

PUBLIC EMPLOYMENT RELATIONS COMMISSION

XX

In the Matter of the Arbitration Between)

COUNTY OF ATLANTIC,)

EMPLOYER)

FOP LOCAL 34,)

UNION)

XX)

**INTEREST ARBITRATION
OPINION AND
AWARD**

DOCKET NO. IA-2007-057

**BEFORE
GERARD G. RESTAINO
INTEREST ARBITRATOR**

APPEARANCES:

FOR THE COUNTY OF ATLANTIC
ERIC BERNSTEIN, ESQ.
JAMES FERGUSON

**COUNTY LABOR COUNSEL
COUNTY COUNSEL**

FOR THE UNION
MYRON PLOTKIN
GEORGE HEBERT

**LABOR CONSULTANT
UNION PRESIDENT**

PROCEDURAL BACKGROUND

The parties to this dispute, the County of Atlantic and FOP Lodge 34, are signatories to a collective negotiations agreement that expired on December 31, 2006. The parties notified the New Jersey Public Employment Relations Commission (PERC) that they have selected the undersigned to be the Interest Arbitrator in the instant dispute. On February 6, 2007, I received formal notification from PERC that I was appointed the Interest Arbitrator.

I held informal mediation sessions with the parties between April of 2007 and July of 2008, in the hopes of the parties reaching a voluntary successor agreement. ~~It became apparent that a voluntary successor agreement could not~~ be reached, and formal interest arbitration hearings were scheduled for August 19, November 14, December 2, and December 10, 2008.

The parties submitted post-hearing briefs dated April 23, 2009, and also agreed to submit reply briefs no later than May 21, 2009. At the hearings, each party had a full and complete opportunity to present evidence and testimony on their behalf, to examine and cross-examine witnesses under oath, and to argue their respective positions.

Correspondence was exchanged between the parties and the Arbitrator after the reply briefs had been submitted. The Arbitrator had suggested that another informal session be held to discuss the financial information presented. Both parties declined that offer. Accordingly, effective August 3, 2009, the hearing was officially closed in the instant matter.

The parties did not agree upon an alternative terminal procedure. Accordingly, the procedure in the instant matter will be covered by conventional arbitration. Conventional arbitration is a much more flexible process that allows the Arbitrator to review all of the facts and documents submitted, as well as to review the testimony in the record and make a determination away from the requirement of selecting any component of a final offer by either party.

I am required by N.J.S.A. 34:13(a)-16(g) to separately determine whether the total net annual economic changes for each year of the Agreement are reasonable under the non-statutory criteria set forth in subsection (g) of this section. These factors, which are commonly referred to as the statutory criteria, are set forth below:

- (g) The arbitrator or panel of arbitrators shall decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence of each relevant factor:
 - (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40aA: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 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, 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:4-45.1 et seq.).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or 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; 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 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 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).

During the course of an interest arbitration hearing (formal or informal) various terms were used by the parties to offer guidance to the arbitrator to assist the parties in reaching a settlement or in writing a formal award. In order for a reader to follow my Award, it is appropriate to list and define those terms normally used in an interest arbitration proceeding. Listed below are the terms utilized in this proceeding:

CAP:

The CAP historically referred to the total amount that certain appropriations could be raised without either (1) a special ordinance or (2) state approval. Appropriations (expenses) fall into one of two categories...within CAPS or outside CAPS.... Often appropriations outside CAPS have separate funding beyond property tax (grants, or a very different type) interlocal agreements. The appropriation CAP is adjusted annually by the State using an approximator or the increase in the CPI...the most recent CAPS for appropriations have been 2.5%, although municipalities (Counties) can go to 3.5% with an ordinance indicating the desire to do so....

In addition to the appropriation CAP, the state has also introduced a TAX LEVY INCREASE CAP...with is 4%. So, the CAP is the amount, based upon two separate criteria, that local and county governments can increase costs and/or raise taxes. If governments do not "hit" their CAP they can bank them (like a savings account) for use in a subsequent year. Governments not

at CAP have the ability to easily increase costs or raised taxes as they are below their statutory CAP or limit.

PROPERTY VALUE:

Property value is typically used to refer to the value of property in a municipality (or county) based upon the value of the individual line items at the time of a comprehensive revaluation. This is the same as market value ONLY in the immediate short term after completion of the comprehensive evaluation since community values vary in the speed and extent of appreciation in value from neighborhood to neighborhood and from town to town. So, as an example, two neighboring communities could have a revaluation in the same year, and have fairly identical property values.

The totality of property value in each of these communities is the Ratable Base, or the common base across which tax revenue requirements is distributed. So, in the example just given, the two municipalities have equal ratable bases. But, as an example further developed, the first, Town "A" experiences market gains of 10%, while the second, Town "B", experiences market gains of 20%. These gains are identified and monitored through a process at the Division of Taxation, which, through local tax assessors, considers every real estate sale in each year to determine if the sale was one between a true buyer and a true seller (e.g. familial transfers or sales to corporate subsidiaries are not considered bona fide arms length sales) and determines the average ratio for each town of the now current market sales compared to the assessed value as determined at the last revaluation. So, for a property in both Towns, originally valued at \$250,000.00, the property in Town "A" has appreciated 10% to \$275,000, while that in Town "B" has appreciated 20% to \$300,000.00. The ratio of sales in "A" are the original appraised value divided by the market value or $\text{ratio} = \text{Assessed} / \text{Sales Price}$ or $250/275$ or $.9091$, while in "B", it is $250/300 = .8333$

The ratio is the EQUALIZATION RATIO. When the PROPERTY VALUE (value at some time in the past) is divided by the EQUALIZATION RATIO, the result is the EQUALIZED VALUATION of property in communities (Note: the actual process is much more complicated with exceptions and limitations, but this is the basic concept). The EQUALIZED VALUATION of property for all communities in a county or regional school district allow for equalizing changes that have occurred since the last revaluation at market value.

SURPLUS:

Surplus is essentially the fund balance of a municipality.... Sort of a savings account available for emergencies as a result of over taxation/unused appropriations, and that also can be used to offset the need for revenue from taxes. The ability to replenish surplus if surplus is used for anticipated revenue is essentially the government operating at a profit during that time period. (i.e. revenue-expenses is positive, i.e. a profit).

UNUSED APPROPRIATION(S):

Budgeting and the budget process are essentially a plan for achieving goals and priorities, which in turn are achieved through expenditures (appropriations). A common practice throughout NJ municipalities since the inception of the CAP law is to appropriate more in the base budget than what might actually be expended. This has the benefit of establishing a higher expenditure base for the CAP, providing future flexibility to respond to economic or political needs. Since the budget is a "plan", its execution is never precise and where municipalities slightly inflate expenditure estimates, there are unused appropriations that remain in the base, but the revenue projected to cover these unused appropriations are "returned" to surplus..... i.e. it can generate an operational profit.

EXCESS TAXATION:

When appropriations have a tendency – a clear trend – to exceed expenses, this simply results in the need to raise revenue to cover these appropriations. For County government, this is through the property tax. The typical cancellation of current and prior appropriations could, largely but not totally, be handled through smaller appropriations and raising fewer taxes...thus the term, excess taxation.

AFS:

Annual Financial Statement.

