) / \$99,504 (County

<sup>16</sup> See note 12.

<sup>17</sup> As set forth in Exhibit L-2, Morris County Sheriff's Superior Officers are out of contract. Therefore, the average increase for Interest Arbitration Awards, as reported by PERC, is utilized to estimate salaries. (See Exh. D-11).

		Offer)
6	Mercer	\$98,627 <sup>18</sup>
7	Middlesex	\$98,048 <sup>19</sup>
8	Somerset	\$96,672
9	Camden	\$95,149
10	Sussex	\$90,751

(Exh. L-1).

In 2012, the PBA once again seeks a 3.0% wage increase, which would raise Sergeant salaries to \$105,541. (Exh. A-2). The County has proposed a 1.5% wage increase, which brings Sergeant salaries to \$100,997. (Exh. A-3). The PBA's Final Offer will maintain the historical disparities between Sheriff's Officers in Morris and Mercer counties. The difference in salaries between Sergeants in Morris and Ocean counties is \$4,124. The difference between the next highest paid unit, Mercer County, is approximately \$5,119. Pursuant to the County's Final Offer, however, the difference in pay between Sergeants in Morris and Ocean counties will grow to \$8,668 and the difference between Ocean and Mercer County Sheriff's Sergeants will shrink to \$575, if Morris County Sergeants are granted the average raise.

RANK	COUNTY	2012 SERGEANT'S SALARY
1	Monmouth	\$126,445
2	Bergen	\$120,645
3	Passaic	\$114,378

<sup>18</sup> See note 11.

<sup>19</sup> See note 12.

4	Morris	\$109,665 <sup>20</sup>
5	Ocean	\$105,541 (PBA Offer) / \$100,997 (County Offer)
6	Mercer	\$100,422 <sup>21</sup>
7	Middlesex	\$99,832
8	Camden	\$96,881
9	Somerset	\$96,672
10	Sussex	\$93,927

(Exh. L-1).

The PBA has proposed a 3.0% wage increase for 2013, which would increase Sergeant salaries to \$108,707. (Exh. A-2). Such a wage increase allows Sergeants in the PBA Local 379A unit to maintain their current standing amongst Sergeants in other Sheriff's Departments throughout the State, as set forth below:

RANK	COUNTY	2013 SERGEANT'S SALARY
1	Monmouth	\$128,974
2	Bergen	\$123,058
3	Passaic	\$116,379
4	Morris	\$111,661
5	Ocean	\$108,707 (PBA Offer)
6	Mercer	\$102,250 <sup>22</sup>
7	Middlesex	\$101,649
8	Somerset	\$99,089
9	Camden	\$98,644
10	Sussex	\$97,214

(Exh. L-1).

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<sup>20</sup> See note 16.

<sup>21</sup> See note 11.

<sup>22</sup> See note 11.

The PBA has also proposed a 3.0% wage increase for 2014. (Exh. A-2). This wage increase will raise Sergeant salaries to \$111,968. Id. Few comparable Sheriff's Officer contracts extend through 2014, however, this raise will help maintain PBA Local 379A's standing amongst Sheriff's Officers in the State. Bergen County has a contract in place for 2014, and its Sergeants will earn \$125,519 in 2014. (Exh. I-2B, Exhibit A-1, p. 43). The raises sought by the PBA provide only \$307 more in 2014 than Morris County Sheriff's Sergeants were earning in 2013, thus PBA Local 379A unit members are unlikely to move up in the rankings if the Arbitrator awards the PBA's Final Offer. Rather, the *status quo ante* will be maintained. Accordingly, the Arbitrator must award the PBA's Final Offer.

#### B. Lieutenants

Like the Sergeants, Lieutenants in the PBA Local 379A unit seek to maintain their current standing amongst other County Sheriff's Lieutenants. As set forth in the chart below, Lieutenants in Ocean County were the sixth highest paid Sheriff's Lieutenants in the State in 2009:

RANK	COUNTY	2009 LIEUTENANT SALARY
1	Monmouth	\$123,787
2	Bergen	\$121,299.53 <sup>23</sup>

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<sup>23</sup> To determine the salary for Bergen County Sheriff's Lieutenants, the 2011 salary of \$128,925 was used as a base and reduce by 3.0% in 2010 and another 3.0% in 2009. Thus, the salary reported in the chart assumes 3.0% wage increases for the years 2009 and 2010.

3	Passaic	\$115,158
4	Morris	\$107,771
5	Middlesex	\$107,397 <sup>24</sup>
6	Ocean	\$106,080
7	Camden	\$104,649 <sup>25</sup>
8	Somerset	\$98,771
9	Union	\$97,820
10	Sussex	\$90,039

(Exh. L-1).

The chart above shows that Lieutenants in the PBA unit receive \$1,431 more than Lieutenants in Camden County and approximately \$1,317 more than the projected salary of Sheriff's Lieutenants in Middlesex County. Id.

The PBA has proposed a wage increase of 3.0% in 2010. (Exh. A-2). This increase would raise Lieutenant salaries to \$109,262. Id. The County's proposed 1.5% increase, however, would result in a salary of \$107,671. (Exh. A-3). If the County's proposal is granted, Sheriff's Lieutenants in Camden County will earn a mere \$98 more than the projected salary of Lieutenants in Camden County. (Exh. L-1). Thus, if the County's wage proposal is granted, PBA Local 379A unit members will lose standing to their counterparts in Camden County.

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<sup>24</sup> As set forth in Exhibit L-3, Middlesex County Sheriff's Lieutenants salaries have been determined by taking their 2008 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11).

<sup>25</sup> As set forth in Exhibit L-3, Camden County Sheriff's Lieutenants salaries have been determined by taking their 2008 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11).

RANK	COUNTY	2010 LIEUTENANT SALARY
1	Monmouth	\$126,262
2	Bergen	\$125,057.25 <sup>26</sup>
3	Passaic	\$118,325
4	Morris	\$112,082
5	Middlesex	\$110,490 <sup>27</sup>
6	Ocean	\$109,262 (PBA Offer) / \$107,761 (County Offer)
7	Camden	\$107,663 <sup>28</sup>
8	Somerset	\$102,228
9	Union	\$97,820
10	Sussex	\$93,190

(Exh. L-1).

In 2011, the PBA seeks a raise of 3.0%. (Exh. A-2). This would result in a salary of \$112,540. Id. The County has proposed a 1.5% raise, which results in a salary of \$109,286. (Exh. A-3). If the County's wage proposal is awarded, Lieutenants in the PBA bargaining unit will lose their current standing amongst Lieutenants employed in other Sheriff's Departments throughout the State. Indeed, if Camden County Sheriff's Lieutenants are awarded the average increase in salary for Interest Arbitration Awards (Exh. D-11), they will overtake the sixth spot in the State-wide rankings for Sheriff's Lieutenants.

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<sup>26</sup> See note 22.

<sup>27</sup> See note 23.

<sup>28</sup> See note 24.

RANK	COUNTY	2011 LIEUTENANT SALARY
1	Bergen	\$128,925
2	Monmouth	\$128,788
3	Passaic	\$121,579
4	Morris	\$114,380 <sup>29</sup>
5	Middlesex	\$112,755 <sup>30</sup>
6	Ocean	\$112,540 (PBA Offer) / \$109,286 (County Offer)
7	Camden	\$109,870 <sup>31</sup>
8	Somerset	\$106,315
9	Union	\$100,021
10	Sussex	\$96,542

(Exh. L-1).

The PBA has proposed a 3.0% wage increase in 2012, which results in a salary of \$115,916. (Exh. A-2). The County's proposed 1.5% wage increase will result in a salary of \$110,926. (Exh. A-3). If the County's proposed increase were awarded, Lieutenants in the PBA Local 379A unit will have their salaries usurped by the projected salaries of Middlesex, Mercer and Camden Sheriff's Lieutenants. However, if the PBA's proposal is awarded, PBA members will earn approximately \$1,100 more than the projected salary of Middlesex County Lieutenants.

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<sup>29</sup> As set forth in Exhibit L-3, Morris County Sheriff's Lieutenants salaries have been determined by taking their 2010 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11)

<sup>30</sup> See note 23.

<sup>31</sup> See note 24.

RANK	COUNTY	2012 LIEUTENANT SALARY
1	Bergen	\$131,503
2	Monmouth	\$131,364
3	Passaic	\$123,706
4	Morris	\$116,461 <sup>32</sup>
5	Middlesex	\$114,807 <sup>33</sup>
6	Ocean	\$115,916 (PBA Offer) / \$110,926 (County Offer)
7	Mercer	\$114,480 <sup>34</sup>
8	Camden	\$111,869 <sup>35</sup>
9	Gloucester	\$107,549
10	Somerset	\$106,317

(Exh. L-1).

In 2013, the PBA again seeks a 3.0% wage increase. (Exh. A-2). This results in a salary of \$119,393. Id. Such a salary increase would make the State-wide rank for Lieutenants similar to the State-wide rank for Sergeants in the PBA Local 379A bargaining unit. However, if the County's Final Offer is awarded, Ocean County Sheriff's Officers will continue to lose standing among other Sheriff's Officer Lieutenants within the State.

RANK	COUNTY	2013 LIEUTENANT SALARY
1	Bergen	\$134,134
2	Monmouth	\$133,991
3	Passaic	\$125,871
4	Ocean	\$119,394 (PBA Offer)

<sup>32</sup> See note 28.

<sup>33</sup> See note 23.

<sup>34</sup> See note 24.

<sup>35</sup> See note 24.



5	Morris	\$118,581
6	Middlesex	\$116,897 <sup>36</sup>
7	Mercer	\$116,583 <sup>37</sup>
8	Camden	\$113,905 <sup>38</sup>
9	Gloucester	\$109,700
10	Somerset	\$108,975

(Exh. L-1).

Few Sheriff's Departments have CNAs that extend into 2014. However, those that do provide wage increases greater than those offered by the County. For example, Somerset County Sheriff's Lieutenants will earn 2.6% wage increases in 2014, which will result in a salary of \$111,808. (Exh. I-18, Appendix A). This salary encroaches on the County's proposed 2012 salary for Lieutenants. Similarly, Lieutenants in Bergen County will outearn PBA Local 379A Lieutenants in 2014. (Exh. I-2B). These Lieutenants will earn \$136,816 in 2014. Id.

The PBA's Final Offer must be awarded in order to maintain the current standing of Lieutenants in the unit. If the County's Final Offer is awarded, Lieutenants will see their salaries erode and their rank amongst other Sheriff's Lieutenants drop precipitously. Accordingly, the Arbitrator must award the PBA's Final Offer.

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<sup>36</sup> Middlesex County Sheriff's Lieutenants salaries have been determined by taking their 2008 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11).

<sup>37</sup> As set forth in Exhibit L-3, Mercer County Sheriff's Lieutenants salaries have been determined by taking their 2008 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11)

<sup>38</sup> See note 23.

### C. Captains

Like Sergeants and Lieutenants, Captains in the PBA Local 379A unit seek to maintain their standing amongst other County Sheriff's Captains. In 2009, PBA unit members were the fourth highest paid Captains in the State. The PBA's Final Offer will maintain unit members' ranking within the State. Awarding the County's Final Offer, however, will reduce PBA Local 379A unit members standing within the State. Accordingly, the Arbitrator must award the PBA's Final Offer in its entirety.

In 2009, Captains in the PBA unit earned \$115,574. (Exh. A-2). Only Sheriff's Captains in Bergen, Middlesex and Passaic Counties earned higher salaries.

RANK	COUNTY	2009 CAPTAIN SALARY
1	Bergen	\$137,200
2	Middlesex	\$123,502 <sup>39</sup>
3	Passaic	\$124,750
4	Ocean	\$115,574
5	Somerset	\$113,563
6	Morris	\$111,786
7	Camden	\$111,563 <sup>40</sup>
8	Union	\$108,512
9	Sussex	\$96,568
10	Cape May	\$85,768

(L-1).

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<sup>39</sup> As set forth in L-4, Middlesex County Sheriff's Captains salaries have been determined by taking their 2008 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11).

<sup>40</sup> As set forth in L-4, Camden County Sheriff's Lieutenants salaries have been determined by taking their 2008 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11).

In 2010, the PBA has proposed a wage increase of 3.0%, which would raise salaries to \$119,041. (Exh. A-2). This wage increase will maintain the *status quo ante*. The County has offered a salary increase of 1.5%, which would raise salaries to \$117,308. (Exh. A-3). If the County's wage increase were awarded, however, Captains in Somerset County would earn more than PBA Local 379A unit members.

RANK	COUNTY	2010 CAPTAIN SALARY
1	Bergen	\$142,500
2	Passaic	\$124,750
3	Middlesex	\$127,063 <sup>41</sup>
4	Ocean	\$119,041 (PBA Offer) / \$117,308 (County Offer)
5	Somerset	\$117,538
6	Morris	\$116,257
7	Camden	\$114,776 <sup>42</sup>
8	Union	\$108,512
9	Sussex	\$99,948
10	Hudson	\$97,034

(Exh. L-1).

In 2011, the PBA seeks a 3.0% raise, which will increase salaries to \$122,612. (Exh. A-2). The County has offered a 1.5% increase that will raise salaries to \$119,067. (Exh. A-3). Once again, if the County's Final Offer is granted, PBA Local 379A unit members will lose standing within the State. As set forth below, Captains in Somerset County will earn more than Captains in the PBA unit if the

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<sup>41</sup> See note 38.

<sup>42</sup> Camden County Sheriff's Lieutenants salaries have been determined by taking their 2008 salaries and factoring in the average raise for each year, as determined by PERC. (Exh. D-11).

County's Final Offer is granted. If the PBA's Final Offer is awarded, however, the PBA Local 379A unit will maintain its current standing.

RANK	COUNTY	2011 CAPTAIN SALARY
1	Bergen	\$145,350
2	Passaic	\$131,705
3	Middlesex	\$129,668 <sup>43</sup>
4	Ocean	\$122,612 (PBA Offer) / \$119,067 (County Offer)
5	Somerset	\$122,239
6	Morris	\$118,640
7	Camden	\$117,129 <sup>44</sup>
8	Union	\$110,954
9	Gloucester	\$108,190
10	Sussex	\$103,446

(Exh. L-1).

The PBA has proposed a 3.0% raise in 2012, which results in a salary of \$126,291. (Exh. A-2). The County has proposed a 1.5% raise, which increases salaries to \$120,853. (Exh. A-3). Once again, the PBA's raise merely maintains the current pay disparity between Sheriff's Captains throughout the State. (Exh. L-1). If the Arbitrator were to award the County's Final Offer, however, PBA unit members would earn less than Captains in Somerset County, and only \$53 more than Captains in Morris County, when the average raise for 2012 is factored. Id. Therefore, the Arbitrator must award the PBA's Offer in its entirety.

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<sup>43</sup> See note 38.

<sup>44</sup> See note 41.

RANK	COUNTY	2012 CAPTAIN SALARY
1	Bergen	\$147,995
2	Passaic	\$134,010
3	Middlesex	\$132,028 <sup>45</sup>
4	Ocean	\$126,291 (PBA Offer) / \$120,853(County Offer)
5	Somerset	\$122,239
6	Morris	\$120,800
7	Camden	\$119,261 <sup>46</sup>
8	Union	\$113,728
9	Gloucester	\$110,299
10	Sussex	\$107,067

(Exh. L-1).

The PBA seeks a 3.0% raise in 2013, which results in a salary of \$130,090 for Captains in the unit. (Exh. A-2). Awarding this proposal will maintain the status quo and allow unit members to retain their standing amongst other Sheriff's Captains in the State.

RANK	COUNTY	2013 CAPTAIN SALARY
1	Bergen	\$150,689
2	Passaic	\$136,356
3	Middlesex	\$134,431 <sup>47</sup>
4	Ocean	\$130,090 (PBA Offer)
5	Somerset	\$125,295
6	Morris	\$122,998
7	Camden	\$121,431 <sup>48</sup>
8	Union	\$115,798

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<sup>45</sup> See note 38.

<sup>46</sup> See note 41.

<sup>47</sup> See note 38.

<sup>48</sup> See note 41.

9	Gloucester	\$112,451
10	Sussex	\$110,814

(Exh. L-1).

The PBA has proposed a 3.0% wage increase in 2014, which increases salaries to \$133,982. Somerset County Sheriff's Captains will receive a 2.6% wage increase in 2014, which will raise their salaries to \$128,553. (Exh. I-18). Thus, if the PBA's Final Offer is not awarded in its entirety, Captains will lose their rank within the State, as Somerset County Captains will overtake their salary. Accordingly, the Arbitrator must award the PBA's Final Offer.

D. Municipal Police Officers

Sheriff's Officers economic packages must also be compared to those of municipal police officers. See County of Monmouth -and- PBA Local 314, IA-2009-073 (Hartigan, T., 2011). Both groups undergo similar training and fight crime in similar communities. Id. An analogous comparison was made in Rutgers -and- F.O.P. Lodge 62A, 24 NJPER (¶29195 1998). In that case, the employer argued that the only appropriate comparison that the interest arbitrator should make in comparing the compensation packages of its campus police was to other campus police officers. However, the arbitrator ruled, and the Commission confirmed, that it was more appropriate to compare Rutgers Police Officers to police officers in other Middlesex County municipalities. He

concluded that Rutgers Police Officers worked in circumstances "much more comparable" to municipal police than those of police officers at other State colleges and universities. He further concluded that the Middlesex County municipalities presented a range of policing conditions similar to those on the three Rutgers campuses and that they provided the most relevant comparability data under the component of N.J.S.A. 34:13A-16(g)(2)(c).

The Commission found that the arbitrator appropriately compared Rutgers officers to the municipal police officers in Middlesex County. It rejected Rutgers contention that the Commission's comparability guidelines, N.J.A.C. 19:16-5.14, require that Rutgers Police be compared only with those at other State colleges and universities. Thus, the Arbitrator should compare PBA Local 379A unit members with municipal police officers employed by municipalities within Ocean County as well as other Sheriff's Officers.

When compared to municipal police officers working within the County, the PBA's Final Offer is a reasonable and fair compromise. Sheriff's Officers serve the same communities as municipal police officers and undergo similar training. Accordingly, their pay should be in line with the pay of municipal police officers. However, as shown below, PBA members earn far less than municipal police officers employed in municipalities within Ocean County.

At the hearing, Captain Bauman testified that the Ocean County Sheriff's Department interacts daily with municipal police departments throughout the County. (T. 27:17-21). He testified: "...within the Criminalistics Investigation Unit we will interact with the local municipal detectives as far as the nature of the crime and what they've identified as a crime scene. We will then come in and process that crime scene, take all the evidence with us, process the evidence and apply any findings from that to the investigation." (T. 27:22-28:4). In fact, on the night before the hearing, there was an aggravated assault in one of the County's municipalities. (T. 28:8-13). The Ocean County Sheriff's Department responded with two detectives, who took the lead in the investigation. (T. 28:17-24).

Approximately two weeks before the hearing, a string of approximately 40 burglaries occurred in Manchester Township. (T. 29:4-22). Once again, the Sheriff's Office responded to nearly every one of these burglaries. Id. The Sheriff's Office was able to apprehend the suspect. Id. Sergeants in Manchester earned \$117,803 in 2009, or \$21,224 more than Sergeants in the PBA Local 379A unit. (Exh. J-23). Lieutenants earned \$125,965 in 2009, or \$19,885 more than Lieutenants in the unit. Id. Captains in Manchester earned \$136,115 in 2009, or \$20,541 more than Captains in the unit. Id. Even if the PBA's proposed wage increases are granted in their entirety, PBA Local 379A unit



members will not earn close to what superior officers earn in Manchester Township:

Sergeants	Manchester	PBA Local 379A	Difference
2010	\$122,457	\$99,483	\$22,974
2011	\$127,294	\$102,467	\$24,827

(Exh. J-23).

Lieutenants	Manchester	PBA Local 379A	Difference
2010	\$130,941	\$109,262	\$21,679
2011	\$136,113	\$112,540	\$23,573

Id.

Captains	Manchester	PBA Local 379A	Difference
2010	\$141,491	\$119,041	\$22,450
2011	\$147,080	\$122,612	\$24,468

Id.

Thus, PBA Local 379A members are paid markedly less than the Superior Officers that they routinely help to perform their law enforcement function. Unfortunately, this situation is not limited solely to Manchester Township. Indeed, PBA Local 379A members are outearned by numerous other municipal law enforcement units.

Sergeants						
OCEAN	2009	2010	2011	2012	2013	2014
PBA	\$96,585	\$99,483	\$102,467	\$105,541	\$108,707	\$111,968

County	\$96,585	\$98,034	\$99,054	\$100,997		
Barnegat Tp.			\$107,556	\$109,654	\$111,792	
Berkeley	\$103,129	\$106,739	\$108,942	\$111,121	\$113,272	
Lacey	\$102,190	\$105,797				
Little Egg Harbor		\$116,105	\$118,427	\$123,000	\$125,460	
Point Pleasant Borough		\$107,225	\$111,010	\$113,230	\$115,495	
Stafford	\$115,223	\$115,604	\$119,453	\$123,431		
Toms River			\$120,002			

(Exh. L-5).

Lieutenants						
OCEAN	2009	2010	2011	2012	2013	2014
PBA	\$106,080	\$109,262	\$112,540	\$115,916	\$119,394	\$122,976
County	\$106,080	\$107,671	\$109,286	\$110,926		
Barnegat Tp.			\$118,312	\$120,619	\$122,971	
Berkeley	\$118,810	\$122,968	\$125,428	\$127,936	\$130,495	
Lacey	\$112,409	\$116,344				
Long Beach	\$107,513	\$110,738	\$110,738	\$112,953	\$115,212	
Point Pleasant Borough		\$110,238	\$128,323	\$130,889	\$133,507	
Stafford	\$129,050	\$129,476	\$133,788	\$138,342		
Toms River			\$136,145			

(Id.)

Captains						
OCEAN	2009	2010	2011	2012	2013	2014
PBA	\$115,574	\$119,041	\$122,612	\$126,291	\$130,080	\$133,982
County	\$115,574	\$117,308	\$119,067	\$120,853		
Barnegat Tp.			\$130,134	\$132,680	\$135,268	
Berkeley	\$136,624	\$141,408	\$144,234	\$147,119	\$150,060	
Lacey	\$123,650	\$127,978				

Long Beach	\$118,264	\$121,812	\$121,812	\$124,248	\$126,733	
Point Pleasant Borough		\$141,300	\$146,288	\$149,214	\$152,198	
Stafford	\$144,536	\$145,013	\$149,842	\$154,832		
Toms River			\$154,445			

(Id.)

As the above charts demonstrate, superior officers employed by municipal police departments earn substantially more than Sheriff's Superiors in Ocean County. Yet, it is the Sheriff's Office who is called in to assume command and to supervise these highly paid municipal police officers. The Arbitrator must award the PBA's Final Offer in its entirety. This offer merely maintains the salary disparity between PBA Local 379A unit members and other County Superior Sheriff's Officers. Moreover, it maintains the current disparity between the PBA and municipal police officers, who earn more money despite receiving less training than Sheriff's Officers. Accordingly, the Arbitrator must award the PBA's Final Offer.

### 3. Interest Arbitration Award Comparison

The County has offered the PBA 1.5% wage increase each year for three years. Such a raise is not actually a raise, as PBA members are required to contribute amounts in excess of 1.5% of their salaries towards their health benefits and pension each year. The County's Final Offer does not comport

with recent Interest Arbitration Awards and recent settlements. The Public Employment Relations Commission ("PERC") maintains an Interest Arbitration Salary Increase Analysis, which shows the average salary increase of all awards issued in specific years. The chart below shows that the salary increases proposed by the PBA are comparable to recent decisions and settlements, and the County's proposal is severely deficient.

YEAR <sup>49</sup>	NUMBER OF AWARDS	AVERAGE SALARY INCREASE OF AWARDS	VOLUNTARY SETTLEMENTS	AVERAGE SALARY INCREASE OF SETTLEMENTS
1/1/2012-4/30/2012	9 <sup>50</sup>	1.82%	10	1.83%
1/1/2011-12/31/2011	34	2.05%	38	1.87%
1/1/2010-12/31/2010	16	2.88%	45	2.65%

Recent Interest Arbitration Awards (those decided in late 2011 and 2012) clearly show that the County's proposal is not consistent with the times. In North Hudson Regional Fire & Rescue -and- North Hudson Firefighters Ass'n, IA-2010-099 (Hundley, T., 2012), Arbitrator Hundley awarded a cumulative 6.5% across-the-board wage increase over four years. In Hudson County Dep't of Corrections -and- PBA Local No. 109 (Corrections Officers), IA-2012-046 (Osborn, S., 2012),

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<sup>49</sup> Public Employment Relations Commission Salary Increase Analysis (Interest Arbitration), (Exh. D-11).

<sup>50</sup> 3 of these Awards were subject to the 2.0% salary cap pursuant to amended N.J.S.A. 34:13A-16.

Arbitrator Osborn awarded a cumulative 5.5% increase over three years. In Tp. of Washington -and- PBA Local 301, IA-2009-053 (Mastriani, J., 2012), Arbitrator Mastriani awarded a cumulative 10% wage increase for five years. In Borough of Madison -and- PBA Local 92 & PBA Local 92 SOA, IA-2010-109 and IA-2010-110 (Glasson, R., 2012), Arbitrator Glasson awarded a cumulative wage increase of 7.5% at the maximum step and kept all other steps static. In Borough of Roselle Park -and- PBA Local 27 / SOA, IA-2012-024, IA-2012-026 (Osborn, S., 2012), Arbitrator Osborn awarded a cumulative 6.25% wage increase over four (4) years. In Ocean County Prosecutor's Office -and- PBA Local 171, IA-2011-006 (Glasson, R., 2012), Arbitrator Glasson awarded a cumulative 6.0% in wage increases for employees at the top of the salary guide for 2010 through 2012. In Atlantic County Sheriff's Office -and- PBA Local 243, IA-2010-071 (Hundley, T., 2012), Arbitrator Hundley awarded a 5.0% total increase for all steps in the salary guide for the three year term of the contract. In Township of West Caldwell -and- West Essex PBA Local 81 (West Caldwell Unit), IA-2012-012 (Gifford, R., 2012), Arbitrator Gifford awarded a 5.65% total wage increase for 2012, 2013 and 2014. In Guttenberg -and- PBA Local 88, IA-2009-017 (Mastriani, J., 2012), Arbitrator Mastriani awarded a 12% (2.4% average) increase over five years. In New Milford Boro -and- PBA Local 83, IA-2012-008 (Westerkamp. P., 2012), Arbitrator Westerkamp awarded a 5.5% total pay increase for the three-year duration of the contract. In Tp. of Old Bridge -and- PBA Local 127, IA-2009-026 (Restaino, G., 2012), Arbitrator Restaino awarded 7.5% over six years, with 1.5%

across the board and the remainder at top pay. In Oakland Boro -and- PBA Local 164, IA-2012-007 (Pecklers, M., 2012), Arbitrator Pecklers awarded 5.5% over three years. In Hackettstown -and- PBA Local 369, IA-2009-111 (Restaino, G., 2012), Arbitrator Restaino awarded 8.5% over four years. In County of Union -and- FOP Lodge 103 (Sheriff's Superior Officers), IA-2010-118 (Hundley, T., 2011), Arbitrator Hundley awarded a 4.75% total across-the-board wage increase for 2010 through 2012. Even factoring in Arbitrator Mason's draconian salary award in Spotswood -and- PBA Local 225, IA-2011-048 (Mason, F., 2011), and Arbitrator Peckler's award in Atlantic City -and- IAFF Local 198, IA-2012-045 (Pecklers, M., 2012), the average annual increase awarded in 2011 was 2.05%. (Exh. D-11). Of the cited decisions that were not impacted by the 2.0% Cap, the average increase exclusive of steps was 1.87% per year. Of those under the 2.0% Cap, the average increase was 1.85% per annum.

The salary increases proposed by the PBA result in salaries that are more comparable to salaries earned by Sheriff's Officers in comparable counties and municipal police officers in Ocean County. The County's offer will create a large and growing disparity between PBA Local 379A unit members and other Sheriff's Officers and municipal police officers. Accordingly, the Arbitrator must award the PBA's Final Offer in their entirety.

ii.      Holidays

The County has proposed alterations to Article IX, Holidays. (Exh. A-3). Currently, PBA Local 379A unit members receive fourteen (14) holidays. (Exh. A-1, Art. IX, p. 5). The County has proposed replacing the holiday schedule set forth in the agreement with the State employees holiday schedule. (Exh. A-3). Director Goetting testified that this change would reduce the number of holidays from fourteen (14) to twelve (12). No other Superior Sheriff's Officer in the State enjoys so few holidays. More importantly, this very proposal was rejected with regard to rank and file corrections officers by Arbitrator Glasson. (Exh. G-10. Accordingly, the County's holiday proposal must be rejected.

Superior Sheriff's Officers in Passaic County receive fifteen (15) holidays. (Exh. I-16, Art. 12, p. 19). Superior Sheriff's Officers in Bergen County (Exh. I-2A, Art. 14, p. 27, Exh. I-2B, Art. 12, p. 7), Burlington County (Exh. I-3, Art. IX, p. 9), Gloucester County (Exh. I-8A, Art. VIII, p. 16, I-8B, Art. VII, p. 16), Mercer County (Exh. I-10, Art. 11, p. 10), Middlesex County (Exh. I-12, Art. 14, p. 21), Salem County (Exh. I-17, Art. 9, p. 8), Somerset County (Exh. I-18, Art. VII, p. 10), Sussex County (Exh. I-19, Art. XXI, p. 10) and Union County (Exh. I-20, Art. XIII, p. 25) receive fourteen (14) holidays.

Superior Sheriff's Officers in Atlantic County (Exh. I-1, Art. 7, p. 7), Camden County (Exh. I-4A, Art. X, p. 8, Exh. I-4B, Art. IX, p. 6), Cape May County (Exh. I-5A,

Art. Ten, p. 23, Exh. I-5B, Art. Ten, p. 18), Cumberland County (Exh. I-6, Art. 11, p. 9), Hudson County, (Exh. I-9, Art. XXVII, p. 41), Monmouth County (Exh. I-13, Art. 15, p. 23), Morris County (Exh. I-14, Art. 9, p. 13) and Warren County (Exh. I-21, Art. XVIII, p. 9) receive thirteen (13) holidays.

No Superior Sheriff's Officer in the State receives the amount of holidays the County is proposing. Moreover, rank and file Sheriff's Officers employed by Ocean County receive fourteen (14) holidays. Accordingly, the County's Offer must be rejected.

**C. THE OVERALL COMPENSATION PRESENTLY RECEIVED BY BARGAINING UNIT MEMBERS**

The overall compensation presently received by PBA Local 379A members is swiftly decreasing. The Legislature has imposed draconian contribution increases that decrease compensation. Aside from base salary, unit members receive longevity payments and some may receive an education incentive and / or a stipend for extradition or K-9 details. (Exh. A-1, Art. XII, p. 7, Art. XIV, p. 8, Art. XVII, p. 9). PBA Local 379A members are also paid for fourteen (14) holidays per year. (Exh. A-1, Art. IX, pp. 5-6). The County's proposal will decrease PBA members' current compensation. The PBA's Final Offer, however, will maintain compensation at a reasonable level. Accordingly, the Arbitrator must award the PBA's Final Offer.



As set forth above, recent legislation has decreased the total compensation of PBA bargaining unit members. P.L. 2010 c. 2 imposed a 1.5% health benefits contribution for public employees. P.L. 2011 c. 78 imposed a more onerous sliding scale consisting of premium sharing based on a percentage of health benefit premiums and base salary. The top contribution rate is 35% of the cost of the premium. This statute also increased pension contributions from 8.5% to 10.0%. Officers are therefore losing 3.0% or more of their base salary by virtue of the fact that they are public employees.

The PBA has proposed reasonable increases to base salary. (Exh. A-2). The minimal increases to salary and benefits proposed by the PBA will make up for compensation lost through health benefit contributions and increased pension payments imposed by the legislature. In Fairfield -and- PBA Local 81, IA-2010-090 (Glasson, R., 2010), Arbitrator Glasson properly considered the cost of the statutorily mandated health insurance contributions when deciding the appropriate wage increases. In this regard, Arbitrator Glasson stated: "first, salary and health care are often linked in bargaining; modifications on health care influence the level of salary increases. Id. at 4 (emphasis added). He then went on to analyze the overall savings to be realized by the Township and the consequent out-of-pocket costs to the PBA unit members and concluded: "the Township will achieve a significant increase in health care contributions and its police officers will see a commensurate decrease in their annual salaries. This is

equivalent to 4% annually in 2014." Id. at 44 (emphasis added); see also, Old Bridge -and- PBA Local 127, IA-2009-026 (Restaino, G., 2012) at 51 (the savings guaranteed for the Township by P.L. 2010, c. 2's imposition of premium sharing for employers indicates that employees will be funding their own salary increases).

The PBA's Final Offer seeks to maintain the compensation currently earned by PBA unit members and increase pay slightly to account for the rising cost of living and the statutorily mandated reductions in pay (i.e., increased pension and health benefits contributions). The County's proposal, on the other hand, will reduce PBA member's compensation. The raises proposed by the County pale in comparison to the amount that PBA members will have to return to the County in the way of mandated contributions.

Moreover, the County's proposed reduction in the number of holidays will similarly reduce the compensation of PBA Local 379A unit members. Currently, PBA members receive fourteen (14) paid holidays annually. (Exh. A-1, Art. IX, pp. 5-6). If an officer works on a holiday, he or she receives pay for the holiday plus pay at the overtime rate. Id. The County's proposal will serve to reduce the number of holidays from fourteen (14) to twelve (12). (T. 121:1-8, Exh. A-3). This will increase the number of days employees work, thereby effectively reducing their salaries. The County has not offered compensation for the two lost

holidays. Thus, if the County's Final Offer is awarded, PBA unit members' salaries will be reduced, as will their opportunities for premium overtime pay.

The County's proposal is even more draconian with regard to Sheriff's Officers that have not yet been hired. The County seeks to reduce the longevity schedule for such officers. (Exh. A-3). This proposal simply makes the Ocean County Sheriff's Department an unattractive option for applicants.

The PBA's Final Offer, on the other hand, is an attempt to maintain the bargaining unit's current standing among other Sheriff's Departments and among municipal police officers in Ocean County. PBA members compensation will be reduced pursuant to the County's Final Offer. Accordingly, the Arbitrator must award the compensation package set forth in the PBA's Final Offer.

**D. STIPULATIONS OF THE PARTIES**

The parties have not stipulated to any issues.

**E. THE LAWFUL AUTHORITY OF THE EMPLOYER**

The Arbitrator is required to consider the parties' proposals in light of the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et. seq.. As set forth in Section A. above, the evidence establishes that the County is financially capable of funding the PBA's proposals, and the Cap Law is not implicated. The County will

not need to raise taxes to pay for the PBA's Final Offer. Indeed, the County has sufficient flexibility within appropriations without exceeding the CAP.

In July 2010, P.L. 2010 c. 44 imposed new restrictions on the amount by which taxation can be raised, reducing the tax levy cap from 4.0% to 2.0%. However, the 2.0% revised cap allows for health care and pension increases above 2.0% to be excluded from the 2.0% levy cap limitations. Id.

The County can satisfy the PBA's wage proposal without violating its lawful authority. The County currently has a fund balance that can support the PBA's proposed increases. (Exh. K-2, p. 3). Currently, the County has \$488,721.05 left in reserve for Sheriff's Office salaries and wages and other expenses from 2011 and \$929,312.98 from 2010. Id. Moreover, the County has appropriations reserves indicating that it has historically spent less than budgeted. Id. at 34. Further, the County has \$4,282,146.41 worth of unanticipated miscellaneous revenues available from the 2011 budget and \$4,885,577.391 from the 2010 budget. Id.

As the PBA's Financial Expert established, the County has ample spending room to increase PBA unit member's salaries by the proposed amounts. Thus, the County would not exceed its spending limits or need to raise taxes above the cap, or at all, to finance the PBA's Final Offer.

Conversely, the County's Final Offer is clearly an attempt to bootstrap its finances to those of the State and Country as a whole. To now claim an inability to afford to pay raises in 2010, 2011, 2012, 2013 and 2014, when many experts have predicted an end to the recession is dubious at best. The County's disingenuous arguments must be dismissed, and the Arbitrator must award the PBA's Final Offer in its entirety.

**F. FINANCIAL IMPACT ON THE GOVERNING UNIT, ITS RESIDENTS AND TAXPAYERS**

When considering this factor, the Arbitrator must take into account, based on the evidence that has been introduced, how the award will affect the County's purposes, the impact of the award for each economic sector, and the impact on the governing body to (a) maintain existing programs and services, (b) expand existing programs and services for which public monies have been designated by the governing body, and (c) initiate any new programs and services. Here, the County has not presented any evidence of an inability to pay or that programs or services would be cut to pay for the PBA's proposal. Rather, the economic evidence presented clearly and unequivocally shows that the County has the ability to pay, and has sufficient funds available to pay for a wage increase without having any impact on the taxpayers. Accordingly, the Arbitrator must grant the PBA's Final Offer in its entirety.

N.J.S.A. 40A:4-45.45 caps the amount of any tax increase at 2.0%. Data obtained from the New Jersey Department of Community Affairs website ([www.nj.gov/dca/lgs/taxes](http://www.nj.gov/dca/lgs/taxes)) has provided the following information regarding the County of Ocean.

Total Assessed Value-2011

\$96,360,028,365.00

Total Assessed Value-2011	\$96,360,028,365.00
Divided by 10,000	/ 10,000
Value of one Tax Point (\$.01)	\$9,636,002.84
<b>Documentation Sources:</b>	
<a href="http://www.nj.gov/dca/lgs/taxes/taxmenu.shtml">http://www.nj.gov/dca/lgs/taxes/taxmenu.shtml</a>	

The above chart indicates that the value of one tax point or \$.01 to the County tax rate would raise an additional **\$9,636,002.84**. (See Exh. K-2, p. 6).

Average Valued Residential Property in the Township	\$346,941.31
Times the Value of one Tax Point	x .01
	\$3,469.41
	/ 100
Average Additional Annual Residential Property Tax Cost	\$34.69
<b>Documentation Sources:</b>	
<a href="http://www.nj.gov/dca/lgs/taxes/taxmenu.shtml">http://www.nj.gov/dca/lgs/taxes/taxmenu.shtml</a>	

The above chart indicates that the average annual residential property tax bill would increase by \$34.69 in order to raise an additional \$9,636,002.84 by taxation. Id.