FINAL OFFERS OF THE PARTIES

FOP LODGE 34

1. The FOP is proposing an Agreement with DURATION of 4 years (2007-2010).

ECONOMIC ISSUES:

2. Article III – Work Schedules (Section A)

Language modified to insure a guaranteed thirty (30) minute uninterrupted lunch/meal period per shift. In the event an emergent situation defined as a situation in which an officer's presence is required to prevent possible injury to a person or an urgent situation which cannot be handled at any other time, arises and an officer's attendance is required, said officer shall be allowed to make up such time in order to complete his meal or receive ½ hour overtime pay for loss of a meal.

3. Article IV – Overtime (Section A, new G & H)

A. Define "hours worked" to include "all hours worked as well as any time on approved paid leaves of absence, holidays, compensatory time and/or vacation time".

H. (New Section to be Added)

Officers shall have the option to refuse mandatory overtime (except in emergent situations) two (2) times within each calendar year without being subject to disciplinary action.

4. Article V – Wages

A. Salary

2007 - \$54,400 (2006 base)

- + 1,350 (hazardous duty pay roll-in) per step
- + 2,000 (amt. for added hospital duty from PBA 243 per step)
- + 1,200 (equity adj. – same as PBA 243) on max only
- + 4.43%

2008 - \$61,560 (2007 base)

- + 500 (equity adj. – to maintain differential w/PBA) on max only
- + 4.24%

2009 - \$64,690 (2008 base)

- + 250 (equity adj. – to maintain differential w/PBA) on max only
- + 4.2%

2010 - \$67,550 (2009 base)
 + 750 (equity adj. – to maintain differential w/PBA) on
 max only
 + 4.25%

- B. Longevity – Amounts shall be increased by \$500.00 in each year of the Agreement and date of commencement remains status quo.

- C. Shift Differential - 0730 hrs – 1530 hrs - \$1250/year
 1530 hrs – 2330 hrs - \$2750/year

- D. Hazardous Duty Pay

The current \$1,350.00 hazardous duty pay will be “rolled into” the 2006 base salary by adding it to the 2005 base salaries and then applying any increases to that revised number. This section would then be deleted from the Agreement.

- H. Computation of Salary

An Officer’s total annual salary for overtime and pension purposes shall consist of an Officer’s base salary, shift differential, longevity, college allowance and hazardous duty pay (rolled into base) and shall be paid in equal installments to the Officer. Any other stipends, reimbursements or payments shall be paid to the Officer in two (2) equal installments, the first no later than January 20 of each year and the second no later than July 20 in each year and shall not be calculated as part of an officer’s total annual salary for pension purposes but shall be included in determining an Officer’s hourly rate of pay for overtime calculation.

Clothing and Maintenance allowances are not to be included in the calculation for overtime or for pension purposes.

- I. Article VI – Uniforms

B. Increase allowance to \$1400 in 2007 and then an additional \$50.00 per year in 2008 and an additional \$50.00 in 2010.

- J. Article IX – Vacations

- D. Separation

Delete in its entirety and insert the following:

"Any Officer that has separated from employment with the County for any reason prior to taking his/her accrued leaves, including but not limited to compensatory time, vacation leave, and administrative leave, shall be compensated for all such leaves in a lump sum payment at the time of separation at the Officer's current rate of pay. Compensatory time shall be paid at the Officer's overtime rate."

K. Article X – Sick Leave

G. Terminal Leave – Increase to 100% of days up to \$15,000.00.

L. Article XIV – Association (FOP) Rights and Privileges

Add a new section as follows:

H. Association (FOP) Release Time

1. The County will allow the FOP President or his designee a total of ten (10) hours of release time per week to conduct FOP business. Such time must be used in a minimum of two (2) hour segments.

2. Up to an aggregate total of twelve (12) days of absence per year shall be granted for representatives of the FOP to attend conferences and seminars or attend to FOP business. The President of the FOP shall designate such representative. Such absences must be utilized in a minimum of ½ day segments.

M. Article XVIII – Working Conditions and Safety Items

D. Vests and Carriers – All new employees shall receive a properly fitted vest. Vests for any employee shall be replaced with a new vest at the manufacturer's recommendation or earlier if defective. All new employees shall receive \$100 to purchase two (2) vest carriers. Replacements of vest carriers shall be the responsibility of the officer, the cost of which may be covered under his annual clothing allowance.

NON-ECONOMIC ISSUES:

N. Article XXII – Miscellaneous

Add new section as follows: - Continuation of Benefits

D. All terms and conditions of employment including any past or present benefits, practices or privileges which are enjoyed by the employees covered by this Agreement that have not been included in this Agreement, shall not be reduced nor eliminated and shall be continued in full force and effect.

OTHER ISSUES:

All prior agreements shall be included in the Agreement.

All other Proposals by both parties are withdrawn.

2007-2009 PROPOSED SALARY SCHEDULE

(inclusive of roll-in of \$1,350 Hazardous Duty Pay)

<u>STEP</u>	<u>2006 (base)</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
1	\$29,000	\$31,908	\$33,496	\$35,004
2	\$31,000	\$33,945	\$35,639	\$37,247
3	\$31,500	\$34,454	\$36,175	\$37,808
4	\$33,500	\$36,491	\$38,318	\$40,052
5	\$37,500	\$40,566	\$42,604	\$44,539
6	\$42,000	\$45,149	\$47,426	\$49,587
7	\$54,400	\$57,780	\$60,714	\$63,497
8	-----	\$61,560	\$64,690	\$67,660

In 2007, all employees will advance 2 steps to insure that they will reach the maximum salary in the same amount of time as they would have under the 7 step 2006 guide.

2010 PROPOSED SALARY SCHEDULE

<u>STEP</u>	<u>2010</u>
1	\$37,274
2	\$39,119
3	\$40,197
4	\$42,536
5	\$47,214
6	\$52,476
7	\$66,977
8	\$71,317

The above guide is based on a \$750.00 Equity Adjustment + 4.25%

2006-2010 STEP MOVEMENT

<u>2006 Step</u>	<u>2007 Step</u>	<u>2008 Step</u>	<u>2009 Step</u>	<u>2010 Step</u>
1	3	4	5	6
2	4	6	6	7
3	5	6	7	8
4	6	7	8	9
5	7	8	8	8
6	8	8	8	8
7	8	8	8	8

- In order for correction officers in Atlantic County to reach the average maximum salary of the ten southern counties in 2008, they would need a 28.8% salary increase. (FOP Exhibit #77)

- Including the roll-in of hazardous pay and the maximum salary as proposed by the FOP for 2008, Atlantic County would rank 4th out of 8 southern counties still being \$5,413 below the average maximum salary. (FOP Exhibit # 82)
- Using the FOP's salary proposal, excluding the roll-in and longevity, over the years 2007-2010, based on the average maximum salary for the 10 southern counties, the cumulative earnings for correction officers in Atlantic County over the four years would be \$30,245 less or 9.6% lower than the cumulative earnings of the average of the 10 southern counties. (FOP Exhibit #84)
- The average salary for correction officers in Atlantic County from 2003 to 2006 increased a total of \$1,197. This unusually low amount indicates a large turnover of staff and/or less than average salary increases. (FOP Exhibits 89-92)
- Based on data provided by the County, factoring in the number of employees, total anticipated salaries and total salaries actually paid, the County from 2003-2006 realized an overall savings of \$179,038 and hired an additional 10 officers. (FOP Exhibit #97)
- The County's Agreements with the sergeant's bargaining unit and superior officers unit at the jail indicate substantial discrepancies in compensation packages. The sergeants and superior officers Agreements both contain higher levels of compensation for hazardous duty pay, longevity, and pay for sick leave on retirement. (FOP Exhibits #98 & 99)
- Wage increases granted over and above the other increases in compensation were the following; (FOP Exhibits 98 & 99)