The difference between the County and PBA 4/1/2010 - 3/31/2011 cost proposal	\$	46,055.42
The difference between the County and PBA 4/1/2011 - 3/31/2012 cost proposal	\$	92,718.35
The difference between the County and PBA 4/1/2012 - 3/31/2013 cost proposal	\$	134,858.27

As indicated in the PBA's Financial Report (Exh. K-2, 30), the cumulative difference between the PBA's Final Offer and the County's Final Offer is estimated to be **\$273,632.05**.

The Cumulative difference between the cost proposals		\$	273,632.05
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As set forth above, the cumulative difference between cost proposals for the entire period amounts to only 2.8% of one year's tax point.

When the difference between proposals is applied to individual taxpayers, the difference is de minimis over the course of the agreement.

Cummulative cost proposal difference		\$273,632.05
Divided by the value of one Tax Point (\$.01)	/	9,636,002.84
Equals the % of one tax point required to raise \$273,632.05		2.840%
One tax point		0.01
Multiplied by the % required to raise \$273,632.05,	*	2.840%
Amount of one tax point required to raise \$273,632.05		0.000283968
Average Valued Residential Property in the Township		\$ 204,874.25
Times the amount of one tax point required to raise \$273,632.05,		0.000283968
Tax per \$100 of assessed value		\$58.18
	/	100
<b>Total cost per residential property owner for the entire cost proposal difference April 1, 2010 to March 31, 2013</b>		<b>\$0.58</b>

The above schedule indicates that the total cost to the average residential property tax owner for the estimated difference in cost proposals for the period of April 1, 2010 to March 31, 2013 is \$0.19 per year or \$0.58 total. Id. This amount can be raised without any Cap violations and can clearly be absorbed by surplus without any tax increase.

Accordingly, the impact of the PBA's Final Offer, as opposed to the County's Final Offer, would have minimal, if any, impact on the taxpayer. Therefore, the Arbitrator may award the PBA's Final Offer in its entirety.

#### **G. COST OF LIVING**

The cost of living in Ocean County has always been high. City-data.com reports that the cost of living index in Ocean County is 123.1, while the U.S.



average is 100. (Exh. A-16). Thus, it costs approximately 23% more to live in Ocean County than in other areas of the United States. The County's Final Offer, however, fails to account for the historically high cost of living coupled with the increase in the Consumer Price Index ("CPI").

The CPI is the most widely used measure of inflation. (Exh. E-1). In addition, the CPI is often used to adjust consumer's income payments, for example, Social Security, to adjust income eligibility levels for government assistance and to automatically provide cost of living wage adjustments to millions of American Workers. Id. Accordingly, the CPI is an effective measure of the increase, over time, of the cost of living. The CPI is steadily increasing in most areas, with recent meteoric rises in the cost of energy and gasoline. (Exhs. E-3 through E-9).

In July 2012, the CPI for All Urban Consumers was unchanged from June 2012 on a seasonally adjusted bases. (Exh. E-3). In the twelve months preceding July 2012, the CPI increased 1.4% before seasonal adjustment. Id. The index for all items less food and energy rose 0.1% in July, as did the indices for shelter, medical care, tobacco, household furnishings and operations and apparel also increased. Id.

In June 2012, the CPI similarly remained unchanged from the previous month, however, the index for medical care posted its largest increase since 2010. (Exh. E-4). In addition, the food index rose 0.4%, the fourth consecutive increase. Id. In the twelve months preceding June 2012, the CPI increased 1.7% before seasonal adjustment. Id.

In May 2012, the CPI decreased slightly (0.2%), however, the twelve-month increase for all items in the index for all items less food and energy was 2.3%. (Exh. E-5). The all items index increased 1.7% before seasonal adjustment for the twelve months preceding May 2012. Id.

In April 2012, the CPI for all urban consumers remained unchanged from March 2012. (Exh. E-6). In the twelve months preceding April 2012, the CPI increased 2.3% before seasonal adjustment. April's stagnation resulted largely from a decrease in the gasoline index. Id. The food index rose 0.2%, increasing to 3.1% over the previous twelve (12) months. Id.

In March 2012, the CPI increased 0.3% on a seasonally adjusted basis. (Exh. E-7). In the twelve months preceding March 2012, the all items index increased 2.7% before seasonal adjustment. Id. In that time, the energy index rose 4.6% and the food index increased 3.3%. Id. The food, energy and all items indices all rose in the month of March 2012. Id.

In February 2012, the CPI for All Urban Consumers increased 0.4%. (Exh. E-8). In the twelve (12) months preceding February 2012, the index increased 2.9% before seasonal adjustment. Id. The increase in the gasoline index, a product nearly everyone must use, accounted for nearly 80% of the change in the all items index. Id. The energy index rose 3.2% based largely on the increased price of gasoline. Id.

In January 2012, the CPI for All Urban Consumers increased 0.2% in January on a seasonally adjusted basis. (Exh. E-9). For the twelve (12) months preceding January 2012, the CPI increased 2.9% before seasonal adjustment. Id. The indices for food, energy and all items less food and energy each increased 0.2 % in January 2012. Id. During that time period, the index for energy increased 6.1% and the food indices increased 4.4%. Id. The index for all items less food and energy rose 2.3%, its largest twelve (12) month increase since September 2008. Id.

The CPI unequivocally shows that the cost of living, especially the cost of food, gasoline and other energy is rising. The County's offer of 1.5% in 2010, 1.5% in 2011 and 1.5% in 2012, does not even keep pace with the current cost of living. As the cost of living increases in the future, PBA unit members will continue to lose purchasing power, as their salaries fail to keep pace with the cost of living. When combined with the already high cost of living in Ocean

County, as well as the statutory premium sharing requirement of P.L. 2011, c. 78, the County's economic proposal will substantially decrease the net income and purchasing power of PBA unit members.

#### **H. CONTINUITY AND STABILITY OF EMPLOYMENT**

Awarding the PBA's Final Offer will enhance the continuity and stability of employment of Sheriff's Officers employed by the County. Many of the PBA's proposals will provide unit members with a more predictable and consistent employment environment. For example, the PBA has proposed shift bidding that will allow officers to select their shifts and days off. (Exh. A-2). The PBA has also proposed notice requirements for shift changes, transfers and new work rules. Id. These changes will bolster the continuity and stability of employment by ensuring that superior officers lives will not be disrupted without notice absent an emergency. Accordingly, the PBA's proposal must be awarded.

The PBA's proposed wage increases will enhance the continuity and stability of employment. As set forth above, many municipal police sergeants, lieutenants and captains in Ocean County receive salaries and benefits that far exceed those provided by the County to unit members. The PBA's Final Offer merely seeks to keep pace with other superior officer units in the County. The PBA's modest wage proposal will merely maintain its current rank within the County. Awarding the PBA's Final Offer will prevent its membership from leaving

the employ of the County and seeking employment in a more lucrative jurisdiction.

Similarly, the PBA's shift bidding proposals will allow a senior superior officer to select which shift he or she works. (Exh. A-2). Such a proposal will allow PBA Local 379A unit members to conform their work schedules to their personal lives. For example, a PBA Local 379A unit member that has season tickets to a local football team may wish to have Sunday's off. This officer would not then have to use personal or vacation time to attend the games and would not disrupt the continuous operations of the Sheriff's Department. Allowing officers to select the days they take off will create a continuous and stable work environment. This proposal will likely reduce the amount of time officers have to use their vacation or personal time to take care personal commitments. Thus, the Sheriff's Department will have a continuous and available corps of supervisory officers.

Director Goetting testified that there is minimal turnover of Superior Officers within the County's Sheriff's Department. (T. 133:2-12). However, he cannot predict what the turnover patterns will look like in the future. Nor can he predict how many officers will decline to pursue promotional opportunities. As set forth above, senior rank and file officers employed by the Sheriff have been awarded wage increases in excess of those offered by the County. (Exh. G-1).

If the Arbitrator were to award lesser raises, high performing rank and file Sheriff's Officers will have little incentive to become superior officers.

The County's Final Offer is detrimental to the continuity and stability of employment in the Sheriff's Department. Like any paramilitary operation, the Sheriff's Department relies on proper training and supervision to ensure that the department runs smoothly. Properly trained and supervised officers then rise through the ranks and become superior officers themselves. The County's Final Offer provides little incentive for Sheriff's Officers on the PBA Local 379 pay scale to seek promotion to Sergeant.

Pursuant to Arbitrator Glasson's Award in Ocean County Sheriff -and- PBA Local 379, IA-2011-014 (Glasson, R., 2012), senior Sheriff's Officers received a 2.0% wage increase. (Exh. G-1). As time progresses, the difference in pay between Senior Sheriff's Officer and Sheriff's Officer Sergeant will continue to decrease. This will create a disincentive for Senior Sheriff's Officers to take on exponentially more responsibility as a Sergeant for a small increase in pay. Over time, the continuity and stability of the Department will be seriously jeopardized as many top level Senior Officers decline to pursue advancement opportunities simply because the pay is not commensurate with the increased responsibilities.

The PBA's Final Offer will ensure a continuous and stable work environment in the Sheriff's Department. The County's Final Offer, however, is detrimental to the continuity and stability of employment because it has proposed raises that are less than those received by senior level rank and file Sheriff's Officers and are substantially below the raises offered to superior officers in various Ocean County municipalities. Accordingly, the Arbitrator must award the PBA's Final Offer.

#### **I. STATUTORY RESTRICTIONS**

As set forth in Section F, above, P.L. 2010 c. 44 has been recently enacted to impose 2.0% cap on tax levy increases at the County level effective for tax year 2011 and beyond. This replaced the previously enacted 4% tax levy cap that is in operation for the first two years of the Agreement.

As set forth above, the County has sufficient flexibility within its budget to pay the wage increases sought by the PBA with minimal or no impact on the taxpayer. The PBA's Final Offer does not infringe upon the 2.0% tax levy cap. The County boasts a large free cash balance and has the ability to continue amassing a large surplus. In addition, its unanticipated revenues and other financial data support the contention that the County is not likely to raise taxes to meet its obligation to fund the wage increases sought. Accordingly, this

element of the analysis falls in favor of the PBA, and the Arbitrator must award its Final Offer in its entirety.

In addition to the legal argument set forth above, the PBA submitted a letter "to address the inclusions of Sections F and G in the County's Final Offer concerning Health Benefits." Below is an excerpt from the PBA's letter in which it opposes the County's proposals:

The County has supplemented its Final Offer with two additions. The first, Section F, provides that "[i]n the case of consecutive leaves of absence without pay, it is understood and agreed that the responsibilities of the County to pay for benefits remains limited to the original period of up to four (4) months." (Exh. A-3). This provision is identical to Article VI(E) in the current agreement. However, this provision must not be awarded.

Currently, PBA members granted a leave of absence with pay for illness are provided health benefits for a total of four (4) months. (Exh. A-1, Art. VI(D)). Proposed Section F, however, restricts the health benefits for four months in cases of consecutive leave. Neither the proposed section or current language defines "consecutive leaves" or whether a period of work between leaves would cause an employee to regain eligibility for additional health benefits.

Further, the morale of the unit will certainly suffer if this proposal is awarded. Officers on a leave of absence with pay for illness clearly need health insurance. Officers that are medically required to take consecutive leave for medical issues are likely to rely heavily on this insurance. Here, the County is effectively abandoning its employees when they need health insurance the most. This is unconscionable, especially in light of the fact that employees are now paying for these benefits. Accordingly, the Arbitrator must not award this proposal.



The County has further supplemented its Final Offer with Section G, which changes health benefits for officers hired after June 1, 2012. The County has stipulated that this provision is only applicable to new officers hired into the Sheriff's Department on or after June 1, 2012, and not to those promoted into the unit after that date. [Footnote omitted]. To the extent that officers could potentially suffer a reduction in benefits upon promotion, this proposal must be denied. Such a scenario would create a disincentive for promotion, which is detrimental to the interests and welfare of the public.

Further, decreasing benefits for new hires can affect the morale of the unit and is detrimental to the continuity and stability of employment. Officers hired after June 1, 2012 will be performing work that is identical to officers hired after June 1, 2012. In many cases, these two classes of officers will be paying identical amounts to offset the cost of their health benefits. It makes little sense that these officers will receive lesser benefits, including the discontinuation of spousal coverage upon the death of the retiree, the cessation of Medicare Part B reimbursement and a different level of coverage. This disparity is detrimental to the morale of the Department as it effectively creates two classes of officers.

Moreover, reducing benefits to new hires could detrimentally affect the continuity and stability of employment. Officers that have to pay for their health benefits are more likely to consider the benefits when choosing a place to spend their careers. Thus, reducing benefits could create a disincentive for officers to work for the County. This could cause disruptions in the continuity and stability of employment.

The County has failed to support these proposals. It has not provided any projected cost savings associated with them. It simply wants to be awarded these proposals because other units have been awarded or agreed to these proposals. If the County wanted PBA Local 379A members to accept these proposals, it should be compelled to pay PBA Local 379A members salaries that are consistent with Superior Officers employed by the Prosecutor's Office. However, PBA Local 379A unit members' salaries are substantially less than those paid to Prosecutor's Superior Officers. Moreover, the

County has offered wage increases to PBA Local 379A unit members that are less than those awarded to PBA Local 379 (Sheriff's rank-and-file) and PBA Local 171 (Prosecutor's rank-and-file), the two for which the County was awarded Sections F and G. Accordingly, the Arbitrator must deny the County's Final Offer in its entirety. [PBA Letter, pp. 2-4].

**The County's Position** <sup>51</sup>

**LEGAL ARGUMENT**

**POINT I**

**THE INTEREST AND WELFARE OF THE PUBLIC MANDATE THAT  
THE ENTIRE FINAL OFFER OF THE COUNTY BE AWARDED**

N.J.S.A. 34:13A-16g(1) provides that the Arbitrator must give "due weight" to "[T]he interests and welfare of the public." The Appellate Division has interpreted this criterion as requiring the Arbitrator to consider, among other things:

[T]he priority to be given to the wages and monetary benefits of public employees within the municipality's budget and plans. Local 207 v. Borough of Hillsdale, 263 N.J. Super. 163, 188, (App. Div. 1993) aff'd. in part, rev'd. in part, 137 N.J. 71 (1994). See also Fox v. Morris County, 266 N.J. Super. 501, 516 (App. Div. 1993).

Thus, in ruling on this case, the Arbitrator must determine what is in the public's best interest. There can be no legitimate argument that the interest of the public is always a relevant and significant (many times determinative) factor in deciding the outcome of an interest arbitration proceeding.

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<sup>51</sup> The County's Legal Argument is set forth in pages 55-86 of its Brief. Similar to the PBA's footnotes, the footnotes extracted from the County's Brief are misnumbered in this Award because I was unable to renumber the footnotes after I performed the "cut and paste" function in Word format. Footnotes 52-53 in this Award are actually numbered 3-4 in the County's Brief.

Thus, Arbitrator Joel Weisblatt opined in his decision In the Matter of Interest Arbitration between the Borough of Ringwood and Ringwood PBA Local 26, Docket No. IA 2005-082 that:

The interest and welfare of the public is always a relevant criterion in resolving an interest arbitration dispute. There are numerous elements to the public interest factor but the arbitrator believes that the initial criterion is always worthy of substantial weight in determining the most reasonable resolution of the parties dispute.

Likewise, Arbitrator James Mastriani noted in his decision involving the State of New Jersey and its Correction Captains:

In rendering the terms of this award, I have given predominant weight to the interest and welfare of the public criterion. That criterion includes, by reference, the financial impact of the cost of the award on the governing unit, its residents and taxpayers. The compensation aspects of the award have considered the overall compensation and benefits currently received, comparability evidence within state employment generally and in jurisdictions where similar work is performed within the State of New Jersey and in other state jurisdictions where correction work is performed. The terms of the award will maintain the continuity and stability of employment for Correction and Parole Captains employed by the State of New Jersey. The criterion covering the cost of living has also been considered.

So too did Arbitrator Mason discuss the importance of public interest in his most recent decision involving the Borough of Spotswood (C-53) where he noted at page 8:

The interest and welfare of the public includes the services of its police force, but also the contributions of all employees. It serves no justifiable end to treat all who have sacrificed in their negotiation of give backs and very modest contractual terms or those in the non-represented group of employees who also endured a year of no increases to the obvious disparity of treatment requested by the PBA.

And, thereafter at page 9:

The circumstances found here are unique in my long experience in the field of labor relations. It is for this reason I have carefully investigated the record before me and have concluded the consideration of the interest and welfare of the residents should be considered of foremost importance. The statutory requirement is that I consider other factors and I shall but the significance of this one factor far outweighs others.

In reflecting upon the above quoted excerpts, it is easy to understand why these Arbitrators place such emphasis on this criterion. The issues in dispute in an interest arbitration proceeding always revolve around service to the public, and how much it will cost to provide that service. The public is, therefore, the recipient of, and the payor for, those services; hence their interests must be a dominant factor in resolving this dispute. Moreover, it is not disputed that the interest and welfare of the public require the services provided by the Superior Officers who are represented by PBA Local 379A. To meet that public interest, the elected officials of the County must provide a reasonable compensation package for the employees providing that service. The record demonstrates

that the County has provided a very generous compensation package for its Superior Officers.

C-59 provides a listing of the total compensation received by all County employees in 2010. According to C-59 the average total pay for Sheriff's Captains in 2010 was \$134,084, without any additional wage increase that year. For the Sheriff's Lieutenants, the average total pay was \$120,706. For Sheriff's Sergeants, the average total pay was \$116,787

C-58 shows the Medicare and FICA contributions made on behalf of the County for the Sheriff's Superior Officers. The average Medicare contribution was \$1,709, while the average FICA contribution was \$6,477. This means that the average total cost to the County for a Sheriff's Captain, without even considering pension and benefits costs, in 2010 was \$142,270 for a Captain, \$128,892 for a Lieutenant and \$124,973 for a Sheriff's Sergeant.

While public sector unions often like to distinguish themselves from private employment by arguing that they do not see the same high salaries that exist in the private sector, it is difficult to imagine where in the private sector an employee in a position that does not require a college degree can expect to see these types of compensation levels in a position that provides top quality

health insurance benefits and allows the employee to retire with a full pension after just twenty-five (25) years of service.

There can be no doubt about the fact that the County has fulfilled its public interest responsibility on this side of the equation by providing a very generous compensation plan for its Sheriff's Superior Officers. The other side of that equation is the responsibility of the elected officials to the residents and taxpayers of Ocean County. It is the County's contention that it has met that responsibility by virtue of the terms of its final offer, which provide for reasonable economic improvement for its employees over the course of a three (3) year contract, and which also provide for reasonable cost containment incentives that will generate the necessary immediate and long-term savings for its taxpayers. Further, it is the County's contention that its entire package must be awarded, so that the appropriate balance between employee and taxpayer can be achieved in this contract.

The interest and welfare of the public is informed by many factors. What the County considers to be some of the more significant factors in this dispute are outlined below as follows:

a) The 2% Tax Levy Cap. The Legislature and the Governor have determined that public interest requires a limitation on the County's taxing

authority.<sup>52</sup> The new Tax Levy Cap in effect as of January 1, 2011 is two (2%) percent with certain exclusions, including pension and health insurance increases that exceed two (2%) percent. The health insurance exclusion is also capped by the cost increases for State Health Benefits. (See C-102)

By design, the State has greatly restricted Ocean County's ability to raise new revenue via taxation, which in turn has a direct and substantial impact on the amount of money that is available for pay raises for its Sheriff's Superior Officers (or any other County employee for that matter). As noted above, the County is limited in how much it can raise in taxes. Further, unlike municipalities, the County must use the lower of the two (2) possible Cap calculations (based on the 1977 CAP law and the 2010 CAP law). These calculations (set forth in C-108, C-113 and C-128) demonstrate that the County's ability to raise revenues through taxation increased by a total of only 2.2% percent from 2010 to 2011.<sup>53</sup> The County had no lawful ability to increase taxes beyond this limit.

b) Pension and Health Benefit Contribution. From the above described bi-partisan approach to control the excessive costs associated with public employment came P.L., 2010 c. 2, the one and one-half (1.5%) percent of

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<sup>52</sup> As noted, Ocean County has been, and continues to be, limited to the lesser of the two (2) Cap calculations, one under the 1977 CAP Law and one under the 2010 CAP law.

<sup>53</sup> In order to reach the total tax levy in 2011 the County used nearly its entire cap bank. Without the use of the cap bank the County would have been limited to an increase in its tax levy of one and one-half (1.5%) percent over 2010.



salary contribution to health care cost of May 2010 followed by P.L., 2011 c. 78, which provides for increases in employee contributions to pensions, and a modification of health benefit contributions to a percentage of premiums with a one and one-half (1.5%) percent of base salary as a floor. These laws are an expression from the Legislature and Executive Branch of State government of what is deemed to be needed by the taxpayers of New Jersey. In view of the magnitude of these legislated changes, and the arduous political path traveled to secure their adoption, any claim by the PBA that they should be reimbursed via additional wage increases must be rejected out of hand. To think that the Legislature and the Governor went through what they did to get these laws passed, simply as a means to provide a floor for future wage increases for law enforcement employees, is delusional on the part of the Union and the employees it represents.

Similarly, the cost of both pensions and health benefits for public employees is an enormous financial burden for counties and municipalities. County Exhibit C-104 demonstrates the dramatic growth in the cost of pension contributions. In just eight (8) years, the County's obligation increased by \$17,388,640. Even from the point that the County started funding one hundred (100%) percent of its obligations for both PFRS and PERS in 2009, the pension obligations for both systems has increased by \$5,685,950 or 47%. The County

now anticipates a cost increase with respect to pension contributions of 15.5% in 2013. (C-104a)

With respect to medical costs, the cost of the State Health Benefits Plan has increased by more than 76% in just seven (7) years. (C-127) Since 2000, the cost of health insurance premiums has increased by 134.1%. (C-135, page 71) The monthly rate for a family plan under the New Jersey Direct 10 in 2012 is \$1,978.88 in 2012 or \$23,746.56 per year. Even for a Sheriff's Captain, this cost would represent more than twenty (20%) of their base salary. For a Sheriff's Sergeant and Lieutenant the percentage would be much higher. When such a large portion of a Superior Officer's compensation package is increasing on average more than ten percent (10%) per year every year, it is clear that a compensation system that provides for automatic and significant salary increases, each year is not sustainable. In order to control the growth of this item in its budget, the County must be able to pass some of these costs along to its employees, by way of limits on the plans offered at the County expense and modest reductions in benefits.

c) The Tool Kit – At the strong urging of the Governor, the Legislature passed Chapter 105 of the Public Laws of 2010 to take effect as of January 1, 2011 (T-101). This law brought about major changes to the interest arbitration process, which were designed to expedite the process and increases to curtail

the costs of labor contracts associated with the process. Thus, for example, renewed emphasis was placed on the lawful authority of the employer with particular attention given to the new two (2%) percent Tax Levy Cap law. Beyond that, Chapter 105 precludes arbitrators from raising salaries more than two (2%) percent and he/she must take into account the value of Step increases, and increased costs associated with longevity as part of that two (2%) percent cap. As applied to this proceeding, the new law does not require implementation of the two (2%) percent Arbitrator cap.

However, the legislative intent in amending the Interest Arbitration Act in such a significant way cannot be ignored. Clearly, the Legislature and the Governor did not intend that public employers and bargaining units, whose contracts expire on a specific date, will now be subject to the two (2%) cap, while employers and bargaining units who, by happenstance, have contracts that expire before the specified date can ignore the cap on compensation increases altogether, especially when those increases will occur after the January 1, 2011 effective date. There should be no doubt that when considering a two (2%) percent cap on tax levies, and a two (2%) cap on the growth of compensation that can be allowed in Interest Arbitration, a very clear and direct message has been sent to public employers, public bargaining units and interest arbitrators that the total increase in the cost of employee compensation should be no more than two (2%) percent.

Trying to keep the growth of overall compensation at or below two (2%) percent was the goal of the County in crafting its final offer, and it must be the goal of the Arbitrator in making his award.

d) The Mindset of the Public. This is an extremely difficult factor for elected officials to evaluate and address. From the onset of the Great Recession until today, the public has been inundated with events and statistics that directly and substantially affect their lives. The anxiety created by continued weakness in the job market and high unemployment as outlined in Exhibits (C-87 through C-92) is real and ongoing. Exhibit C-95 reinforces this point by reporting:

“Over the long term, analysts say it will take years for employment to recover, and for labor force participation to return to its prerecession level, if it ever does.”

The hope of an upturn in the economy has been tempered by slowdowns in manufacturing and continued job losses in both the public and private sectors. (C-96 and 96a) These job statistics are relevant to this proceeding because the public sector, including police departments, is not immune to layoffs as cities such as Camden, Trenton, Newark and Jersey City verify.

Attention is directed to Exhibit C-55, which recounts negotiated agreements with police units in the Town of Kearny that averted layoffs and demotions by reducing Police Department costs by \$1.6 million for 2011. Similarly, the proposals set forth by the County in its final offer to the PBA are designed to prevent the need for additional layoffs by the County that will be even more difficult to absorb while allowing the County to continue providing a generous wage and benefit package for members of PBA Local 379A. The County believes, therefore, that if its final offer is awarded it can address the public with a win-win business plan that will provide a reasonable wage and benefits package to current employees, while moving towards the goal of keeping the growth of the compensation package below the statutory limit of two (2%) percent.

e) County Demographics. The demographics of Ocean County are set forth in exhibits (C-1 through C-6, and C-135, pages 18-20), and show among other facts, that Ocean County has the second highest number of residents over age 65. Approximately twenty-one (21%) percent of the County's population is 65 or older and thus eligible for Social Security, which has not received a cost of living adjustment for two (2) years. (C-1 and C-2) Nearly twenty-five (25%) percent of the County population is over age 62. This is a group that is most likely to be on a fixed income and, thus, more significantly impacted by tax increases.

Some 5.7% of families, and 7.9% of individuals, in Ocean County have income that is under the poverty level. (C-3) Further, only twenty-four (24%) percent of the population over age twenty-five (25) have a Bachelor's Degree or better, ten (10%) percent less than the State's average. (C-6) The County's median household income in 2010 was \$57,128, more than Ten Thousand Five Hundred and xx/100 (\$10,500.00) Dollars less than the statewide median income of \$67,681. The median home value is in the bottom third among all counties in New Jersey. (C-135, page 20) The unemployment rate in Ocean County has exceeded the rate for the State. (C-6)

These numbers are significant because they represent the residents who will be primarily responsible for funding the economic package awarded to members of PBA Local 379A. Any Award must be cognizant of the difficulty experienced by the County residents as this economic downturn continues into a fourth year. Further, in crafting an Award it must be kept in mind that it is the public for whom the interest arbitration statute and procedures were enacted. The New Jersey Supreme Court has noted that while interest arbitration is "essentially adversarial, the public is a silent party to the process." Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 N.J. at 82.

When all of these public interest factors are analyzed and applied to the facts of this case, it is clear that significant cost containment measures must be

implemented. This is so in large measure based upon legislated changes and revenue shortfalls that confront the County. The plan of the County to maintain the continued operation of its Sheriff's Superior Officers as set forth in its final offer to the PBA constructively deals with those issues. The PBA's final offer simply makes a difficult situation even worse by adding excessive costs to the compensation plan with no effort at cost containment either now or for the future. The PBA's proposal is completely self-serving and detrimental to the public interest and must, therefore, be rejected.

## **POINT II**

### **COMPARABILITY AS TO OTHER COUNTY EMPLOYEES AND THE PATTERNS OF SETTLEMENT IS CRUCIAL AND FULLY SUPPORTS THE COUNTY'S FINAL OFFER**

From the advent of interest arbitration public safety unions have used the comparability criterion to advance their contractual economic demands – and overall quite successfully. Comparability has been used to move from flat dollar increases to the promised land of compounding percentages. In turn, percentage increases have escalated salary levels for public safety employees to ranges from \$75,000.00 to \$100,000.00, and beyond. So too has comparability been used to achieve improvements in other forms of compensation from clothing allowance to various forms of paid time off to extended medical benefits coverage and beyond.

In today's market, however, the watch word is moderation and control of costs of public sector employees. In 2010 Ocean County Sheriff's Captains earned a combined base salary and longevity of \$119,041 after less than eight (8) years of service. This does not even take into consideration the value of pension, health benefits and overtime (T-135, page 10). We know from C-59 that the total pay received by Sheriff's Captains, Lieutenant's and Sergeants is considerably higher than just base pay or even base salary plus longevity. For the PBA to contend that such a package should be enhanced by a three (3%) percent per year across the board wage increases based on the salaries and benefits received by the Sheriff's Superiors, simply because law enforcement officers in some other county or municipal police department who perform very different job duties does not resonate with this employer or its resident taxpayers. Nor should it resonate with this Arbitrator.

## **COMPARABILITY WITH OTHER COUNTIES**

What should resonate with the Arbitrator is the fact that the wage and benefit package provided by the County to its Sheriff's Superior Officer is in fact very competitive. Attention is directed to County Exhibit C-135, pages 22 through 62, which compares Ocean County with other counties, and shows that Ocean County's salary and benefits package is very competitive. Despite its significantly lower median income and its aging population, Ocean County ranks in the top five or six of the counties in the State in terms of cash



compensation for all three ranks of the Sheriff's Superior Officers. (C-135, pages 22, 36 and 50) With respect to vacation days, personal days and holidays, the County is on par with nearly every other county. (C-135, pages 29-31). Ocean County is also very competitive with respect to call-in pay and stand-by pay. (C-135, pages 26 and 27) With respect to tuition reimbursement, Ocean County provides one of the most generous benefit provisions among the counties. (C-135, page 24)

On the issue of comparability, the statute requires the Arbitrator to compare "wages, salaries, hours and other conditions of employment of the employees involved in this arbitration with employees performing the same or similar services and with other employees generally." (emphasis added) This comparison is to be done with private sector employees, public sector employees in general, and public sector employees in the same or similar comparable jurisdictions.

## **COMPARABILITY WITH THE PRIVATE SECTOR**

The County has presented extensive evidence on the issue of comparability, which demonstrates that its offer enables Sheriff's Captains to maintain a compensation plan that is very competitive with the private sector. Private sector wage increases have remained at record lows with average first year wage increases at 1.6% in 2010, and 1.5% in 2011. (C-45 and C-47)

Moreover, these are **actual** wage increases and not percentage increases to which an increment or longevity is then added. When compared to private sector wage increases over the past six (6) years, Ocean County Sheriff's Superior Officers have fared very well. Salaries for members of PBA Local 379A have increased by an average of 26.33% from 2004 through 2009, compared to an average increase of 18% nationwide. (C-38) Members of PBA Local 379 have seen their wages increase at a level forty-six (46%) higher than private sector employees in New Jersey. (C-39)

Moreover, even with the statutory imposition of a one and one-half (1.5%) percent salary contribution to health insurance costs, the private sector generally requires much more from its employees. (See Exhibits C-48 to C-51) Thus, despite what the union may characterize as a conservative offer by the County in this proceeding, when compared to past settlements, this offer is substantially greater than settlements in the private sector.

## **COMPARABILITY WITH THE PUBLIC SECTOR**

With respect to the public sector, bargaining unit members have again compared extremely well in terms of salary increases. While other local government employees saw their wages increase by a total of 18.4% from 2003 to 2009, the salaries of PBA Local 379 members increased by an average of 32% over that same time period. (C-52)

## **COMPARABILITY WITHIN THE COUNTY**

Finally, when compared to other County employees, members of PBA Local 379A have fared extremely well. For 2011, the bargaining units that recently settled their contracts with the County (which agreements were submitted after the arbitration hearing) agreed to wage increases of one and one-half (1.5%) percent. (Tr. 120:7-20 and C-139, 140, 141 and 142) These units also agreed, or previously agreed to changes in health benefits now contained in the County's final offer.

Seventeen (17) of the twenty-one (21) bargaining units, representing two-thirds of the County employees, have now agreed to the changes to health benefits proposed by the County in its final offer. (Tr. 122:12-123:12) Further, those changes have been imposed for the County employees not aligned with a bargaining unit. (Id.) Most of the recently executed collective agreements the County entered into with bargaining units included language changing the holidays received by County employees to match the holidays provided by the State government. (C-125, 139, 140, 141, 142; PBA G-7, G-9 and G-12)

This pattern of settlement is entitled to great weight by the Arbitrator. It certainly is not in the public's best interest to treat one group of employees more favorably than all others. Arbitrator Joel Weisblatt faced the issue of disparate treatment in In the Matter of the Interest Arbitration Between Township

of Holmdel and PBA Local 239, Docket No. IA-93-163 (Arb. Weisblatt 1995) and found that:

The Township presents a compelling argument with respect to the reasonableness of consistency among bargaining units under the public interest criterion. 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 the decline in morale, which often accompanies the perception of disparate treatment. The morale issue is a double-edged sword. **Unreasonably favorable treatment of police units could likely cause the morale of the other public employees in the municipality to wane.** Such a result would certainly not be in the public interest.

(emphasis added). The Commission has recognized the importance of maintaining a pattern of settlement among bargaining units of the same employer. In County of Union, IA-2001-46, 28 NJPER 459, 461 (¶33169 2002), the Commission emphasized that "[P]attern is an important labor relations concept that is relied on by both labor and management." The Commission noted that "[I]nterest arbitrators have traditionally recognized that deviation from a settlement pattern can affect the continuing and stability of employment by discouraging future settlements and undermining employee morale in other units." Id.

The regulations specifically require the interest arbitrator to consider the "[P]attern of settlement and benefit changes..." when considering the issue

of comparability within the same jurisdiction. N.J.A.C. 19:16-5.14(c) (5). Thus, when, as is the case in the instant matter, the employer has demonstrated a clear pattern of settlement with respect to changes in health benefits and vacation leave, the Arbitrator should give significant weight to such pattern. In fact, the Arbitrator is required to justify a departure from an internal pattern of settlement, and to show why such a departure, which would give benefits for law enforcement employees a priority over other employees, is permissible.

When comparing salary increases to other County employees it is critical to note the significant disparity that now exists between Sheriff's Superior Officers and employees in other bargaining units. Even one and one-half (1.5%) percent salary increase for a Sheriff's Captain earning a base salary of \$119,041 after just seven (7) years would be worth considerably more than three and one half percent (3.5%) increase for an Equipment Operator earning \$45,742 after twenty-two (22) years; a Senior Electrician earning \$46,323 after eighteen (18) years; or a Senior Data Entry Machine Operator earning \$47,900 after twenty-six (26) years. (C-60)

Further, none of the non-aligned highly compensated employees (earning above \$98,000) received a wage increase in 2010. The Final Offer of the County provides the Sheriff's Superior Officers, who are all highly compensated, a 1.5% increase each year, including 2010.

Thus, when comparing the compensation packages received by members of PBA Local 379A with other employees in the private and public sector, as well as within Ocean County, it is clear that the members of PBA Local 379 compare favorably, and will continue to do so under the County's Final Offer. Further, by awarding the County's Final Offer the Arbitrator will not only help to keep Sheriff's Superior Officers' salaries from significantly outpacing the growth of other employee salaries, but will also keep Sheriff's Superior Officers' benefits consistent with the pattern established among the County's other bargaining units.

#### **COMPARABILITY AND MAINTAINING PATTERNS IN LABOR RELATIONS**

As noted, there is no question that the Sheriff's Superior Officers compare favorably to employees in the private sector, public sector and in Ocean County. Further, the evidence demonstrates a number of patterns that have emerged with respect to salary and benefits for County employees both in bargaining units and non-aligned. Maintaining these patterns in this proceeding is crucial to labor stability and to allowing the County to effectively manage its labor relations with twenty-one (21) unions and non-aligned employees.

#### **Highly Compensated Employees.**

A clear pattern has emerged with respect to salary increases of 1.5% per year for highly compensated employees. The testimony and exhibits demonstrate that the County's non-aligned employees who earn over \$98,000,

including longevity, received salary increases of 0% in 2010, 1.5% in 2011 and 1.5% in 2012. (Tr. 126:6-127:10; See Ex. C-146) Similarly, the Prosecutor's Superior Officers, who all earn in excess of \$98,000, settled with the County for wage increases of 1.5% each year in 2010, 2011 and 2012. (PBA G-6) All of these bargaining units and non-aligned employees have one thing in common. They all earn in excess of \$98,000 per year. The PBA has failed to demonstrate a legitimate reason to ignore this clear pattern of settlement.

The County has been consistent in how it treats all of its highly compensated employees as compared to its other employees. Recognizing that with higher salaries a percentage increase result in a higher dollar value wage increase, the County provided no increase to its highly compensated employees in 2010, while giving other non-aligned employees 1.9%. Thereafter, all highly compensated employees receive 1.5% in 2011 and 2012. Thus, the County Administrator, the County Comptroller and the Director of the Department of Employee Relations all received no increase in 2010 (Ex. C-146) and received wage increases of 1.5% in 2011 and 2012. This is because they earned more than \$98,000. That same principal should apply here.

The County continued this same principal with its Prosecutor's Superior Officers, when it settled at 1.5% for all three years, which is lower than what the

Prosecutor's Investigators and Detective received. (PBA G-1 and G-6) The PBA has provided no basis for deviating from this pattern in this matter.

While it is true that lower paid employees receive slightly higher percentage increases in 2010, it is also true that the dollar increase for those employees would not be anywhere near what the Sheriff Superior Officers will receive with a one and one-half (1.5%) percent increase. Even for the Sheriff's rank and file officers, the two (2%) percent increase would, for many members of the unit, be less than a one and one-half (1.5%) percent increase received by most of the Superior Officers.

Providing a wage increase of one and one-half (1.5%) percent will maintain a clear and unmistakable pattern of wage increases and will provide fairness to all County employees by slowing the continuing disparity in salaries between the lower paid employees and the highly compensated employees, like the Sheriff Superior Officers.