<u>Year</u>	<u>Sergeants</u>	<u>SOA</u>
2006	4.3%	
2007	4.5%	
2008	4.3%	4.3% - 4.5%
2009		4.25%-4.53%
2010		4.99%-5%

- The Annual Means wage for Correction Officers in New Jersey in 2007 was \$60,920 with the maximum salary in Atlantic County only being \$54,400 based on 2006. The increase in the State's mean average from 2006 to 2007 was 6.95%. (FOP Exhibit 100)

- The FOP's compensation package proposal for 2007-2010 including salary, hazardous duty pay, shift differential, longevity and uniform allowance is shown in **FOP Exhibit 101.**
- The County's final offer on compensation only consists of a salary schedule which is included in the FOP's presentation Binder. At the hearing, they verbally agreed that this salary guide was their offer, but offered no further explanation or reasoning behind the guide. Nor did they explain how the guide was structured or upon what it was based. (**FOP Exhibit 103**)
- The FOP's analysis of the County's salary schedule indicates a true average step increase from 2006-2010 of 2.36% per year. (**FOP Exhibit 104**)
- A more complete analysis of the County's salary guide is shown in **FOP Exhibit #105**
- The complete analysis demonstrates that the County's salary guide actually increases the differential between the FOP and PBA 243 from 5.87% to 10.3% or by 4.7% by 2010 with the average differential being 10.57% per year (**also shown in FOP Exhibit 116**)
- The County's guide also shows that in 2009, the average increase for steps 1-7 is 0 as they only rolled in the hazardous duty pay which the officers already receive. While they increased the maximum step by 4.1%, when crediting the roll-in amount, the true overall increase is 1.8%. (**FOP Exhibit #106**)
- The computation of the average 5.87% differential between the FOP and PBA 243 in 2003-2006 is shown in **FOP Exhibit 112.**
- The FOP is proposing to at least maintain the current differential that exists between the FOP and PBA 243. Using the FOP's past and proposed salary figures for 2003-2010 as compared to PBA 243's salaries for that same time; the FOP has shown that the average differential would decrease a slight amount from 5.87% to an average of 5.08% a year of a 10 year span. (**FOP Exhibit #113**)
- In comparing the FOP's proposed salaries from 2006-2009 with the PBA's salaries, using the FOP's proposed salaries would maintain the differential at an average of 5.46% which indicates a negligible change of -.41% from 2003-2005 to 2006-2009. (**FOP Exhibit # 117**)
- In reviewing the true actual maximum salary increase granted by the County to PBA 243, the 2005 maximum salary of \$55,000 was increased

by a 1,200 "retention adjustment" plus \$2,000 (for doing less work) plus 4% which brings their 2006 maximum salary to \$60,528 which represents a 10.05% increase over 1 year. (FOP Exhibit # 121)

- Finally, the County claimed that its offer represents a 38.98% increase over 4 years. As stated, the FOP would accept that offer. (FOP Exhibit #122)

- Longevity (included in FOP Section Q)

The FOP is proposing an increase in the longevity amounts received by correction officers. Sergeants and superior officers working in the same facility receive a greater longevity amount than the rank and file correction officers.

(FOP Exhibit # 127B)

- Rationale: Comparability with other correction sergeants and superior officers in same facility. (FOP Exhibits 128B & 128C) This increase would be part of a package to improve the overall compensation for officers as well as to act as an incentive for officers to remain in the employ of the County.

- Shift Differential (Included in FOP Section Q)

Correction officers are on duty 24/7. They work three shifts to cover these hours. The FOP is proposing that shift differentials be paid to officers working the following shifts or any parts thereof:

0730 hrs – 1530 hrs - \$1,250 per year

1530 hrs – 2330 hrs - \$2,750 per year

- Rationale: During the negotiations and mediation sessions, the County continually denied that any other group of employees in the County received a shift differential and stated that was the reason the County rejected the FOP's proposal for shift differential pay. The FOP in its presentation showed that the County's assertion that no other group received shift differential was completely and blatantly false. In fact every other group of employees in the County who work shifts receives a shift differential. The correction officers are the ONLY group of employees who do not. (FOP Exhibit 129A) In addition, shift differential is not unusual in the surrounding ten southern counties. (FOP Exhibit #129A) The few counties that do not have a shift differential pay significantly higher salaries than Atlantic County.

- Pay for Sick Leave on Retirement (FOP Section R)

- The FOP is proposing an improvement in the pay for sick leave upon retirement. It is proposing that they receive pay for 100% of

the days at the employee's per diem rate at the time of retirement up to a maximum of \$15,000. The current rate is 50% of the days up to a maximum of \$12,000.

- Rationale:

- Atlantic County ranks 8th lowest out of the ten southern counties use for comparison purposes. (FOP Exhibit #130)
- The Sergeants and superior officers in the same facility as the rank and file correction officers receive higher pay for sick leave on their retirement.
Sergeants – 50% of days up to \$17,000 and the SOA – 100% of days up to \$16,000 (FOP Exhibits #130B and #130C)
- PBA 243 in its last negotiations with the County increased its pay for sick leave on retirement to 100% of days up to a maximum of \$16,000.
- As such, the FOP's proposal is actually less than the benefit received by the other groups.

ATLANTIC COUNTY

A. Duration: January 1, 2007, through December 31, 2010.

B. Article IV (Overtime)

1. Holidays would be paid at straight time coupled with the FOP agreement to delete Section H of Article IX
2. Revise §H:

"An officer shall have the option to refuse mandatory overtime two (2x) times per calendar year without being subject to disciplinary action. This provision shall not apply in emergent situations and whether a situation is deemed emergent shall be determined by the shift commander. The right of overtime refusal shall not take place on any of the thirteen (13) recognized holidays nor on Superbowl Sunday. This refusal privilege shall be limited to one (1) officer per shift and in the event of multiple requests, seniority shall prevail. An officer shall assume individual responsibility for making sure he/she does not exceed the requisite limits. If

an officer exceeds the limits, then the officer shall be subject to discipline.

C. County agrees to comp time language clarification in §I.

C. Article V (Wages)

1. See attached proposal as to salary guide.
2. County agrees to a \$500.00 stipend for SERT Team, effective January 1, 2009.
3. Elimination of §D – Hazardous pay, effective January 1, 2009.

D. Article VI (Uniforms)

The County agrees to increase the uniform allowance in §B by \$100.00, effective 2009.

E. Article VII (Health Benefits at Retirement)

Revise §B as follows:

“Retirement is currently defined in accordance with N.J.S.A. 40A:10-23 as having twenty-five (25) years or more of service credit in the State Pension Plan and a period of full time service of twenty-five (25) years in Atlantic County at the time of retirement or upon reaching the age of 62 or older and having at least 15 years of service with Atlantic County.”

F. Article VIII (Holidays)

Eliminate time and one-half (1 1/2x) payment for holidays and reduce to straight time payment, effective January 1, 2009.

G. Article IX (Vacation)

Delete §H in its entirety.