### **Term of Agreement**

The term of agreement is a critical part of the award in this matter. There has been a clear pattern of settlement and award of three years. The arbitrator should note that all of the Law Enforcement contracts that expired in 2010 had the same term, from April 1, 2006 through March 31, 2010. (C-125). This was for a



reason. Simultaneous termination dates is critical to good labor relations. All of the public safety units have access to interest arbitration. All of the units have similar benefits. If the terms of these agreements differ it could result in a whipsawing whereby bargaining units delay settling to see if another unit gets a better deal. Further, it could result in public safety units settling in different years when the economy may be performing well or poorly. Once one unit settles, however, other units will be seeking similar salary and benefits even if the economy has changed considerably. Different termination dates results in labor discord and disharmony among employees.

With the recent agreement with the Prosecutor's Superior Officers and the Interest Arbitration Awards for the Sheriff's Officers and the Prosecutors Investigators and Detectives, (C-13 , PBA G-1 and G-6 ) a clear pattern has emerged of a three year term ending in March 2013. Keeping all of the public safety units on the same term of contracts allows all of the units to be considered at the same time, when the County is aware of its financial situation and the state of the economy and can budget and plan accordingly. As noted above, Arbitrator Glasson denied the PBA's request for a four or five year agreement in the Sheriff's Superior Officers Interest Arbitration concluding that "the changing and difficult budgetary/funding issues do not favor the award of a four year contract." (PBA G-1 at pages 87-88) It is overwhelmingly clear from the record in this matter that the difficult budgetary and funding issues have

continued and will continue in 2013. Changing the pattern of a three year contract term for the Sheriff's Superior officers would seriously disrupt the County's ability to properly budget and would create havoc for the negotiating process.

### **POINT III**

#### **THE OVERALL COMPENSATION PACKAGE PROVIDED TO SHERIFF'S SUPERIOR OFFICERS IS EXCELLENT. THE SLIGHT MODIFICATIONS PROPOSED BY THE COUNTY ARE APPROPRIATE IN VIEW OF THE CURRENT ECONOMY.**

There can be no question that the current compensation package provided to Sheriff's Superior Officers is excellent. In 2010, a Sheriff's Captain in his or her eighth (8<sup>th</sup>) year of service was provided with a cash compensation package valued at \$119,041, this does not include overtime. Exhibit C-58 shows that on average Sheriff's Superior Officers received \$9,854 in overtime and \$861 in holiday overtime. Adding this to the compensation received by an eight year Captain brings the total compensation up to \$129,486. For a Sheriff's Lieutenant the total average compensation would be \$119,707. For a Sheriff's Sergeant the total average compensation would be \$109,228. These figures do not include the value of the health, prescription and dental benefits provided to Sheriff's Superior Officers, or the value of the cost of the pension contributions made on their behalf by the County. In addition, a Superior Officer with eight (8) years would be entitled to fourteen (14) holidays, fifteen (15) sick days, fifteen (15) vacation days and three (3) personal days.

These figures also do not take into account the value of health benefit coverage and pension benefits received by these Sheriff's Superior Officers when they retire. At present, a Sheriff's Superior Officer can retire after twenty-five (25) years of service, regardless of age, and receive health benefits for themselves, and their family, and a pension for the rest of his or her life. This is a benefit practically unheard of in the private sector. The value of those benefits is enormous for each Captain, and the collective cost of those benefits to the public is why many describe the current system in New Jersey as broken. In this arbitration, an award of the PBA's proposal will substantially increase the base rate of pay, which in turn will have a significant impact on the value of the defined benefit pension entitlement for each retiring Sheriff's Captains. Conversely, the County proposal includes improvements that will enhance the pension, but in a more modest and sustainable amount.

County Sheriff's Superior Officers work forty (40) hours per week. All hours worked beyond forty (40) hours are paid at overtime. For a Sheriff's Captain in his or her eighth (8<sup>th</sup>) year, the hourly rate would be \$57.23. The overtime rate would be \$85.85. Thus, for every hour of overtime worked by a fifteen year Sheriff's Captain they would receive \$85.85. This explains why some Sheriff's Superior Officers receive annual overtime totals in excess of \$28,000. (C-58)

The level of compensation is even more impressive when one considers how many hours the Sheriff's Superior Officers are required to work on an annual basis. Based on their work schedule, Sheriff's Superior Officers are compensated based on a 2,080 hour year. As noted above, a Superior Officer with fifteen (15) years of service receive fourteen (14) holidays, fifteen (15) sick days, fifteen (15) vacation days and three (3) personal days. An employee using just their annual entitlement of vacation and personal days, in addition to their scheduled holidays, would be off for 296 hours per year. This brings the actual number of hours worked to 1,784 hours. This does not even take into account sick time or compensatory time used by Sheriff's Superior Officers.

Few employees in the public, or private sector, are entitled to this level of benefits, compensation and time off. There is no question that County Sheriff's Superior Officers are very well compensated now and with the minor modifications to the compensation package proposed by the County in its final offer will continue to be very well compensated going forward.

#### **POINT IV**

#### **THE ABILITY OF THE COUNTY TO MAKE ECONOMIC IMPROVEMENTS IN THIS CONTRACT IS GREATLY CIRCUMSCRIBED BY THE LETTER AND SPIRIT OF APPLICABLE LEGISLATION**

N.J.S.A. 34:13A-16g (5) requires the Arbitrator to give due weight to the lawful authority of the employer. In 1976, the Legislature passed N.J.S.A. 40A:4-

45.1 et seq., commonly referred to as the Local Government Cap Law, which included the following declaration of policy:

It is hereby declared to be the policy of the Legislature that the spiraling cost of local government must be controlled to protect the homeowners of the State and enable them to maintain their homesteads.

At the same time the Legislature recognizes that local government cannot be constrained to the point that it is impossible to provide necessary services to its residents.

In recognition that the two concepts may be at cross purposes, the Legislature recommends that the program proposed hereunder be instituted on an experimental basis with a review at the end of the period to adjust the program based upon experience.

The concerns expressed in that legislative policy statement thirty-four (34) years ago are even more compelling today. An interpretation of the statute was rendered in 1979 and 1980 to confirm that interest arbitration awards are not exceptions to the CAP.

More recently, the Legislature augmented this statutory policy with "An Act Providing Local Property Tax Relief through Homestead Rebates and Credits and Limits on Local Tax Levy."

Relevant portions of that Act provide as follows:

1. The Legislature finds and declares:
  - a. On June 6, 2006, the New Jersey Senate President and the Assembly Speaker announced "an unprecedented special legislative session";
  - b. On July 28, 2006, the Governor addressed a joint session of the Legislature and commended the Senate President and the Assembly Speaker for calling the special session;
  - c. At the time the Governor stated that property tax relief and reform should be addressed in a suitable manner;
  - d. The Governor proposed the creation of a new property tax credit program that would provide immediate relief to New Jersey homeowners and also urged the establishment of a four percent cap on property taxes;
  - ...
  - s. The Legislature commends the work of the Joint Committee and has fully considered its Final Report;
  - t. A new credit program with sufficient funding to provide a 20 percent benefit to most homeowners and residential tenants is the most practical and efficient means to reduce the State's property tax burden;
  - u. A property tax levy cap is necessary to sustain the benefits of the new program;
  - v. A property tax levy cap is crucial to controlling various areas of government spending, especially those areas which have outpaced the growth in spending in the private sector;

- w. A property tax levy cap will force government to live within their means, encourage political officials to elevate the public interest over special interests, and most importantly, reduce the rate of growth in property taxes;
- ...
- y. The Governor also has expressed that a property tax levy cap will compel all governmental units to prioritize spending decisions and to aggressively search for structural changes that will bring down long term costs;
- z. Changing the law to give local governmental units, including boards of education, the same flexibility that State government has to modify the payment obligations of the employer for active employee coverage under the State Health Benefits Program will assist local governmental units, including boards of education, in prioritizing spending decisions and aggressively searching for structural changes that will bring down long term costs

(See Exhibit C-98, p. 8).

Even more recently, the Governor signed into law various amendments to the health benefit statutes applicable to public employees, that included a requirement that a payment of one and one-half (1.5%) percent of salary be made by payroll deduction, as a contribution to offset a portion of the premium cost for those benefits. (See C-99) The employees covered by this contract are subject to the law and, in fact, have been paying the one and one-half (1.5%) percent since its effective date of May 21, 2010 because they were not then, and are still not under contract. The one and one-half (1.5%) percent health

benefits contribution provides no windfall to the County, however. As the County CFO explained, the one and one-half (1.5%) percent contribution is used solely to reduce the line item for the cost of health insurance. (Tarrant Cert. at ¶106) The one and one-half (1.5%) percent is not an additional source of revenue for the County. It simply reduces, by a small amount, the overall cost for health benefits. It provides no additional relief from the tax levy cap.

On July 13, 2010 P.L. 2010, Chapter 44 was approved as "An Act concerning the calculation of the local tax levy cap and revising parts of the statutory law." The adjustment to the Tax Levy Cap that this amendment provides is to reduce that cap from four (4%) to two (2%) percent effective January 1, 2011. The law that was enacted provides for limited exclusions for items, such as health insurance and pension costs that exceed two (2%) percent, but otherwise provide for a two (2%) percent cap on the tax levy. (See C-100, p. 18)

The final piece of current legislation that needs to be mentioned is a bill that was passed by the Legislature on December 13, 2010, and signed by the Governor on December 21, 2010, P.L. 2010, C.105, (C-101), which amends and supplements the Police and Fire Interest Arbitration Act. By its terms, this legislation becomes effective January 1, 2011, and applies to contracts that expire on or after the effective date of the legislation. Leaving aside the legal applicability of this legislation to the contract dispute hereunder consideration,



the spirit and intent of the legislation reflect current economic conditions that must be considered in these proceedings. Moreover, certainly the existence of this new law, regardless of its effective date, will impact on the County's funding sources. Thus, a statutory mandate that places a two (2%) percent cap on salary increases, including the cost of increments, longevity and senior Captain pay requires serious reflection by the Arbitrator regardless of the current applicability of the terms of that statute.

The passage of recent legislation as outlined above is designated to accomplish these goals and objectives – primarily to reduce the cost of government, which is another way of saying “shrink government.” To the extent that such shrinkage must be done – so be it. To the extent that cost containment can be achieved through moderation, if not reduction via givebacks in labor contract improvements that will save jobs – let the contract changes begin.

The biggest restrictions placed upon the lawful authority of the County are the restrictions imposed by the tax levy caps. As noted, the County is required to use the lower of the two caps, the 1977 Cap or the two (2%) percent limit now imposed by the 2010 Cap law. The tax levy cap must be given great weight in deciding the issues here in dispute. Not only does the obligation of the County to comply with the lower of the two cap calculations present limitations on the

major revenue source available to the County, but the Tax Levy Cap evidences a political direction or course for the future of this State that is being chartered by the Executive and Legislative branches of the government. The Arbitrator must give due deference to that direction in rendering his award, just as the County did in crafting its Final Offer.

The County is also legally required to deduct a graduated percentage of the cost of health insurance premiums for each member of the bargaining unit, which shall be a minimum of one and one-half (1.5%) percent of salary, as a contribution for the cost of health benefits. While the health benefits contribution simply reduces the overall cost of health benefits and does not provide any additional benefit with respect to the County's cap law limitation, such legislation is a dramatic departure from the conduct of public sector labor relations. But for the severity of the economic crisis, such legislation would never have been proposed much less passed. The passage of such legislation, however, signifies a number of important principles that the Executive and Legislative branches of State government agree upon.

- 1) Public employees, like their counterparts in the private sector, should contribute to the cost of their health insurance.
- 2) That contribution should be uniform in amount (at least in terms of a minimum amount of contribution) and it needs to be implemented promptly to provide needed relief.

- 3) As a statutorily mandated contribution it should not be used as leverage to justify payment of a corresponding wage increase to offset the new employee contributions.

Thus, the Arbitrator is not only legally required to consider the lawful authority of the employer, but once again is presented with the opportunity to use this criterion in a constructive way to make the interest arbitration process responsive to current economic conditions.

#### **POINT V**

#### **THE FINANCIAL IMPACT THAT WOULD BE CREATED BY ADOPTION OF THE UNION PROPOSAL IS NOT SUSTAINABLE. THE COUNTY PROPOSAL PROVIDES FOR IMPROVEMENTS THAT CAN BE BUDGETARILY ABSORBED AND THUS SHOULD BE AWARDED**

The Appellate Division in PBA Local 207 v. Borough of Hillsdale stated that the financial impact requirement in the statute does not equate with the public employer's ability to pay. 263 N.J. Super. at 188. In fact, the Supreme Court stated in Hillsdale that a public employer should not have to prove that it is not financially able to afford the PBA's Final Offer, 137 N.J. at 86. Arbitrators have recognized this fact as well. Arbitrator Barbara Tener analyzed this issue in In the Matter of Interest Arbitration between Borough of Oakland and Oakland PBA Local 164, IA-93-069 (1994) noting that: "[T]he affordability of the respective packages is not, in my view, a very weighty factor unless the more reasonable package is also the more expensive. The question of whether the County can afford the PBA's offer is not dispositive in this case." In this matter, the County

has actually demonstrated both points: that to award the PBA's Final Offer would have an adverse financial impact upon the County's taxpayers and that the County cannot afford to pay the wage increases sought by the PBA.

The testimony and documents presented by the County clearly establish that the County is in a precarious situation with respect to its budget. The County's surplus balance has been decreasing significantly each year. This leaves less surplus available for an emergency and less surplus that can be used as part of the budget to cover any shortfall.

The requirements of the legislatively imposed cap resulted in the County losing the ability to increase taxes by about three and one-half million (\$3,500,000) dollars in 2011.

The reduction in the County's valuation (Exhibit C-122a) will reduce the amount of money the County can raise at the current tax rate. Thus, on the revenue side, the County is in a position that it cannot raise any more revenue even if it chose to increase taxes on its residents. On the expense side the County is again anticipating an increase in health insurance premiums and pension costs. When combined with compensation increases for other County employees, there simply is no way that the County can absorb an increase in compensation costs of over \$93,000 per year as proposed by the PBA in its Final

Offer. (Ex. C-103b) Even the costs from the County's Final Offer will be difficult to absorb. However, the County's offer will contain costs in 2012, and put the County in the position of budgeting salary increases within the constraints of the statutory caps and the County's financial condition going forward.

## **POINT VI**

### **APPLICATION OF A COST OF LIVING MEASUREMENT DEMONSTRATES THE REASONABLENESS OF THE COUNTY'S PROPOSAL WHEN COMPARED TO THE UNION'S DEMAND, AND THUS PROVIDES STRONG SUPPORT FOR AN AWARD OF THE COUNTY'S FINAL OFFER.**

The cost of living criterion has generally received but a passing reference in the interest arbitration process. This is particularly true over the past several years when increases in the cost of living have been relatively modest. As demonstrated by C-64a, after spiking to a high of 5.4% in August 2008, the cost of living declined nearly every month thereafter until reaching a low of -1.1% in July 2009. For the past three (3) years, the cost of living has remained at average levels below 1.7%. For the current year, the CPI-U dropped to 1.1% in July. (C-73a)

The chart set out in C-63 demonstrates how the wage increases received by members of PBA Local 379A greatly exceeded the increase in the consumer price index. When the increment is included, salaries for members of PBA Local 379A increased by an average of 36.2% over the period from 2002 through 2009, compared to an increase in the CPI-U of 24% over that same time period.

Thus, Superior Officers salaries outpaced the rate of inflation by more than 50% from 2002 to 2009.

A more significant development over the past few years has been the elimination of cost of living increases for those who receive Social Security Benefits and Pensions. In 2010 and 2011, more than fifty-eight (58,000,000) million Social Security recipients saw no increase in their benefits for the first time since automatic adjustments were adopted in 1975. (C-74 and C-76) This was based on falling consumer prices. For a County like Ocean County, this is a significant development given the fact that twenty-one (21%) percent of the County's population is over age 65, and thus eligible for Social Security benefits. This means that more than one-fifth (1/5) of the County's population received no increase in a significant part of their compensation in 2010 and 2011. Given the fact that one-fifth (1/5) of the County residents did not receive an increase in their compensation based on the minimal change in the cost of living, there is no reason to expect that these same residents should be expected to pay more to guarantee significant wage increases for Sheriff's Superior Officers, far in excess of the cost of living.

Similarly, due to the fact that there was no increase in the CPI for the period from August 31, 2008 through August 31, 2009, there was no Cost Of Living Adjustment ("COLA") for retirees receiving benefits from any of the New

Jersey administered retirement systems. (C-75) Thus, public sector retirees in New Jersey saw no increase in their pension or their Social Security benefits in 2010. Yet, under the PBA's offer, these individuals would be called upon to pay for significant wage increases for members of PBA Local 379A.

With the County's three-year final offer overall base salaries for the Sheriff's Superior Officers will increase by an average of 1.52% per year, with an average yearly increase of \$1615 per year. This is very reasonable given the trend, with respect to CPI over the past few years, and given the significant increases over the CPI-U Sheriff's Superior Officers have enjoyed over the past seven (7) years. Further, this is far more generous than that received by the non-aligned and highly compensated employees received and is identical to the salary increases received by the Prosecutors Superior Officers in their recently settled agreement. (C-146 and PBA G-6)

In Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 N.J. 71, 77-79 (1994) the New Jersey Supreme Court found the evidence of the relationship between the cost of living and recent salary increases very relevant to the decision making process under Section g(7) of the statute. As noted above, recent salary increases have exceeded cost of living to a significant extent. Moreover, the trend in changes in cost of living is down and the position of the County comports with that trend. When the Arbitrator applies this criterion he must

conclude that the County proposal is supported by this statutory factor. Accordingly, the cost of living criterion provides strong, if not, dispositive weight to support a decision that awards the County's proposal.

#### **POINT VII**

#### **THE ECONOMIC IMPACT OF THIS AWARD WILL HAVE A DIRECT AND SUBSTANTIAL AFFECT ON THE CONTINUITY AND STABILITY OF EMPLOYMENT IN THIS UNIT. FOR THAT IMPACT TO BE POSITIVE THE FINAL OFFER BY THE COUNTY MUST BE THAT AWARD**

This factor weighs heavily in favor of the County's Final Offer. County Superior Officers are not only extremely well paid, but are so contented in their positions that they typically never leave short of retirement. Nor are they ever forced to leave due to layoffs, work slowdowns or the like. In addition, the salary increases received by Sheriff's Superior Officers have consistently outstripped, even by way of percentage increases only, and without factoring in actual dollar increases (which widens the gap still further), wage increases received by other public and private sector employees throughout the County, State and Nation.

The job security point bears particular notice. While it is of course possible that a New Jersey resident with a high school diploma could obtain a job with better salary and benefits than that of a Sheriff's Superior Officers (although this is not easy to imagine), those "private sector" salaries and benefits, not to mention job security, are in no way guaranteed. This is what makes work as a



County Superior Officer, like other law enforcement positions throughout New Jersey, so attractive. County Superior Officers simply do not lose their jobs when there is a change in the economy.

Unfortunately, for other Ocean County employees this has not been the case. In order to meet its contractual obligations with respect to salary increases and increments, the County has been forced to eliminate one hundred ninety-nine (199) positions over the past two (2) years. Going forward, the County has very little ability to increase its tax revenues, and is limited in how much it can increase its appropriations. This means that if employee compensation increases by more than two (2%) percent, the County will need to reduce its employee costs the only way it can, by eliminating additional employment positions. Besides the impact on our economy by the elimination of these jobs, the public has sustained a dramatic loss in services that would have been provided by these individuals.