H. Article XXII (Miscellaneous)

The County is willing to accept the Union’s proposal.

I. All other items that were tentatively agreed upon previously.

PROPOSED SALARY GUIDE

Steps	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
1	\$29,500	\$30,000	\$31,350	\$31,850
2	\$31,500	\$32,000	\$33,350	\$33,850
3	\$32,050	\$32,600	\$33,950	\$34,500
4	\$34,050	\$34,600	\$35,950	\$36,500
5	\$38,100	\$38,700	\$40,050	\$40,650
6	\$42,700	\$43,400	\$44,750	\$45,450
7	\$49,700	\$50,500	\$51,850	\$52,650
8	\$57,000	\$59,280	\$61,721	\$64,190

POSITIONS OF THE PARTIES

For the FOP

The FOP argues that,

"There can be no comparison of the job function and responsibility of a Correction Officer to a Public Works employee, secretary or any other County employee, including any other law enforcement group. No other County employee is locked up basically held captive along with those he is responsible for guarding. He/she is the only law enforcement officer in the County not wearing a firearm to protect himself/herself during his/her day of work while also wondering each day whether or not an inmate will attack him/her or if he/she will return home to his/her home and family. No other County employee is required to work overtime on a continual basis with only one (1) opportunity in a five (5) year period to deny the overtime. No other County employee, except law enforcement officers, must wear a bullet proof vest during his/her work day. No other County employee has to deal with the life threatening situation that a Correction Officer encounters and faces each day and in a confined work location. No other County employee is exposed to the vast number of unknown diseases that Correction Officers can be exposed to during the normal work day. Finally, no other County department must provide services each and every day of the year, 24/7, without exception, which results in changes in the Officers' work shifts and hours, thus causing instability in the Officers' personal life, as does the County Justice Facility."

The FOP strongly contends that Atlantic County is fairly unique in the fact that its Justice Facility is extremely overcrowded and is lacking adequate staff.

They agree that Atlantic County may not be the wealthiest in the State, but its economic status, as a result of prudent management of money and grants, allows it to provide a much more substantial salary and benefits package to its Correction Officers than it has in the past or currently proposes.

Furthermore, the FOP argues that the comparability exhibits presented clearly show that the salaries paid to the Correction Officers in Atlantic County are amongst the lowest in the State, and not just by a small amount. Moreover, the FOP strongly contends that there is no question that additional staffing is needed and refers to specific reports that had been submitted in 2004 showing that the staffing population had to be increased. Additionally, while the inmate population has increased, the staffing population has not increased at the level to adequately take care of the increased number of inmates.

The FOP also contends that the County, in prior years and currently, has the financial ability to fund the salary and compensation increases as they requested, and most importantly, the County is well aware that the Correction Officers are amongst the lowest paid in the South Jersey area.

The FOP is confident that after giving consideration and appropriate weight to all the statutory criteria, especially in the areas of comparability of total salary and benefit packages and the economic status of the County, both past and present, of its ability to pay, the Arbitrator will sustain the FOP's economic positions.

The demographics of Atlantic County show that it has a year-round population of approximately 270,644 (July 1, 2007) which is a 7.2% increase

since 2002. It encompasses 561 square miles. The average median value of a single family home is \$122,000.00. As previously indicated, while Atlantic County may not be the wealthiest County in the State, it is also not the poorest. The net valuation in the County in 2007 was \$31,428,365,455.00 which was a 73% increase over 1998. Out of the ten southern New Jersey counties, Atlantic County ranked third highest in State equalized value. Additionally, the per capita income for Atlantic County in 2006 of \$35,480.00 ranked 19th of 21 counties. Equalized tax rates have steadily decreased each year from 2002 through 2006. It again decreased in 2007 and 2008, in which year the rate was the lowest tax rate in Atlantic County's history.

The FOP argues that the Gerard L. Gormley Justice Facility opened in 1985 and was built to house 398 inmates. The FOP strongly argues that on a daily basis the average number of inmates exceeds 1000 and is closer to 1200. (FOP Exh. 31).

A comparison of the total crime rate per 1000 residents in 2006 placed Atlantic County third highest in the ten (10) southern counties, and it also ranked third highest in the ten southern counties with a violent crime rate for 2006.

The FOP contends that:

"Any increase in the crime rates in Atlantic County has a direct bearing and impact on the number of inmates housed at the correctional facility and on the workload and safety of the Correction Officers."

From December of 2005 through December 2006, the inmate population at the facility averaged 1362 inmates per day which is in excess of the rated capacity of 797. (The size of the Facility was increased since it opened in 1985).

The FOP argues that the average number of new commitments per day is 29.9 inmates which equates to about 11,000 new commitments per year.

Atlantic County had the distinction of ranking number 1 in 2005 with the highest inmate to officer ratio in the ten southern counties, that being 9.16 inmates to one officer. (FOP Exh. 52).

In October 2004 a staff and evaluation study of the jail facility was conducted by the County with the findings stating that 202 Correction Officers were necessary. (FOP Exhs. 53 and 54).

The FOP argues that comparisons with its Exhibits 55, 62, 64 and 65 clearly show that the overcrowding problem at the jail has been publicized in the media and that Atlantic County still maintains a very high inmate to officer ratio as compared to the ten (10) southern counties.

The FOP also contends that the one large difference between Atlantic County and the other ten surrounding counties is the comparisons of salaries paid to the Correction Officers. *"While other counties in southern New Jersey are not the wealthiest in the State, while their Correction Officers have to deal with crime rates the same as or lower than those in Atlantic County, there is a huge disparity between salary and compensation paid to the Correction Officers in comparable facilities as compared to the salaries and compensation paid to the Correction Officers in Atlantic County."*

The FOP argues that its base wage proposal has not been addressed properly by the County. The FOP argues that during the mediation and formal interest arbitration hearings, the settlement made by the County with PBA 243

(Sheriff's officers) was consistently and continually addressed. The FOP contends that the recommended settlement by Arbitrator Glasson (Docket No.: IA-2006-026) clearly establishes that the settlement was higher than 4% as alleged by the County. That settlement included a \$2,000 step adjustment for giving up hospital duties, with such duties being assigned to the Correction Officers, as well as a \$1,250 retention adjustment, which is above a 4% settlement.

The FOP argues that its salary proposal will continue to maintain the historical differential between the salaries of both groups. That historical differential from 2003 through 2005 was 5.8%, yet when the County concluded its negotiations with PBA 243, that differential became 10.57%. (see FOP Ex. 116)

The FOP argues that the County never stated that granting its salary proposals would force the County to exceed its cap or that any statute would preclude the increases sought, especially in light of the fact that the instant matter is retroactive to January of 2007. Through its document presentation and the uncontroverted testimony of Dr. Ralph Caprio, its financial expert, the FOP clearly established the ability of the County to fund the increases sought by the FOP in 2007 and 2008 without having any adverse impact on the taxpayers of Atlantic County.

Supporting documentation for Dr. Caprio's testimony was found in the Supplemental Financial Data Binder presented at the arbitration hearing. The FOP argues that Dr. Caprio's testimony and documentation were not credibly contradicted by the County's witness, Ms. Jane Lugo, County Treasurer/CFO.

Most importantly, when one looks at the County's ability to pay and the impact on the taxpayer, one must look at the last few years of the County's financial condition. Due to intelligent planning, the County was able to have no increase in the tax rate for eight straight years but was actually able to decrease the tax rate in each of those years from the prior years. In addition, the surplus in the County's budget has continually grown over the past five years. In 2004, the surplus was \$14.3 million (FOP Exh. 153). By 2008 it increased to over \$20 million (FOP Exh. 159). The FOP contends that this factor is significant as the cost of its salary and compensation proposal can easily be met by using part of ~~this surplus if necessary.~~

More importantly, the FOP argues that, *"Any County that has a tax rate that decreases for eight straight years and maintains more than an ample surplus in its budget is doing something right and obviously has the capability to fund the FOP proposals without any adverse impact upon the taxpayer. In fact, the County had its chance to substantiate any ability to pay argument and failed to do so. Following Dr. Caprio's testimony and presentation of this financial binder, the County offered no credible evidence to support a claim of an inability to pay."*

The 2009 budget was not completed prior to the last day of hearing, and the only testimony given by Ms. Lugo was speculative and without foundation as a budget had not yet been prepared. While the impact of the current economic situation was brought up, the impact of that did not stop the County's granting of pay increases to other unionized County employees all in the area of at least 4%

along with other additional compensations. Moreover, these increases were based on much higher salaries than those paid to Correction Officers.

The Supplemental Financial Analysis of the 2000 budget as prepared by Dr. Caprio addresses the criteria and was attached to the FOP's documentation as Attachment B. The FOP argues that the Arbitrator must consider the cost of living in rendering a fair and reasonable Award. The FOP recognizes and agrees that the cost of living is a factor in determining wage increases. The federal government granted social security recipients a 5.8% cost of living increase for 2009. (FOP Exh. Section BB). The Consumer Price Index is the most widely recognized barometer of increases in the cost of living, and the FOP is well aware of the fact that the cost of living increase in 2005 and 2006 was 3.9% in each year and 2.2% in 2007. From June of 2007 through June of 2008, the increase was over 5%. (FOP Exh. 143). However, this sole factor has not played a significant role in wage increases in Atlantic County or surrounding counties in the State of New Jersey. With the exception of very few ,if any, wage increases for law enforcement officers, whether they be reached voluntarily or as a result of an arbitration award, have exceeded the average increase in the cost of living over these years.

The FOP argues that a pattern bargaining exists relative to the differential between PBA 243 and the FOP and should be maintained. The FOP contends that the settlements that the County has referred to with other bargaining units were agreed upon subsequent to the FOP's agreement which is before the Arbitrator. *"The County simply claims that because other Unions in the County*

accept the particular salary increases, the Correction Officers represented by the FOP must also accept those exact same salary increases for past years, as well as prospectively."

The FOP argues that the County will attempt to persuade the Arbitrator that a pattern of settlements actually exists and that there is no reason for that pattern to be broken for the Correction Officers. However, documentation submitted by the PBA and in particular Section M of its binder, which has been referenced as Exhibits 112-121, establish that there has been a historically consistent differential between the maximum salaries of PBA 243 and FOP 34. To that extent, FOP Exh. 112 shows that from 2003 to 2005, the average differential was 5.87%. The FOP argues that the salary differential between its proposed maximum salaries (2007-2010) shows that the average, using PBA 243's maximum salary, would have an average increase of a ten year period (2003-2010) of 5.08%. That Exhibit (FOP 113) shows that the FOP extended the PBA contract out from 2009 to 2010 assuming a 4% increase on the maximum salary. The PBA takes that position because that is the position the County has offered on the top step for FOP 34 in 2007-2010.

The FOP's proposal includes the \$1,350 hazardous duty roll in. The FOP argues that to continue with that differential is the basis for their salary proposal. There has been nothing offered by the County as to why the differential should be eliminated. The FOP's salaries would maintain the 5.87% average differential in comparing the top step of PBA 243 and FOP 34.

The County's proposal to maintain the differential between PBA 243 and FOP 34 would change the average differential from 2006-2010 to 10.57% and would increase the average differential from 2002-2005 by 4.7%. Furthermore, the differential would increase significantly and distort the pattern of bargaining.

The FOP argues that the Arbitrator must be cognizant of the fact that PBA 243 members accepted a \$2,000 step adjustment in addition to other wages to actually perform less work while that work was unilaterally transferred to the FOP for additional compensation. The FOP asks, where is the pattern? PBA 243 accepted an alleged 4% raise (the facts show that it was at least a 10% raise) plus pay for giving up work plus an equity adjustment, while members of FOP 34 are told they are not entitled to at least the same.

The FOP argues that years 2007 and 2008 must be viewed in light of the times that those increases were due, as well as the financial condition of the County during those years when the salary and compensation increases were due. *"The wage increase to be granted to Correction Officers under the 2007-2010 or 2011 Agreement must be determined based upon the past and current economic conditions of the County and its ability to pay."*

Additional information found in Dr. Caprio's financial binder is set forth below:

Exhibit 10 – The average property tax paid in 2007 in Atlantic County is \$4,437.00, ranking 18 out of 21 counties. *"Atlantic County continues to be a relatively low tax county."*

Exhibit 12 - The change in the equalized value of ratables from 2003-2008. It shows that *“Atlantic County added \$1,516,631,821 in equalized property tax ratables since 2003. That equates to a 125.70 growth in ratables which shows a robust activity in investment.”*

Exhibit 14 - The rank of the percent increase in ratables from 2003-2008. It shows that *“Atlantic County ranked second state-wide in the proportional growth of real property valued between 2003 and 2008, exceeded only by Cape May County. (As measured by percent of growth in their ratable base).”*

As a percentage of the property value state-wide, Atlantic grew from 3.37% of the State total to 4.16% of the State total, or a 24% increase in just four years. This continually re-enforces that Atlantic County has a stable and growing property base on which County government is based.”

Exhibit 19 – The rank and the percent of each county's tax levy to be allocated for county government shows that *“Atlantic County's allocation of property taxes for county government ranks 18th among New Jersey counties.”*

Exhibit 20 shows the average gross and effective tax rates in 2007, showing the rank of each County and the effective rate. *“The effective rate for Atlantic County is 1.800 with a rank of 15. That shows that Atlantic County is also a relatively low tax county when assessed against the average equalized or effective tax rates of all municipalities state-wide.”*

Exhibit 22 shows the miscellaneous revenue as a component to the County budget and reveals that *“Atlantic County has demonstrated a prudent pattern of underestimating miscellaneous revenue between 2004 and 2007.”*

Excess and resource average is more than \$5.6 million annually. As a percent of anticipated miscellaneous revenues, Atlantic County tends to underestimate revenues by approximately 9%. (Source AFS 2004-2007, sheet 17)."

Exhibit 24 shows the additional revenue and resources for Atlantic County. That Exhibit shows that *"Atlantic County cancels on average annually more than \$200,000 of current appropriations. Atlantic County regularly cancels prior fiscal year appropriations of approximately \$2 million; this practice enables flexibility as the appropriations are already part of the CAP appropriations, but tax resources not used.*

Atlantic County receives annually more than \$2.5 million in non-budgeted revenue. On average, Atlantic County replenishes more than \$10.4 million to the surplus annually."