Additional cuts simply are not an acceptable option. This is particularly true when cuts would be necessitated by the unreasonable demands of members of PBA Local 379A for salary increases, well beyond those received by other County employees and well beyond those seen in the private sector. In an economy like we are presently in everyone should be expected to tighten their belts, not just non-public safety employees.

The situation in Ocean County provides a very clear cut choice with respect to the future of County finances and services. The County has reached the point where it can no longer increase the size of its budget to accommodate demands for increasing salary and benefits. The County's surplus has been steadily and rapidly declining. The County must rely less and less each year on its surplus to help make up revenue shortfalls in the budget. County ratables have declined each year since 2009. Other forms of income, besides taxes, have been steadily declining. Each year the County's residents must bear a larger portion of the County's revenue through increased taxes. This leaves the County and the Arbitrator with a very clear choice. Either control spending by way of limiting compensation increases, or cut staff even more in order to find savings to pay for larger increases in compensation. Choosing the latter, however, will not only unnecessarily impose hardship on those employees who will lose their jobs and benefits, but will also impose hardship on the County residents who will see both the quality and level of services decline due to the loss of employees.

The County's Final Offer is fully supported by all of the statutory criteria. It will keep the economic package or benefits received by Sheriff's Superior Officers at a very competitive and generous level. It will assist the County in meeting its budget obligations without the need to make dramatic and harmful cuts in personnel, and it will set the County on a course that it can continue to

provide a generous salary and benefits package to its employees while controlling and limiting the growth of that salary and benefits package. Finally, the public, who is the single most important factor in this proceeding, will benefit the most from the County's Final Offer, which will help to continue the same level of all County services without requiring higher taxes that residents simply cannot afford.

## **DISCUSSION**

I am required to make a reasonable determination of the issues, giving due weight to the statutory criteria set forth in N.J.S.A. 34:13A-16(g). The statutory criteria are as follows:

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 (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.
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 or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 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 on 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).

All of the statutory factors are relevant, but they are not necessarily entitled to equal weight. In this case, I conclude that the interests and welfare of the public, the internal comparason between this bargaining unit and the County's other law enforcement units, the lawful authority of the employer, and the financial impact on the governing unit, its residents, the limitations imposed by the tax levy cap, and taxpayers must be given greater weight than the other factors. The party seeking a change to an existing term or condition of employment bears the burden of justifying the proposed change. I considered my decision to award or deny the individual issues in dispute as part of a total package for the terms of the entire award.

### **Interests and Welfare of the Public**

Arbitrators have recognized that "[t]he interests and welfare of the public [N.J.S.A. N.J.S.A. 34:13A-16g(1)] is paramount because it is a criterion that embraces many of the other factors and recognizes their relationships." *Washington Tp. & PBA Local 301*, 1A-2009-053 (Mastriani 2012); see *Borough of*

*Roselle Park & PBA Local 27/(SOA)*, IA-2012-024, IA-2012-026 (Osborn 2012). On May 30, 2012, Arbitrator Glasson issued an Award through a conventional proceeding that established the terms and conditions for the contract between the County and its rank-and-file Sheriff's Officers. [Ex. PGA-G1]. The record of that matter closed on April 10, 2012. Glasson in that case addressed the interests and welfare of the public:

**Interests and Welfare of the Public**

The New Jersey Supreme Court in Hillsdale determined that the interests and welfare of the public must always be considered in the rendering of an interest arbitration award and that an award which failed to consider this criterion might be deficient. The amended statute specifically requires the arbitrator to consider the CAP law in connection with this factor. I have considered and fully discussed the relevance of the CAP law in the section on Lawful Authority but at the outset it is sufficient to state that the award will not cause the County to exceed its authority under the CAP law. The award can be funded without the County exceeding its spending authority.

*The interests and welfare of the public* require the arbitrator to balance many considerations. These considerations traditionally include the Employer's desire to provide the appropriate level of governmental services and to provide those services in the most cost effective way, taking into account the impact of these costs on the tax rate. On the other hand, the interests and welfare of the public requires fairness to employees to maintain labor harmony and high morale and to provide adequate compensation levels to attract and retain the most qualified employees. It is axiomatic that reasonable levels of compensation and good working conditions contribute to a productive and efficient work force and to the absence of labor unrest. The work of a Sheriff's Officer is undeniably and inherently dangerous. It is

stressful work and is clearly subject to definite risks. Sheriff's Officers are certainly aware of this condition of employment. This is a given which is usually balanced by the appropriate level of increases in compensation to be received by a Sheriff's Officer from one contract to the next.

I agree with the analysis provided by Arbitrator Jeffrey B. Tener in an interest arbitration award in Cliffside Park. Arbitrator Tener's analysis:

"The arbitrator is required to strike an appropriate balance among these competing interests. This concept has been included in the policy statement of the amended interest arbitration statute. N.J.S.A. 34:13A-14 refers to the 'unique and essential duties which law enforcement officers . . . perform for the benefit and protection of the people of this State' and the life threatening dangers which they confront regularly. The arbitration process is intended to take account of the need for high morale as well as for the efficient operation of the department and the general well-being and benefit of the citizens. The procedure is to give due respect to the interests of the taxpaying public and to promote labor peace and harmony." (In the Matter of the Borough of Cliffside Park and PBA Local 96, PERC Docket No. IA-98-91-14, page 45.)

[Ex. PBA-G1, pp. 86-87].

Having considered the entire record, and based upon the discussion above, I am persuaded that the interests and welfare of the public criterion is entitled to the most weight in this matter. I review this criterion through the other statutory factors addressed below.



## **Lawful Authority of the Employer/Financial Impact on the Governing Unit, Its Residents and Taxpayers/Statutory Restrictions Imposed on the Employer**

Glasson in his award for the County's rank-and-file Sheriff's Officers addressed the lawful authority of the employer and the financial impact on the governing unit, its residents and taxpayers. Set forth below is Glasson's discussion on these criteria and how they applied to the economic changes he awarded:<sup>54</sup>

### **Lawful Authority of the Employer**

Three of the statutory criteria, N.J.S.A. 34:12A-16g(1), (5) and (9), refer to the lawful authority of the employer. These factors, among other things, require the arbitrator to consider the limitations imposed on the County by the CAP law which, generally, limits the amount by which appropriations of counties and municipalities can be increased from one year to the next. This was intended to control the cost of government and to protect homeowners. The limitation applies to total appropriations and not to any single appropriation or line item.

More specifically, g(1) refers to the original 1976 Cap law; g(5) refers to the lawful authority of the employer and cites the 1976 Cap law; and g(9) refers to the recently amended Tax Levy Cap law which limits tax levy increases from year-to-year. The significant change in the Levy Cap is the reduction of the Levy Cap from 4% annually to 2% annually. The Appropriations Cap has also been reduced from 3.5% to 2.5%. It is well established that arbitrators must recognize and respect the statutory limits which have been

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<sup>54</sup> Glasson provided a similar analysis and awarded similar salary increases in *Ocean Cty Prosecutor & Ocean Cty Prosecutor's Detectives & Investigators Assn., PBA Local 171*, PERC Dkt. No. IA-2011-006 (Issued March 26, 2012). [See Ex. C-136, pp. 98-102]. He drew similar conclusions based upon a record that closed on November 23, 2011.

placed on public employers. Ocean County and all other municipalities and counties in the State face constraints on their ability to increase appropriations and their ability to raise taxes. The expenditure or appropriations cap applies to the total current expense portion of the budget and not to any particular line item within the budget.

The cost of the award is 6.0% over three years at the maximum step on the salary guide. I have limited the 6.0% increase to the maximum step on the salary guide by freezing the steps on the salary guide at the 2010 level. Further, I have limited the payout of the 2012 increments due on April 1, 2012 to 33% of their value by delaying the implementation to January 1, 2013. Moreover, I suspended the payment of the April 1, 2013 increments until such time as the parties reach a voluntary agreement or an interest arbitrator issues an award. I have not added an across-the-board increase to the steps on the salary guide in 2010, 2011 and 2012 because of the disproportionate increase received by the less senior Sheriff's Officers moving on the guide in 2010 and 2011. These increments were paid by the County in 2010 and 2011 and are not attributable to my award.

The incremental costs will be significantly reduced in 2012 when the new salary guide is implemented. I have modified the longevity schedule for new hires which effectively means that the County will not pay longevity to new hires until 2027. Finally, I have eliminated the \$1,500 "Senior Officer" differential for new hires given the implementation of a new 12-step salary schedule in 2012.

The cost of the awarded salary increase for Sheriff's Officers at maximum is \$65,859 in 2010, \$84,816 in 2011 and \$86,554 in 2012. The total cost of the awarded salary increases in 2012, including increments, is \$178,294. The cost of the increments is \$389,012 in 2010, \$332,782 in 2011 and \$93,478 in 2012. The incremental cost attributable to my award over the full term of the new CNA is \$93,478 in 2012 which I reduced from \$280,437 by delaying the implementation to December 1, 2012. This is intended to offset the disproportionate increases received by the Sheriff's Officers moving through the steps on the salary guide in 2010 and 2011.

The cost of the award is reduced by the cost containment savings generated by the premium sharing contributions mandated by the enactment of P.L. 2010, c. 2 and P.L. 2011 c.78. This is approximately 0.6% in 2010 and at least 1.5% in 2011. The cost containment savings will be more than 1.5% in 2012. As discussed above, when fully implemented, the majority of the County's Sheriff's Officers will be contributing more than 7% of base salary toward the cost of health insurance premiums. As discussed above, this is equivalent to \$6,500 annually under the current SHBP premiums for a family plan for Sheriff's Officers with a base salary at \$90,000 and above.

Finally, I awarded a new salary schedule and longevity schedule for new hires to be effective April 1, 2012. The new salary schedule (with three additional steps) will result in future savings to the County of \$100,000 in cumulative earnings as each new Sheriff's Officer progresses through the steps of the salary schedule to maximum. While the County will not realize these savings immediately, the new salary schedule will benefit both the PBA and County as more funds will be available to pay senior Sheriff's Officer salaries. The new longevity schedule will provide a significant reduction in costs in the future with no additional longevity costs until 2027.

There is absolutely no evidence in the record to show that the terms of the awarded salary increases or any other aspect of this award will cause the County to approach the limits of its financial authority or to breach the constraints imposed by the three statutory criteria, N.J.S.A. 34:12A-16g(1), (5) and (9), in funding the salary increases awarded herein.

**Financial Impact on the Governing Unit,  
its Residents and Taxpayers**

The above discussion under the *lawful authority* is applicable to the *financial impact* factor and need not be repeated. For all of the reasons cited above, I conclude that there is no evidence that the terms of my award will require the County to exceed its lawful authority. The CAP law, or lawful spending limitations imposed by P.L. 1976 C.68, is not directly impacted by this proceeding nor is there any evidence that the terms of this award will impact on the

County's obligations under the recently amended budget CAP law, N.J.S.A. 40A:4-45.1 et seq.

The total Ocean County budgetary appropriations in 2011 was \$269,023,301. The cost impact of the entire annual base salary is approximately 3% of total appropriations. The impact of the awarded salary increases, when measured against the other terms of the award and cost containment from Chapter 2 and Chapter 78, clearly shows that the financial impact is minimal. The terms of the award will not impact on the ability of the County to maintain existing local programs and services, expand existing programs and services or to initiate any new programs and services.

I am aware that the County has seen a serious reduction in its surplus balance which has dropped from a high of \$54,995,022 to \$33,931,146 in 2011. (C-119). However, the \$33 Million surplus will not be impacted by the cost of the awarded salary increases of \$65,859 in 2010, \$84,816 in 2011 and \$178,294 in 2012.

Based on the evidence in the record, I conclude that the financial impact of the award will not adversely affect the governing unit, its residents and its taxpayers. [Ex. PBA-G1, pp. 102-105].

The record of Glasson's proceeding for the rank-and-file Sheriff's Officers closed only five (5) months before the interest arbitration hearing that was conducted in this matter. In the interim the County finalized its budgetary figures for 2012. The County successfully increased its surplus balance from \$33,931,146 in 2011 to \$34,403,041 in 2012. [Ex. C-120A]. It is noted, however, that the County "eliminated nearly 200 employment positions over the past three (3) years." [Exs. C-111, C-117 and C-131].

The County's summary levy cap calculations for budget years 2010, 2011, and 2012 show the following:

	2010	2011	2012
Maximum Allowable Amount To be Raised by Taxation -			
County Purpose Tax	\$295,736,214	\$296,966,290	\$304,101,393
Amount to be Raised by			
Taxation - County Purpose Tax	\$287,002,464 *	\$293,278,750 **	\$300,026,643 **

\* Represents the lesser amount  
between the 2010 Cap Law  
And the 1977 Cap Law

\*\* Represents an amount below  
the lesser of either the 2010  
Cap Law or the 1977 Cap Law

[See Exs. C-108 through C-116, C-128 through C-130].

The County has successfully maintained its excellent bond rating in less than desirable economic times. Simply put, the figures above demonstrate that the County continues to meet its fiscal challenges through effective and efficient operations, but its ability to do so has not been achieved without measurable sacrifice. Having considered the entire record, I conclude that the financial impact of this Award as outlined below will not adversely affect the governing unit, its residents and its taxpayers, and it will not prohibit the County from meeting its statutory obligations or cause it to exceed its lawful authority.

Further, this Award serves the interests and welfare of the public by striking a balance between the modifications that the County achieved through voluntary settlements in collective negotiations, the changes the County imposed upon non-represented employees, and those implemented in Glasson's recent awards.

### **Comparability**

#### ***Private Employment***

Given the unique nature of law enforcement jobs, the comparison to private employment has not been allotted significant weight in previous interest arbitration awards. I find no evidence to support a deviation from giving greater weight to public sector and internal comparisons. Even so, the salary increases awarded herein are within an acceptable range of the private sector statistics cited by the County for 2010 and 2011.

#### ***Public Employment in General/In the Same or Similar Jurisdictions***

With respect to public employment, the parties' comparisons in the public sector provided greater focus to internal comparability and the law

enforcement units in other jurisdictions within the State rather than public employment in general. I give more weight to those comparisons.

The most recent salary increase analysis for interest arbitration on PERC's website shows that the average increase for awards was 2.88% from January 1, 2010 through December 31, 2010, 2.05% from January 1, 2011 through December 31, 2011, and 1.82% from January 1, 2012 through April 30, 2012. Over the same time periods, reported voluntary settlements averaged 2.65%, 1.87% and 1.83%. A review of the awards posted on PERC's website and voluntary settlements often include some measure of a reduced level of benefits for new hires.

As to internal comparison, non-aligned employees received wage increases of 1.9% in 2010 unless their salary and longevity exceeded \$98,000 in which case they did not receive a wage increase. For 2011 and 2012, they received annual raises of 1.5%. I now provide a general summary of the salary increases and longevity benefits included within the collective negotiations agreements the County has with other bargaining units, and those awarded by Glasson:

1. Seven (7) contracts with a duration from 2011-2014, (Corrections Professionals, White Collar Supervisors, Information Technology Employees, Supervising Public

Safety Telecommunicators, Prosecutor Clerical Employees, Engineering Department Employees, and White Collar Employees) provide for annual salary increases of 1.5% annually effective April 1 of 2011, 2012 and 2013 and eliminate longevity for new hires effective April 1, 2013. [Exs. PBA-G7, PBA-G11, PBA-G12, C-139, C-140, C-141, C-142].

2. The 2010-2013 contract covering Assistant Fire Marshals includes salary increases of 1.9% effective April 1, 2010, 2% effective April 1, 2011 and 2% effective April 1, 2012. Longevity is identical to the longevity in the Sheriff's Superior Officers' contract and is continued for new hires. [Ex. PBA-G2].
3. The 2009-2012 contract covering Weights and Measures Department employees include salary increases of 3.25% effective April 1, 2009, April 1, 2010, and April 1, 2011. Longevity is identical to the longevity in the Sheriff's Superior Officers' contract and is continued for new hires. [Ex. PBA-G3].
4. The 2006-2010 contracts covering Prosecutor's Sergeants, Correction Officers, Correction Superior Officers all include the same longevity benefits as the Sheriff's Superior Officers' contract with no limitation on new hires. The Correction Officers' contract also includes a \$1,500 "Senior Officer" payment upon completion of 15 years of service. [Exs. PBA-G5, PBA-G8, PBA-G9].
5. The 2010-2013 contract covering the Prosecutor's Superior Officers, provide for annual salary increases of 1.5% annually effective April 1 of 2010, 2011, and 2012. Longevity is identical to the longevity in the Sheriff's Superior Officers' contract and is continued for new hires. [Ex. PBA-G6].
6. The 2010-2013 contract covering blue collar supervisors include salary increases of 1.5% annually effective April 1 of 2010, 2011 and 2012. Longevity is identical to the longevity in the Sheriff's Superior Officers' contract and is continued for new hires. [Ex. PBA-G10].



7. The 2008-2012 contract covering Supervising Juvenile Detention Officers in the Sheriff's Department includes salary increases of \$2,200 effective April 1 of 2008, 2009, 2010 and 2011. Longevity is identical to the longevity in the Sheriff's Superior Officers' contract and is continued for new hires. [Ex. C-143].
8. The 2009-2012 contract covering Public Safety Telecommunicators in the Sheriff's Department includes salary increases of \$1,321 effective April 1, 2010, and 3.25% effective April 1, 2011 and 2% effective April 1, 2012. Longevity is identical to the longevity in the Sheriff's Superior Officers' contract and is continued for new hires. [Ex. C-144].
9. The 2008-2011 contract covering Blue Collar Employees includes salary increases of \$2,200 effective April 1 of 2008, 2009 and 2010. Longevity is identical to the longevity in the Sheriff's Superior Officers' contract and is continued for new hires. [Ex. C-145].
10. "The 2010-2013 CNA covering Juvenile Detention employees include salary increases of 1.9% effective April 1, 2010, 2% effective April 1, 2011 and 2% effective April 1, 2012. Longevity is identical to the longevity in the Sheriff's Officers' CNA and is continued for new hires." [Ex. PBA-G1, p. 100].
11. Glasson's awards for the rank-and-file Sheriff's Officers and the Prosecutor's Investigator include salary increases to the top step of 2.0% effective April 1, 2010, 2.0% effective April 1, 2011, and 2.0% effective April 1, 2012. All other steps were frozen each year. In each contract, he modified the effective date of automatic step movement. The \$1,500 Senior Officer Differential in the rank-and-file Sheriff's Officers contract was continued. [Exs. PBA-G1, C-136].

As to the comparison of this bargaining unit to law enforcement officers in similar jurisdictions, the parties presented comparisons of the County's Sheriff's Sergeants, Lieutenants and Captains with sheriff's superiors in other counties. The PBA's universal comparison consists of sheriff's superiors in nine (9) other counties – Bergen, Passaic, Middlesex, Somerset, Morris, Camden, Union, Gloucester and Sussex. [See PBA Brief, pp. 95-107]. I conclude that the evidence shows, as summarized in the PBA's post-hearing brief, the salaries for this bargaining unit under either party's proposal will continue to fall in the middle of the PBA's universal comparison of sheriff's superiors. The County presented an economic and compensation comparability analysis report from Vijay Kapoor, Public Financial Management, Inc., that compares the bargaining unit to the sheriff's superiors in all of the other counties. [Ex. C-135]. Simply put, the bargaining unit enjoys a host of economic benefits that fall within the range of those received by sheriff's superiors in other counties. The modifications contained in this Award are supported by the evidence above and will keep the bargaining unit competitive with respect to an overall comparison of wages and benefits for similarly situated employees.