Exhibit 27 shows that Corrections is a revenue-generating unit providing services to the State of New Jersey. In 2007, *"Atlantic County anticipated receiving \$2,423,000 from the State of New Jersey and in reality received \$3,324,301 or \$901,301.00 in excess over estimated revenue. For 2008, Atlantic County anticipates receiving revenue from the State of \$2,466,600 and is projected to receive \$3,000,000 which would be an excess overestimated revenue of \$533,400.00."*

Exhibit 30 shows that *"approximately \$20 million is available within existing County financial resources and approximately \$2.5 million is available with an existing but unused appropriation. Even if nothing were available, the*

estimated cost differential between fully funding the FOP's request would be less than \$2.00 per year per homeowner."

STATUTORY CRITERIA

A. The Interest and Welfare of the Public

The FOP contends that well-compensated Correction Officers enhance the interest and welfare of the public. That interest is well-served by the maintenance of an experienced, well-trained, professional force of Correction Officers, which as a result of high morale is motivated to continue the productive performance for the various activities routinely performed by Correction Officers. ~~Morale and a commitment to the dedicated performance of these unique~~ responsibilities is dependent upon a recognition by officers that there is a reasonable correlation between their working conditions and salaries and the working conditions and salaries of other Correction Officers in comparable counties.

When considering the interests and welfare of the public, consideration must be paid to the overall impact of the FOP's proposals on other governmental functions. Carefully reviewing the economic data presented by the FOP on the financial condition of the County in each of the prior years as well as the documentation presented and testified to by Dr. Caprio shows that the wage and non-economic proposals presented by the FOP would have no adverse affect on the interests and welfare of the public.

Most importantly, the fact that the County never claimed that it was unable to fund the FOP's proposals for the prior years, as well as the future years, is in

itself evidence of the County's ability to pay. Moreover, the FOP realizes, *"While an award in this case must give due weight to the interest of the taxpayer, but also mandates that the interest of the public does not automatically equate with the County's offer. The offer presented by the FOP encompasses both fiscal responsibility and a compensation package required to maintain high productivity and high morale within the Correction Officer's ranks."*

B. Comparison of Wages.

1. Comparison with Employees in Public Employment in the Same Jurisdiction. The FOP contends that, *"No other employment in Atlantic County can compare to the job responsibilities and conditions of employment to the Correction Officers, and therefore, the compensation packages offered to the Correction Officers must be different from the other employees in the County. While each job has its function, one cannot honestly compare a secretary's responsibilities and work environment to that of a Correction Officer."*

The FOP argues that the settlements with other law enforcement groups that allegedly have been reached subsequent to the FOP's hearing provide for substantial salary increases and improvement in compensation packages that were already above those received by Correction Officers. In addition, the County failed to bring forth any documentation as to how these other employees' wages compare with the same jobs in surrounding counties. The FOP clearly showed that the County's financial condition, both past and present, was, and is, extremely sound.

2. Comparison with Similar Public Employees in Similar Jurisdictions.

The FOP contends that the documents in evidence clearly establish that Correction Officers in Atlantic County receive a significantly lower wage and benefit package than Correction Officers in the ten southern surrounding counties. In addition, *"The jail in Atlantic County is overcrowded and understaffed unlike the jails in other counties."*

3. The documentation submitted by the FOP as well as the argument in its brief related to wages, *"Substantiates its position that its wage proposal is as fair as compared to wage increases granted in the private sector. This is especially noteworthy based on the fact that wages in the private sector in many cases exceed that paid to Correction Officers in Atlantic County. In addition, no private sector job in any way can be compared to the job and working conditions of the Correction Officers in Atlantic County."*

C. The Overall Compensation Presently Received by the Employees.

The FOP strenuously contends that the overall compensation package for Correction Officers in Atlantic County cannot even be compared to compensation packages received by other Correction Officers in the ten surrounding counties. The jail is severely overcrowded and there is a dire need to increase the staffing levels. The wages paid to the Correction Officers without doubt are one of the lowest paid in the ten surrounding counties. The FOP wage and compensation proposals would not even bring the Officers' wages up to the average, but at least it will be a beginning of a small improvement. The County's wage proposal coupled with its other proposals would guarantee that Correction Officers in

Atlantic County would continue to receive the lowest compensation package in the ten surrounding counties. (See Sections I-M of the FOP's presentation binder).

D. Stipulation of the Parties

With the exception of the understanding that all prior agreements would be included in the successor agreement, no formal stipulations were made part of the record.

E. The Lawful Authority of the Employer

The FOP argues that when considering the lawful authority of the Employer, they are cognizant of the fact that the budget is governed by the CAP law, and under that law the amount that the annual budget does increase is constrained. Increases in the annual tax levy are limited to 4%. The legislation does not, however, set limits on how much or how little each specific line item can be increased or decreased. Only the total budget increase and impact on the taxes are considered. There are no elements of the issues in dispute where this criterion is called into question.

More importantly, this particular criterion was addressed and documented by Dr. Caprio at the formal hearing, and his analysis of the 2009 budget *"establishes that Atlantic County has had and still has a healthy financial condition and that there is no indication that this health will not continue into the future."* The County itself cannot argue any inability to fund the FOP's proposals based on any laws. It is significant to note that *"Atlantic County has gone for eight years not only without an increase in the tax rate, but a decrease in that*

rate in addition to carrying forward very healthy surpluses each year for the past eight years."

The FOP contends that based on the County's budget and the financial analysis conducted by Dr. Caprio, *"The County has a lawful authority to implement the FOP's final offer and the CAP law presents no impediment to awarding the FOP's proposals."*

F. Financial Impact on the Governing Unit, Its Residents and Its Taxpayers.

The FOP emphasizes, *"The County's key indicators of fiscal performance are uniformly positive, underscoring that the County has been able to easily live within its CAP limitations without difficulty while maintaining a politically attractive taxing and spending pattern. The financial analysis done by Dr. Caprio makes it abundantly clear that the FOP's proposals can be readily accommodated without any undue burden on the taxpayers."*

F. Cost of Living

The Arbitrator is required to consider the cost of living in deciding his Award. It is recognized and agreed that the cost of living is a factor in determining wage increases. The FOP submits that this factor is not the sole factor to be considered when determining a fair and equitable wage increase for the Correction Officers. The entire economic picture, as well as the Officers' current compensation package, must be considered. The FOP argues that through its documentation it has clearly shown that irrespective of the cost of living, wage increases significantly higher than the cost of living have been

voluntarily agreed upon outside as well as inside the County, as well as being awarded as part of an Arbitration Award, and that wage increases exceeding the cost of living are being given in both the public and private sectors. While consideration must be given to the cost of living, the FOP submits that the consideration is given keeping in mind the inconsequential role the CPI has played in determination of wage increases.

G. Continuity and Stability of Employment

The FOP contends that the implementation of its proposals would actually foster the continuity and stability of employment for a Correction Officer in Atlantic County. The factors to be considered always encompass concepts of area standards and prevailing rates. Both factors weigh heavily in favor of the FOP's proposals, particularly within the jail where there is a higher than average turnover rate due to the low compensation level and poor working conditions which are responsible for current instability and future instability if continued.

The issues in dispute, while identified separately, do not exist in a vacuum. *"They are components of an overall compensation package and there is an inherent inter-relationship between and among the issues. As stated earlier, testimony shows that officers have left the jail due to extremely low pay and poor working conditions. No respectful law enforcement agency would like to see its officers abandon their jobs and seek employment elsewhere based on their working conditions and overall compensation packages.*

In sum, this criteria weighs greatly in favor of the FOP. For the continuity and stability of employment, the FOP proposals are in concert with maintaining a

well-trained force whose officers receive a fair and commensurate compensation package for the job they perform.”

H. Statutory Restrictions on Employers

The FOP submits, “The financial analysis of the County’s financial ability to pay and the impact it has on the taxpayers it has represented, clearly shows that the cost to fund the FOP’s proposals would not have any negative impact on the Employer nor be contrary to any statutory limitation or restriction. Nothing in the record even remotely suggests that an award in favor of the FOP would affect limitations imposed on the County by N.J.S.A. 40A:4-45.1 commonly known as the CAP law.

Within this statutory and budgetary framework, the record clearly establishes that the County has been able for many years to generate substantial fund balance, a portion of which has been appropriated into the ensuing year’s budget, thereby reducing the amount required to be raised in taxes. Even in the current economic climate, the County still continued to follow this model for 2009. Even if the award results in an additional expenditure by the County beyond the County’s offer or budget this additional expenditure will not cause the County to exceed its authority under N.J.S.A. 40A:4-45.4, given the approximate \$14 million fund balance from 2008. In addition, the County was below its 4% tax levy CAP for 2009.”

ATLANTIC COUNTY

1. Both the County and FOP Lodge 34 are proposing a four (4) year contract for the period of January 1, 2007, through December 31, 2010.
2. The County proposes that Article VIII (A) – Holidays - be revised to provide that holidays be paid at straight time as opposed to time and a half. This proposal coincides with the County's proposal to delete Article IX, Section 8 which relates to vacations and Section 8 reads as follows:

"If an Officer has medical documentation of a family member or themselves being sick, they can use the vacation and compensatory time in lieu of sick time."

The County and FOP Lodge 34 have agreed to revise Section A of Article IV – Overtime, which would read as follows:

"The Officer shall have the option of compensatory time in lieu of overtime pay at the same rate (1½ times). All use of compensatory time must be requested and approved a minimum of forty-eight (48) hours in advance. Compensatory time may be used in lieu of sick time at the employee's discretion, provided that the employee signifies his or her intention to utilize comp time at the time of call-in, otherwise the day off will be charged as sick time."

The County argues that their agreement to revise Article IV, Section A was in conjunction with its proposal to delete Section H of Article IX. The County contends that there has been a pattern of Officers using compensatory and/or vacation time instead of sick time, thus allowing Officers to build up their sick leave bank. Since Officers are paid for accumulated sick leave at the time of retirement, this has proven quite costly to the County. The new language agreed to by the parties with regard to Article IV – Overtime, is inconsistent with Article

IX, Section H thus, as a matter of housekeeping, the County's proposal to delete Article IX, Section H should be granted.

3. The County is proposing that holidays be paid as straight time as opposed to the overtime rate of one and one half (1.5) times straight time. The County contends that the norm with regard to holiday pay is to pay an employee if they actually worked the holiday. Currently, FOP Local 34 members are paid time and one half (1.5) for holidays when they are not even working the holiday in question. The County argues there is no basis for such a windfall, and it is respectfully submitted that in these very difficult economic benefits like this cannot and should not be justified.

4. The County contends that a review of the collective bargaining agreements covering other Atlantic County employees reveals that the only other employees paid time and one half (1.5) for holidays are the Correction Superiors and Correction Sergeants represented by FOP Lodge 112. All other unionized Atlantic County employees are paid straight-time for holidays, including PBA Local 243 which is consistently referenced as a comparison by FOP Lodge 34. Furthermore, a review of the collective bargaining agreements covering Correction Officers, as well as Officers of the respective Prosecutors' Offices in other counties also supports the County's position with regard to holiday pay. In all agreement submitted as comparables in the matter of holiday pay, the Correction Officers received straight time for holidays.

5. The FOP Lodge 34's overtime proposal creating a new Section H in Article IV is something that the County agrees with conceptually. However, the

County has added reasonable conditions to the FOP's proposal in order to clarify the language and to protect the County's managerial prerogatives. Therefore, the County proposes that Article IV, Section H be revised as follows:

"An Officer shall have the option to refuse mandatory overtime two times (2x) per calendar year without being subject to disciplinary action. This provision shall not apply in emergent situations and whether a situation is deemed emergent shall be determined by the Shift Commander. The right of overtime refusal shall not take place on any of the thirteen (13) recognized holidays nor on Superbowl Sunday. This refusal privilege shall be limited to one (1) Officer per shift and in the event of multiple requests, seniority shall prevail. An Officer shall assume individual responsibility for making sure s/he does not exceed the requisite limits. If an Officer exceeds the limits, then the Officer shall be subject to discipline."

The County argues that prohibiting the privilege of overtime refusal from being exercised on holidays and/or Superbowl Sunday is necessary to ensure sufficient staffing on those days when everyone wants to be off. The County recognizes the fact that Officers would like to have those particular days off; however, the County's operation is a 24 hours a day, seven days a week operation and staff must be available on those days. This is an inherent part of the position of Correction Officers, and they were aware of this when they opted to pursue employment as Correction Officers. Given the nature of the position advanced by the County and the need to have the facility staffed, the County argues that their position is not unreasonable and is more than fair.

The County also proposes that Section G of Article IV be changed as follows:

"G. Officers will be allowed to accumulate a maximum of 240 hours of compensatory time. Unused compensatory time shall be carried forward. Officers will receive overtime pay for all overtime hours worked after accumulating 240 hours."

6. The County's wage proposal includes the following proposed Salary guide:

Steps	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
1	\$29,500	\$30,000	\$31,350	\$31,850
2	\$31,500	\$32,000	\$33,350	\$33,850
3	\$32,050	\$32,600	\$33,950	\$34,500
4	\$34,050	\$34,600	\$33,950	\$36,500
5	\$38,100	\$38,700	\$40,050	\$40,650
6	\$42,700	\$43,400	\$44,750	\$45,450
7	\$49,700	\$50,500	\$51,850	\$52,650
8	\$57,000	\$59,280	\$61,721	\$64,190

The County strenuously argues that this proposal will produce a dollar increase in 2007 of \$2,600 for Officers at the maximum step of the Guide which is equivalent to a 4.8% increase. In 2008, an Officer at the maximum step will receive \$2,280 which equates to a 4% increase. In 2009, the Officer at the top step will receive a dollar increase of \$2,441, which equates to a 4.1% increase. In 2010, the County's proposal will produce a \$2,469 increase for those Officers at the top of the Salary guide or a 4% increase.

The County contends that its proposed raises over the four year period is \$9,790 for step 8 Officers, thereby raising the top step Officer's salary from \$54,400 in 2006 to \$64,190 by the end of the contract in 2010 for a total percentage increase of 18% over four (4) years or an annual percentage increase of 4.5% per year. Moreover, these increases do not include other proposed increases in benefits such as the addition of a SERT Team stipend, increased uniform allowance, and the like. The County argues that in the current

economic climate an average raise of 4.5% per year is more than fair and generous.

The County argues that if one takes into account the compounding effect for the final three years of the Agreement, its true salary proposals for those at the top step of the Guide are as follows:

2007	4.8%
2008	4.2%
2009	4.5%
2010	5%

The County argues that the parties discussed adding an additional step to the Salary guide. The County's proposal includes an additional step to the Salary guide and that those Officers on step 6 as of December 31, 2006, who are on the payroll as of the date of the Interest Arbitration Award, will advance two (2) steps as of January 1, 2007, to step 8 because those Officers on step 6 would have reached the maximum step on the Guide in 2007, but for the addition of the extra step. The remaining Officers will advance one (1) step as is normal under the County's proposal.