The PBA also presented a comparison of the economic benefits of the bargaining unit to those of municipal police officers within Ocean County – Manchester, Barnegat, Berkeley, Lacey, Little Egg Harbor, Long Beach, Point Pleasant Borough, Stafford and Toms River. The PBA concluded that the officers

in these departments "earn substantially more". I reviewed the PBA's presentation and conclude that the internal comparison of the benefits for the Sheriff's Superior Officers with those for employees within the County's employ and the comparison of sheriff's superiors in other counties are entitled to greater weight than the comparison of this unit to any individual municipal police unit in the County.

### **Overall Compensation**

The evidence in this matter, as demonstrated by the parties' exhibits and the comparisons outlined above, shows that the overall compensation received by the Sheriff's Superiors is fair, reasonable and competitive. The modifications I award herein will create neither a competitive advantage nor disadvantage for the bargaining unit.

### **Stipulations of the Parties**

The parties did not enter into any stipulations.

## The Cost of Living

The most recent statistics from the U.S. Bureau of Labor Statistics' website show the following CPI for All Urban Consumers:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2002	1.1	1.1	1.5	1.6	1.2	1.1	1.5	1.8	1.5	2.0	2.2	2.4	1.6	1.3	1.9
2003	2.6	3.0	3.0	2.2	2.1	2.1	2.1	2.2	2.3	2.0	1.8	1.9	2.3	2.5	2.0
2004	1.9	1.7	1.7	2.3	3.1	3.3	3.0	2.7	2.5	3.2	3.5	3.3	2.7	2.3	3.0
2005	3.0	3.0	3.1	3.5	2.8	2.5	3.2	3.6	4.7	4.3	3.5	3.4	3.4	3.0	3.8
2006	4.0	3.6	3.4	3.5	4.2	4.3	4.1	3.8	2.1	1.3	2.0	2.5	3.2	3.8	2.6
2007	2.1	2.4	2.8	2.6	2.7	2.7	2.4	2.0	2.8	3.5	4.3	4.1	2.8	2.5	3.1
2008	4.3	4.0	4.0	3.9	4.2	5.0	5.6	5.4	4.9	3.7	1.1	0.1	3.8	4.2	3.4
2009	0.0	0.2	-0.4	-0.7	-1.3	-1.4	-2.1	-1.5	-1.3	-0.2	1.8	2.7	-0.4	-0.6	-0.1
2010	2.6	2.1	2.3	2.2	2.0	1.1	1.2	1.1	1.1	1.2	1.1	1.5	1.6	2.1	1.2
2011	1.6	2.1	2.7	3.2	3.6	3.6	3.6	3.8	3.9	3.5	3.4	3.0	3.2	2.8	3.5
2012	2.9	2.9	2.7	2.3	1.7	1.7	1.4	1.7						2.3	

I conclude that the increases awarded herein fall within a reasonable range of the CPI from 2010 to the most recent statistics for 2012.

Having addressed all of the statutory criteria I now turn to the modifications/proposals that I award.

## **Awarded Modifications/Proposals**

### **Term of Agreement**

Article XXXIII provides the duration of the Agreement. I award a term of three (3) – April 1, 2010 through March 31, 2013. I am aware that a three (3) year term will require the parties to begin their negotiations for a successor agreement almost immediately. But the shorter duration will permit the County to negotiate contemporaneously with this bargaining unit and, at a minimum, the rank-and-file Sheriff's Officers, the Prosecutor's Investigators, and the Prosecutor's Superior Officers whose contracts expire March 31, 2013. I conclude under the circumstances that the duration of three (3) years best serves the interests and welfare of the public by allowing for a common review of contract terms for all of the bargaining units above within the same time frame.

### **Negotiation of a Successor Agreement**

Article XXV of the expired agreement provides that "[t]he parties shall commence negotiations for a successor contract no later than April 1, 2010." Because the three (3) year term of the successor contract will expire on March 31, 2013, the date in Article XXV shall be modified to April 1, 2013.

## Salary Increases & Cost Analysis

The bargaining unit as of January 2011 consisted of 27 bargaining unit members – 14 Sergeants, 8 Lieutenants and 5 Captains. The total base salary including longevity and stipends for educational incentives for that complement of superior officers from April 1, 2009 through March 31, 2010 was \$2,931,160. There are no steps contained in Appendix A of the Agreement and, therefore, there is no incremental movement.

Utilizing the same complement of superior officers over a term of three (3) years, and assuming for the purposes of comparison there are no resignations, retirements, promotions or additional hires, the parties' proposals result in the following increases to base salary including longevity and stipends for educational incentives:

	County	Total increase from prior year	PBA	Total increase from prior year
4/1/09-3/31/10 (Base Year)	\$2,931,160		\$2,931,160	
4/1/10-3/31/11	\$2,975,010	\$43,850	\$3,018,860	\$87,700
4/1/11-3/31/12	\$3,019,518	\$44,508	\$3,109,192	\$90,332
4/1/12-3/31/13	\$3,064,694	\$45,176	\$3,202,234	\$93,042

As indicated above, in separate awards for the County's rank-and-file Sheriff's Officers and the Prosecutor's Investigators Glasson awarded increases of 2% for April 1, 2010 through March 31, 2011, 2% for April 1, 2011 through March 31, 2012, and 2% for April 1, 2012 through March 31, 2013. In this case, I find that these resolutions are entitled to greater weight than the weight I have attributed to those that the County achieved through voluntary settlements, such as the one with the Prosecutor's Superior Officers. I award increases of 2.0% for April 1, 2010 through March 31, 2011, 1.9% for April 1, 2011 through March 31, 2012, and 1.9% for April 1, 2012 through March 31, 2013. I place some significance on the fact that these terms will sufficiently maintain wage relationships in the Sheriff's office between the rank-and-file and the superior officers. Additionally, it has not been demonstrated to me that the differentials between the rank-and-file officers and the superior officers are so substantial that they must be narrowed in the manner proposed by the County. I have compared the increases awarded to this bargaining unit with those received by the Prosecutor's Superiors over the same time period and find that the salaries for the Prosecutor's Superiors will continue to exceed the salaries for the Sheriff's Superiors at each rank. [See Ex. PBA-G6].

Based upon the same complement of superior officers, the increases to base salary awarded herein increase the total base salary including longevity and stipends for educational incentives as follows:

	Award	Total increase from prior year
4/1/09-3/31/10 (Base Year)	\$2,931,160	
4/1/10-3/31/11	\$2,989,627	\$58,467
4/1/11-3/31/12	\$3,046,282	\$56,655
4/1/12-3/31/13	\$3,104,013	\$57,731

The chart below compares the cost of the increases awarded herein to each of the parties' proposals:

	Award	Total increase from prior year	Difference from County's	Difference from PBA's
4/1/09-3/31/10 (Base Year)	\$2,931,160			
4/1/10-3/31/11	\$2,989,627	\$58,467	\$14,617	(\$29,233)
4/1/11-3/31/12	\$3,046,282	\$56,655	\$12,147	(\$33,677)
4/1/12-3/31/13	\$3,104,013	\$57,731	\$12,555	(\$35,311)

I find that the terms awarded can be funded by the County without adverse impact and are within its statutory taxing limitations. The County's surplus balance dropped from approximately \$55 million in 2007, to \$49 million in 2008, \$46.6 million in 2009, \$34.4 million in 2010, and \$33.9 million in 2011. [Ex. C-120A]. Since 2011, it has increased to \$34,403,041 in 2012. [Id.]. The County's \$20 million drop in surplus since 2007 is noted, but the surplus balance has stabilized for a period of three (3) years and the County has been able to fund



similar increases for similarly situated employees. The \$34.4 million surplus will not be adversely impacted by the cost of the awarded salary increases of \$58,467 in 2010, \$56,655 in 2011 and \$57,731 in 2012.

## **Longevity**

In separate awards for the rank-and-file Sheriff's Officers and the Prosecutor's Investigators, Glasson reduced the longevity schedule for employees hired on or after April 1, 2012:

Effective April 1, 2012, the longevity schedule for new hires shall be as follows:

Completion of 15 years	-	2% of base rate
Completion of 20 years	-	4% of base rate
Completion of 25 years	-	6% of base rate

The County successfully eliminated longevity for new hires in several collective negotiations agreements, but I do not find the same overall pattern for its law enforcement units. Given Glasson's awards similar treatment is desirable in this unit. Accordingly, I conclude that the record supports awarding the following provision that shall be incorporated into Article XII:

The longevity schedule for any Superior Officer hired into the Sheriff's Department on or after April 1, 2012 shall be as follows:

Completion of 15 years	-	2% of base rate
Completion of 20 years	-	4% of base rate
Completion of 25 years	-	6% of base rate

## **Health Benefits**

The parties' arguments in support of their respective positions have been provided in the summary sections above. Glasson in his awards for the rank-and-file Sheriff's Officers and the Prosecutor's Investigators acknowledged that the County established patterns of settlement for health benefits in several areas:

I am persuaded that the County has established a pattern wherein the majority of its bargaining units and the majority of its employees have agreed to changes in health benefits. These changes are similar to changes negotiated in other counties and other municipalities. The only bargaining units that have not agreed to the changes are the five public safety units in the Sheriff's Department, the Department of Corrections and the Prosecutor's Office.

\* \* \*

I conclude that the County has established a pattern requiring all current and future employees to serve a minimum of fifteen (15) of the required twenty-five (25) years with the County to be eligible for lifetime health benefits. I shall make this change effective January 1, 2013 to give current employees proper notice of the change.

Finally, I conclude that the County has established a pattern regarding the changes for new hires: enrollment in NJ Direct 15; the discontinuation of spousal coverage after the death of a retiree; and the termination of reimbursement of

retiree Medicare Part B premiums. This shall be applicable to all employees hired on or after June 1, 2012. [Ex. PBA-G1, p. 114-115, see Ex. C-136, pp. 110-112].

In each case, Glasson awarded modifications that are nearly identical to those proposed by the County in this matter.

I am persuaded that the County has established patterns in the area of health benefits and that there is no persuasive evidence that there should be a deviation from those patterns. It is assumed that the modifications awarded below will be implemented in accordance with the provisions of P.L. 2010, Chapter 2 and P.L. 2011, Chapter 78.

Accordingly, I award the following modifications to Article VI that will closely align this bargaining unit's benefits with those included in Glasson's award for the rank-and-file Sheriff's Officers:

- A. The County of Ocean currently provides medical coverage to the County employees through the New Jersey State Health Benefits Program as supplemented by NJ Local Prescription Drug Program and Chapter 88. P.L. 1974, as amended by Chapter 436 P.L. 1981. The parties recognize that the State Health Benefits Program is subject to changes enacted by the State of New Jersey that may either increase or decrease benefits.
- B. The County shall not change the health insurance coverage referred to in paragraph A except for a Plan

that is equivalent or better. Provided, however, that the parties expressly recognize that the components of HMO plans are changed periodically by the plan providers and that the County has no control over or any obligations regarding such changes.

- C. All employees, current and future, who retire on or after January 1, 2013, in order to be eligible for the lifetime health benefits upon retirement, must have served a minimum of fifteen (15) of the required twenty-five (25) years with the County.
- D. An eligible employee may change his/her coverage only during the announced open enrollment period for each year after having been enrolled in the former plan for a minimum of one (1) full year. Regardless of this election, employees are specifically ineligible for any deductible reimbursement.
- E. When a member of this bargaining unit is granted the privilege of a leave of absence without pay for illness, health coverage will continue at County expense for the balance of the calendar month in which the leave commences plus up to three (3) additional calendar months next following the month in which the leave commences. After that time has elapsed, if necessary, coverage for an additional period of eighteen (18) months may be purchased by the employee under the C.O.B.R.A. plan.
- F. In the case of consecutive leaves of absence without pay, it is understood and agreed that the responsibilities of the County to pay for benefits remains limited to the original period of up to four (4) months.
- G. The following changes will affect any Superior Officer hired into the Sheriff's Department on or after June 1, 2012:
  - 1. Employees will be offered the NJ Direct 15 plan, or its replacement. Any Superior Officer hired into the Sheriff's Department on or after June 1, 2012 may elect a higher level of coverage at their expense.

2. Continuation of spousal coverage after the death of the retiree will no longer be offered at the County's expense.
3. The County will no longer reimburse Medicare Part B premiums.

### **Personal Days/Vacation Leave**

The Union seeks to add the following provision to Article V:

Upon the death of an Officer, earned and unused Personal Time shall be paid to the Officer's estate.

The Union also seeks to add the following sentence to Article XI.D:

Upon the death of an Officer, unused and earned vacation leave shall be paid to the Officer's estate.

The County opposes the Union's proposals on the basis that the Union did not provide evidentiary support for the changes it requests. But County Director Goetting confirmed during his testimony that the language above comports with the parties' current practices and that the Union was not seeking anything other than codifying the practice that was in effect at the time of the proceeding. [T:141-142]. I conclude that the Union's proposals are justified by

the record, and I award the inclusion of the language above in order to memorialize the parties' practices.

## **Ceremonial Activities**

Article XXX, Ceremonial Activities, of the expired contract provides:

A. In the event an Officer in another Department in the State of New Jersey is killed in the line of duty, the Employer will permit at least one (1) uniformed Officer of the County to participate in funeral services for the said deceased Officer.

B. Subject to the availability of same, the employer will permit a County vehicle to be utilized by the members in the funeral service.

C. Officers participating in such funeral service shall not be entitled to any compensation during the time in which they are participating in said funeral service unless otherwise agreed to by the Sheriff. [Ex. PBA-A1].

The Union proposes the following changes. First, in Section A, change "uniformed Officer of the County" to "SOA bargaining unit member..." Second, in Section B, change "a County vehicle" to "a marked" Sheriff's Department vehicle, if available..."

The basis for the Union's proposal is set forth in its legal argument included in its entirety above. The County opposes the Union's proposals on the following basis:

The PBA's proposal fails to take into account staffing and manpower requirements of the Department. The Chief noted that Superior Officers have been permitted to go to Ceremonial Activities but that, given the reduction in the number of Superior Officers, he always needs to make sure that he has adequate staffing before Superior Officers are permitted to attend ceremonial activities. (Tr. 101:20-102:2). [County Brief, p. 25].

I find that the Union's proposal is not unreasonable, but any such request is situational in nature and its impact on staffing must be reserved in each instance. Accordingly, I award the proposal as amended below:

A. In the event an Officer in another Department in the State of New Jersey is killed in the line of duty, the Union may request that at least one (1) SOA bargaining unit member be permitted to participate in funeral services for the said deceased Officer. The Sheriff or his designee may exercise his discretion as to whether to grant the request.

B. Subject to the availability of same, the employer will permit a County vehicle to be utilized by the members in the funeral service. The Sheriff or his designee will have the discretion to determine whether the County vehicle utilized will be marked or unmarked.

C. Officers participating in such funeral service shall not be entitled to any compensation during the time in which they are participating in said funeral service unless otherwise agreed to by the Sheriff.

## **Out of County Travel**

Article XXXVI, Out of County Travel, of the expired contract provides:

All travel-related expenses shall be reimbursed pursuant to County policy provided the Superior Officer completes the approved County "Travel Authorization" form (M.B. 103). The travel policy may be modified at the discretion of the Board of Chosen Freeholders. [Ex. PBA-A1].

The Union seeks to replace the language in Article XXXVI with the following:

The County Travel Policy, as it may be amended from time to time, shall apply to SOA unit members."

Goetting confirmed that the County's travel policy applies to the bargaining unit and that it changes at least annually. [T:138-139]. Given this testimony I find that the Union's proposal is not unreasonable. I award the Union's proposal.



## **Legal Defense**

The Union seeks to include a new provision in the contract:

### **ARTICLE \_\_\_\_\_, LEGAL DEFENSE**

The County's Resolution regarding legal defense, as it may be amended from time to time, shall apply to SOA unit members.

Goetting confirmed that the County provides a legal defense "of any employee that has been charged civilly with some form of suit as long as it was operating under the normal course of their assigned duties." [T:139]. He noted that the monitoring of the County's policy changes from time to time. [T:140]. Similar to the Union's proposal for out of county travel, I find this proposal to be reasonable. Absent a showing from the County of a reasonable basis for its opposition I award the Union's proposal.

## **Transfers**

The Union proposes to add the following new article to the contract:

### **ARTICLE \_\_\_\_\_, TRANSFERS**

If an Officer's permanent work assignment is changed from one division to another, the Officer shall be provided

with ten (10) business days' written notice from the Employer before it becomes effective.

The Union's proposal as written has the potential to significantly interfere with the County's governmental policies. But some form of advance notice is reasonable when circumstances permit. I award the Union's proposal as modified below:

**ARTICLE \_\_\_\_\_, TRANSFERS**

If an Officer's permanent work assignment is changed from one division to another, the Officer shall be provided with at least seven (7) calendar days' written notice from the Employer before it becomes effective. Advance written notice will not be required if the Sheriff or his designee determines that the circumstances of the transfer do not allow for such notice.

**Work Rules**

The Union proposes to add the following new article to the contract:

**ARTICLE \_\_\_\_\_, WORK RULES**

The Employer agrees to furnish the SOA President with a minimum of 14 calendar days' written notice prior to making changes to departmental rules, policies or procedures. Such notice as possible shall be given under emergent circumstances.

A requirement to provide advance notice when permitted will not unduly burden the County. I find evidentiary support for providing advance notice, but I also conclude the amount of time the Union proposed is not required. I award the following:

**ARTICLE \_\_\_\_\_, WORK RULES**

The Employer agrees to furnish the SOA President with a minimum of seven (7) calendar days' written notice prior to making changes to departmental rules, policies or procedures unless the Sheriff or his designee determines that the circumstances do not allow for such notice.

**Table of Organization**

The Union proposes to add the following new article to the contract:

**ARTICLE \_\_\_\_\_, TABLE OF ORGANIZATION**

During the first week of January of each year, the Sheriff shall provide a copy of the up-to-date Table of Organization to the SOA President.

All mid-year changes to the Table of Organization shall be provided to the SOA President with at least 10 business days' written notice prior to the effective date of the change.

There is merit to the idea of including a notice provision in the contract that will not unduly burden the County, but it is evident that there are

circumstances that may not allow for a fixed time period for notice before a change is made in the table of organization. Accordingly, I award the following provision:

**ARTICLE \_\_, TABLE OF ORGANIZATION**

During the first week of January of each year, the Sheriff shall provide a copy of the up-to-date Table of Organization to the SOA President.

All mid-year changes to the Table of Organization shall be provided in the form of written notice to the SOA President within a reasonable time period prior to the effective date of the change unless the Sheriff or his designee determines that the circumstances do not allow for such notice.

I now address the proposals and modifications that I have not awarded.

**Modifications/Proposals not Awarded**

**Holidays**

Article IX currently provides for 14 enumerated holidays with pay. The County proposes to add the following provision to this article:

Each full-time employee covered by this Agreement shall receive the State employees' holiday schedule with pay if, and when, the County implements the State employees holiday schedule for other County employees.

The County successfully negotiated similar provisions into several other collective negotiations agreements. However, this issue was presented in other law enforcement units and it was rejected. The County presented the following proposal during each of the interest arbitration proceedings before Glasson:

Each full-time employee covered by this Agreement shall receive the State employees' holiday schedule with pay. [Exs. C-136 & PBA-G1].

Glasson noted the existence of provisions in some of the other contracts that predicated a holiday reduction upon all other bargaining units agreeing to the State employees' holiday schedule. But he also noted that all of the bargaining units continued to enjoy 14 holidays. In the end, Glasson denied the County's proposal in each case because it was not supported by the evidentiary record. I reach the same conclusion based upon the evidentiary record of this matter and for reasons of consistency. The County's proposal, therefore, is denied.

### **Vision Care Plan**

The Union seeks to include the actual language from the current County Vision Care Plan in the agreement. The Union points out that "the plan, at its core, provides an eye exam by an appropriate doctor and a pair of glasses valued at \$100. While the plans change relatively frequently, the basic services

the plan provides, an eye exam and a pair of glasses, have remained relatively constant for at least twenty-two years." [PBA Brief, p. 67]. The County opposes the Union's proposal because, as Goetting testified, the vision plan is bid out annually and the plans differ from year to year. As the County indicates in its brief, Goetting expressed concern that "binding the County by contract to a particular plan or level of benefits will negatively impact on the County's ability to find the best plan at a reasonable cost." [County Brief, p. 23, see generally Goetting's Testimony T:143-145]. I conclude that Goetting's testimony weighs against awarding the Union's proposal. The Union's proposal is not supported by the evidence and, therefore, it is denied.

### **Overtime and Call-In**

The Union seeks to add the following to Article XIII:

F. Time spent by an Officer in obtaining duty-injury medical treatment or therapy during off-duty hours shall be compensated at the rate of one and one-half (1 ½) times the regular hourly rate if such medical treatment is scheduled by the Employer or its medical provider. Officers shall not be compensated while pursuing such medical treatment or therapy during off-duty hours if the treatment was scheduled by the Officer.

The Union submits that its proposal is consistent with the current practice and comports with an arbitration award ["Cocci"]. Bauman testified to his

understanding of the Sheriff Department's practice for scheduling medical treatment or therapy for on-the-job injuries:

Bauman, On Direct

Q. [By Attorney Mets] I'm going to ask you a question about on the job injuries. If an officer is injured on the job and is required to go to a medical appointment for that injury what is the practice of the department of when he would be sent?

A. [By Bauman] I believe that the county would try to schedule him during working hours.

Q. If the officer is scheduled not on working hours does he receive compensation?

A. I believe that he does.

Q. In the form of regular pay or overtime?

A. Overtime.

Q. Do you know if that practice or procedure was implemented as a result of an arbitration award?

A. It was what we refer to as the Cocci clause.

\* \* \*

Q. If an officer schedules his own medical appointments during off-duty hours for a job-related injury do you know if he gets paid by the county for that?

A. I do not know.

[T:46-47].

Goetting's testimony differed from Bauman's. Goetting indicated that the Union's proposal did not accurately reflect the County's practice. Goetting testified as follows:

Goetting, On Cross

Q. [By Attorney Mets] Are you familiar with an arbitration or grievance that resulted in payment of overtime for off duty attendance on such appointments?

A. [By Goetting] Yes.

Q. Steve [Bauman] called it the Cocci clause.

A. We had a number of arbitrations on this topic.

Q. And currently the practice is if the county schedules you on your off duty hours you get paid overtime.

A. Say that again.

Q. If the county schedules you for off duty appointments you get paid overtime.

A. I haven't looked at that decision in some time. When you say appointments simply doctor's appointments or therapists appointments, because there is a difference.

Q. If the county schedules any appointment, therapy or doctors appointment while the officer was off duty then the officer would be paid overtime.

A. I'm not sure if that the case when it was therapy, doctor's appointments I believe that is what the Cocci decision was.

Q. So for doctor's appointments then it's your understanding overtime is paid, but if it's for therapy the officer's on his own?



- A. Again therapists are open in the early morning, late hours, it's very, very easy to schedule an appointment around your working time. That's not necessarily the case with medical doctors.

[T:146-148].

Unlike the testimony elicited when the parties addressed the Union's proposals on personal days and vacation leave, there is a lack of an agreement between Bauman and Goetting concerning whether the County pays overtime to officers whose therapy appointments are scheduled off-duty. Given this disagreement, and without additional evidence to support the Union's position, I do not award the Union's proposal.

### **Hours of Work**

Bauman testified that bargaining unit members currently work a 5/2 schedule, 8 hours per day, Monday through Friday, either on a day shift or an evening shift. [T:35]. The Union seeks to include a new article entitled "Work Rules" in the contract:

- A. The normal workweek shall be either 5 consecutive workdays on duty followed by 2 consecutive days off duty or 4 consecutive workdays on duty followed by 3 consecutive days off duty.

B. The workday shall consist of 8 consecutive hours on duty on the 5/2 schedule and 10 consecutive work hours on duty on the 4/3 schedule.

Bauman testified that, among other benefits, the Union's proposal would enhance coverage and effectively reduce overtime costs for the County. The County opposes the Union's proposal. The County in its post-hearing brief emphasizes that the Union's proposal is without sufficient evidentiary support and requires further analysis:

The PBA proposed an option in the current collective bargaining agreement language that would permit a 4/10 schedule. However, the PBA failed to address the fact that all benefit time, vacation, holidays, personal days, etc., must be converted from days to hours. Otherwise, those Superior Officers assigned to a 4/10 shift would receive a windfall. To begin with, Officers on a 4/10 schedule would work 52 days less per year. Consequently, some holidays would actually fall on their off days: these Officers would not need the same number of personal days since they are working 20% fewer days per year. Finally, a holiday or vacation day should not be in a 10-hour increment or else the officers on a 4/10 schedule would receive significantly more benefit time than those Superior Officers on a 5/2 shift. Without addressing the conversion of time from days to hours, it would be extremely disruptive and expensive to award the PBA's proposal. [County Brief, p. 25].

The Union's proposed change could potentially be beneficial for both parties, but there is insufficient evidence concerning the economic and operational impact the modification would have on the Department. The

parties can review such issues as these in the near future. As for this proceeding, the Union's proposal is denied.

## **Seniority**

Article XXVII, Seniority, of the expired contract provides:

- A. Effective June 1, 2000 and every January thereafter all Sergeants and Lieutenants shall have the right to bid for shifts and days off, according to their respective seniority within the same rank. Bidding rights shall not be forfeited when transferred into a division within the Department.
- B. The Sheriff shall retain the sole authority for the assignment of Superior Officers to sections, divisions, or units within their respective Departments.
- C. Seniority shall be defined as a Superior Officers' length of unbroken continuous service from the date of permanent appointment, in accordance with Civil Service Ranking. [Ex. PBA-A1].

The Union proposes to replace Paragraphs A and B above with the following:

### **A. SENIORITY SYSTEM AND SHIFT BIDDING**

1. Subject to manpower needs, special skills, and maintaining efficiency of the Division/Detail, seniority shall be the prime factor in the selection of shifts and days off provided the Officer is otherwise qualified.

2. Bidding for shifts and days off will be done during the first week in November. The bidded shifts and days will be

posted in the first week of December for the upcoming year. The bids will take effect on January 1<sup>st</sup>. All bidding will be in writing.

3. The Sheriff will determine the proper staffing levels on all shifts. If shifts need to be readjusted to arrive at acceptable staffing levels, the Sheriff retains the right to transfer to accomplish the proper staffing levels according to the provisions set forth in this Article. All such transfers shall be first offered to volunteers on a seniority basis. If not enough officers volunteer they shall be reassigned by inverse seniority in rank.

4. A shift change will require ten (10) business days written notice from the Employer prior to the date of the change except in emergent situations. When the emergent situation ends, the Officer shall be returned to his/her prior shift. The notice and return provision applies shift changes to perform required, voluntary, or unit specific departmental training. An Officer who declines a shift change will not be subject to any adverse actions, including but not limited to the denial of training opportunities or overtime compensation.

5. All vacancies on shifts will be posted for bid on the SOA bulletin board and sent to all SOA unit members via email. The most senior volunteers, who possess in the Sheriff's discretion the necessary training and experience, will have an opportunity to fill the vacant position. If there are not enough volunteers, vacancies shall be filled by inverse seniority in rank to the least senior officer who possesses, in the Sheriff's discretion, the necessary training and experience. The Officer subject to the involuntary shift placement will be given ten (10) business days written notice from the Employer prior to the effective date of the shift change unless an emergent situation arises. While bidding takes place, the position may be filled temporarily.

Bauman testified that a bargaining unit member's assignment to a particular division or unit is made at the discretion of the Sheriff. He indicated that there are bargaining unit members in at least one unit who are permitted to

bid upon day or evening shifts by seniority. [T:41, T:65-66, T:84]. Vacant assignments are also filled at the discretion of the Sheriff. [T:42]. Bauman explained his view of the purpose of the Union's proposal:

Bauman, On Re-Direct

Q. [By Attorney Mets] What is the proposal, what is the PBA proposing that seniority be used for, for the selection of what?

A. [By Bauman] For the actual shift work. Recently within the last 18 months we have developed shifts, there's been management meetings on developing further shifts that would encompass weekends and other night hours, so if those generate supervisory shifts where all the supervisors have common days off or hours worked we'd like to have the most senior person choose their shift first.

Q. Is the PBA seeking to take skill and ability out of the equation with that proposal?

A. No. we're talking about shifts worked.

Q. Prior to 18 months ago were all superior officers working the same shift?

A. I believe within every unit they were.

Q. So is the issue of seniority shift selection and days off selection a recently new phenomena?

A. For the supervisors?

Q. For supervisors, yes.

A. I would say it's fairly new.

[T:82-83].

The County opposes the Union's proposal for the following reasons:

The PBA's proposal would negatively impact on the Sheriff's ability to change schedules for training. Chief Osborn testified that this would increase the cost of training and potentially impact on the amount of training that can be provided. (Tr. 97:15-98:22)

With respect to the PBA's proposals on using seniority for Transfers and Shift selection the Chief testified that this could prevent the Sheriff and/or the Chief from assigning the best qualified employee to a particular position or assignment. Further, the PBA's own witness testified that there has not been a problem with how transfers have been handled. (Tr. 71:15-25) That admission alone is justification for denying this troubling language. [County Brief, p. 24].

I do not award the proposal. The objections presented in Osborn's testimony have not been resolved by the Union despite the revision the Union made to its proposal. This proposal warrants further review by the parties and I do not find sufficient justification to award it for this contract term.

### **Law Enforcement Protection Act**

Article XXXIV, Law Enforcement Protection Act, of the expired contract provides:

The provisions of Public Law 1996, Chapter 115, known as the Law Enforcement Officers Protection Act are attached hereto and incorporated herein as if set forth at length. SOA

bargaining unit members are acknowledged to be covered under the New Jersey "Law Enforcement Officers Protection Act".

The Union proposes to designate the following language as Paragraph A of Article XXXIV:

A. The Employer agrees to conduct all in person and questionnaire Departmental investigations and drug testing pursuant to the relevant Attorney General Guidelines.

In addition, the Union proposes to designate the following language as Paragraph B of Article XXXIV:

B. Complaints against bargaining unit members that are determined to be "unfounded" or "unsubstantiated" shall not be included in Officers' personnel files and shall not be used in any subsequent disciplinary proceedings or in making promotion decisions.

The County has a legal obligation to adhere to applicable law, but the contract need not specify each and every statute, law or applicable guideline with which the County must comply. As to the "unfounded" or "unsubstantiated" complaints that are included within personnel files, there is no evidence of abuse within the Department. I therefore reject the Union's proposals.

## **CONCLUSION**

I conclude that the terms of this Award represent a reasonable determination of the issues after applying the statutory criteria. I have given greater weight to the interests and welfare of the public, the internal comparison between this bargaining unit and the County's other law enforcement units, the lawful authority of the employer, and the financial impact on the governing unit, its residents, the limitations imposed by the tax levy cap, and taxpayers. I considered all of the other factors, including the comparison of wages, salaries, hours, and conditions of employment for law enforcement employees in comparable jurisdictions, but find that they weigh less in my determination. The terms of this Award are within a reasonable range of the CPI, and will provide for the continuity and stability of employment for the Sheriff's Superior Officers. I have also examined the overall levels of compensation-related items in the existing contract and do not find any benefits therein that would compel a different result than I have determined in this proceeding.



## **AWARD**

1. Term: Three (3) years – Effective April 1, 2010 through March 31, 2013.
2. Negotiation of a Successor Agreement. Article XXV shall be amended to provide as follows:

The parties shall commence negotiations for a successor contract no later than April 1, 2013.

3. Salary. Article XXVI, Section 1, shall be deleted and replaced with the following language – all salary increases are fully retroactive to the effective dates below:

Base annual salaries for employees covered by this Agreement shall be as follows and as set forth on Schedule A annexed:

1. Effective April 1, 2010, all employees covered by this Agreement shall receive a 2.0% increase to their March 31, 2010 base salary or a minimum annual salary of \$98,517 for Sergeants, \$108,202 for Lieutenants, and \$117,885 for Captains, whichever is greater.
2. Effective April 1, 2011, all employees covered by this Agreement shall receive a 1.9% increase to their March 31, 2011 base salary or a minimum annual salary of \$100,389 for Sergeants, \$110,257 for Lieutenants, and \$120,125 for Captains, whichever is greater.
3. Effective April 1, 2012, all employees covered by this Agreement shall receive a 1.9% increase to their March 21, 2012 base salary or a minimum annual salary of \$102,296 for Sergeants, \$112,352 for

Lieutenants, and \$122,408 for Captains, whichever is greater.

4. Longevity. Article XII shall be amended to incorporate the following:

The longevity schedule for any Superior Officer hired into the Sheriff's Department on or after April 1, 2012 shall be as follows:

Completion of 15 years	-	2% of base rate
Completion of 20 years	-	4% of base rate
Completion of 25 years	-	6% of base rate

5. Health Benefits. Article VI, Hospital, Surgical, Prescription and Major Medical Benefits, Sections A through G shall be deleted and replaced with the following:

- A. The County of Ocean currently provides medical coverage to the County employees through the New Jersey State Health Benefits Program as supplemented by NJ Local Prescription Drug Program and Chapter 88. P.L. 1974, as amended by Chapter 436 P.L. 1981. The parties recognize that the State Health Benefits Program is subject to changes enacted by the State of New Jersey that may either increase or decrease benefits.
- B. The County shall not change the health insurance coverage referred to in paragraph A except for a Plan that is equivalent or better. Provided, however, that the parties expressly recognize that the components of HMO plans are changed periodically by the plan providers and that the County has no control over or any obligations regarding such changes.
- C. All employees, current and future, who retire on or after January 1, 2013, in order to be eligible for the lifetime health benefits upon retirement, must have served a

minimum of fifteen (15) of the required twenty-five (25) years with the County.

- D. An eligible employee may change his/her coverage only during the announced open enrollment period for each year after having been enrolled in the former plan for a minimum of one (1) full year. Regardless of this election, employees are specifically ineligible for any deductible reimbursement.
- E. When a member of this bargaining unit is granted the privilege of a leave of absence without pay for illness, health coverage will continue at County expense for the balance of the calendar month in which the leave commences plus up to three (3) additional calendar months next following the month in which the leave commences. After that time has elapsed, if necessary, coverage for an additional period of eighteen (18) months may be purchased by the employee under the C.O.B.R.A. plan.
- F. In the case of consecutive leaves of absence without pay, it is understood and agreed that the responsibilities of the County to pay for benefits remains limited to the original period of up to four (4) months.
- G. The following changes will affect any Superior Officer hired into the Sheriff's Department on or after June 1, 2012:
  - 1. Employees will be offered the NJ Direct 15 plan, or its replacement. Any Superior Officer hired into the Sheriff's Department on or after June 1, 2012 may elect a higher level of coverage at their expense.
  - 2. Continuation of spousal coverage after the death of the retiree will no longer be offered at the County's expense.
  - 3. The County will no longer reimburse Medicare Part B premiums.

6. Personal Days/Vacation Leave. Add the following provision to Article V:

Upon the death of an Officer, earned and unused Personal Time shall be paid to the Officer's estate.

Add the following sentence to Article XI.D:

Upon the death of an Officer, unused and earned vacation leave shall be paid to the Officer's estate.

7. Ceremonial Activities. Amend Article XXX to read as follows:

A. In the event an Officer in another Department in the State of New Jersey is killed in the line of duty, the Union may request that at least one (1) SOA bargaining unit member be permitted to participate in funeral services for the said deceased Officer. The Sheriff or his designee may exercise his discretion as to whether to grant the request.

B. Subject to the availability of same, the employer will permit a County vehicle to be utilized by the members in the funeral service. The Sheriff or his designee will have the discretion to determine whether the County vehicle utilized will be marked or unmarked.

C. Officers participating in such funeral service shall not be entitled to any compensation during the time in which they are participating in said funeral service unless otherwise agreed to by the Sheriff.

8. Out of County Travel. Replace the language in Article XXXVI with the following provision:

The County Travel Policy, as it may be amended from time to time, shall apply to SOA unit members.

9. Legal Defense. Include the following provision in the contract:

**ARTICLE \_\_\_\_\_, LEGAL DEFENSE**

The County's Resolution regarding legal defense, as it may be amended from time to time, shall apply to SOA unit members.

10. Transfers. Include the following provision in the contract:

**ARTICLE \_\_\_\_\_, TRANSFERS**

If an Officer's permanent work assignment is changed from one division to another, the Officer shall be provided with at least seven (7) calendar days' written notice from the Employer before it becomes effective. Advance written notice will not be required if the Sheriff or his designee determines that the circumstances of the transfer do not allow for such notice.

11. Work Rules. Include the following provision in the contract:

**ARTICLE \_\_\_\_\_, WORK RULES**

The Employer agrees to furnish the SOA President with a minimum of seven (7) calendar days' written notice prior to

making changes to departmental rules, policies or procedures unless the Sheriff or his designee determines that the circumstances do not allow for such notice.

12. Table of Organization. Include the following provision in the contract:

**ARTICLE , TABLE OF ORGANIZATION**

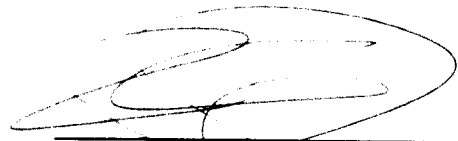
During the first week of January of each year, the Sheriff shall provide a copy of the up-to-date Table of Organization to the SOA President.

All mid-year changes to the Table of Organization shall be provided in the form of written notice to the SOA President within a reasonable time period prior to the effective date of the change unless the Sheriff or his designee determines that the circumstances do not allow for such notice.

13. All other proposals of the County and the Union are denied.


Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken "the statutory limitation imposed on the local tax levy cap into account in making the award." My Award also explains how the statutory criteria factored into my final determination.

Dated: October 24, 2012  
Sea Girt, New Jersey

  
\_\_\_\_\_  
Robert C. Gifford

State of New Jersey     }  
County of Monmouth    }ss:

On this <sup>24<sup>th</sup></sup> day of October, 2012, before me personally came and appeared Robert C. Gifford 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 same.



Linda L Gifford  
Notary *Expire*  
1/10/16