The County argues that its salary offer would cost the County an additional \$1,833,476 compared to the salary costs of FOP Lodge 34's proposal of \$3,360,890 over the four year term of the Agreement. The County also argues that the cost of the step increases alone under FOP Lodge 34's proposals are almost twice as much as the cost of the County's proposed step increases. The County contends that when one reviews the step increases, the actual percentage increase over the base salary as of December 31, 2006 (\$54,400) is:

2007	6.03%
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2008	2.61%
2009	4.57%
2010	4.95%

The County argues that they simply cannot afford the outrageous salary proposals being put forth by FOP Lodge 34. If the Arbitrator were to award FOP Lodge 34's demands, the County would have to come up with significantly greater new funding to pay for these increases, which will, most likely, be tax increases on the already burdened residents, as well as layoffs and other employment actions due to the County's budget cap and tax cap levy.

7. With respect to Article V, the County proposes an addition of a \$500 stipend for the SERT Team (Special Emergency Response Team) effective January 1, 2009. In any given year there are approximately eleven (11) Correction Officers assigned to the SERT Team, which would result in an additional cost to the County of \$5,550.

The County contends that its willingness to acknowledge the time and effort expended by Officers assigned to the SERT Team and provide the SERT Team stipend reflects the County's fair-minded approach to negotiations.

8. The County's final proposal with regard to Article V – Wages, is the elimination of Section D which relates to hazardous duty pay, effective January 1, 2009. Both parties have agreed to roll the hazardous duty pay of \$1,350 into the base salaries of the Officers. The only issue in contention is the timing of said rolling. The County suggests that the roll-in pay be awarded as of January 1, 2009, as opposed to the FOP Lodge 34's proposal to roll that amount into the 2007 salaries. The County argues that since the 2007 and 2008 hazardous duty

pay has already been paid to the Officers, its makes sense to roll it into 2009, which is the more logical and efficient way to proceed.

9. With regard to Article VI – Uniforms, the County is proposing that the uniform allowance in Section B be increased by \$100, effective 2009.

10. With regard to Article VII – Medical Benefits and Workers' Compensation, the County is proposing a revision to this section as follows:

"Retirement is currently defined in accordance with N.J.S.A. 40A:10-23 as having twenty-five (25) years or more of service credit in the State Pension Fund and a period of full-time service of twenty-five (25) years in Atlantic County at the time of retirement or upon reaching the age of 62 or older and having at least fifteen (15) years of service with Atlantic County."

The current provision states:

"Retirement is defined in accordance with N.J.S.A. 40A:10-23 as having twenty-five (25) years or more of service credit in the State Pension Plan or upon reaching the age of sixty-two (62) years or older and having at least fifteen (15) years of service credit with Atlantic County."

The County argues that under the existing language, a retiring employee is entitled to retiree health benefits if he or she has twenty-five (25) years of service credit in the State Pension Plan. The County's proposal would also require the employee to have twenty-five (25) years of service with the County in order to be entitled to retiree health benefits. The statute specified above clearly gives the County/Employer discretion to require up to twenty-five (25) years of service with the Employer at the time of retirement as a condition for payment by the Employer for retiree health coverage benefits.

The County's proposal is quite clearly within the parameters of the statute and the current economic climate where salaries and benefits of public

employees, particularly retiree benefits such as those at issue here, are subject to public scrutiny and criticism, the provision of retiree health benefits at all is extremely generous. The current provision requires payment for retiree health benefits for three (3) years after retirement.

The County argues that reviewing the collective negotiation agreements between Atlantic County and other bargaining units shows that every agreement includes language similar to that being proposed by the County here and explicitly requires a retiree to have twenty-five (25) years of service with the County of Atlantic in order to be entitled to retiree health benefits.

~~The County reviewed agreements between CWA Local 1040, JNESO, the Sheriff's Superiors, United Workers, AFSCME, PBA Local 243, FOP Lodge 12 and various Teamster units. The County contends that the consistent approach by FOP Lodge 34 in comparing itself to PBA Local 243 is further support of its position that the language concerning retiree health benefits must be modified.~~

The County argues that based on the scattergram that was in effect as of December 31, 2006, by the end of a four year agreement, 141 out of 176 Officers will be at the top step of the Salary guide. The County contends that in these tough economic times, the actual raises that these Officers will receive are more than fair and generous.

The County contends its proposal would allow FOP Lodge 34 members to remain in relative standing to that of comparable jurisdictions. The County states that documents submitted by FOP Lodge 34 show that the top salary in Salem County is \$44,824 while in Monmouth County it is \$78,967, as of December 31,

2006. Clearly, the County argues that the salary of FOP Lodge 34 members falls within this range. In fact, taking into account the analysis that FOP Lodge 34 draws with respect to various comparability's, the \$54,400 December 31, 2006, top salary compares quite favorably with the southern New Jersey counties falling on the higher end of those counties.

The County contends that it, like all of the State of New Jersey and the Nation, are facing and struggling with an economic crisis the likes of which we have not seen since the Great Depression. The County argues that a November 20, 2008, article in the Press of Atlantic City shows that the casino earnings are tumbling and the gross operating profits plummeted to 23% in a traditionally strong quarter. The casino industry is the cornerstone of the economy in Atlantic City and Atlantic County and the substantial fall in revenues in that industry is indicative of the dire economic situation facing the County during these extremely difficult economic times. Since that article was written, the situation has only gotten worse in Atlantic City, the County and the State with unemployment now over eight percent (8%).

Additionally, the County established a voluntary furlough program which was implemented to avoid cutting as many as 100 jobs. That voluntary furlough program does in fact reflect the very difficult economic situation facing the County, and they argue that their salary offer is more than fair and generous.

11. With regard to Article XVIII, Section D – Shank Proof Vests, the County agrees to provide clean and sanitized vest inserts for all Officers. Vest inserts shall be replaced at no cost to the Officers in accordance with the

manufacturer's specification or for some reason the inserts are deemed to defective. New employees will receive \$100 to purchase two (2) new vest carriers. In subsequent years, employees shall be responsible for replacing vest carriers through the uniform allowance.

12. The County agrees to the sole non-economic issue presented by FOP Lodge 34 concerning Article XXXII – Miscellaneous. The FOP has proposed that addition of a new section entitled Continuation of Benefits, and accordingly, the County agrees to accept that proposal.

STATUTORY CRITERIA

A. Interest and the Welfare of the Public

The County argues that it has clearly shown throughout the arbitration process the significant limitations placed upon it by the provision of N.J.S.A. 40A:4-4.5.1, et. seq. and the sheer economics of scale that make its proposals much more reasonable and fair.

B. Comparison of the Wages, Salaries, Hours and Conditions of Employment

The County argues that it has shown under the provisions of N.J.S.A. 19:16-5.14(d) that its exhibits meet the comparisons much more readily than FOP Lodge 34 and in fact the comparables submitted by FOP Lodge 34 support the County's proposals more so than that of FOP Lodge 34.

C. Overall Compensation

The County argues that the top step Correction Officers (the most prevalent group in this arbitration) as of January 1, 2009, in accordance with the

4.1% pay increase included in the Salary guide as proposed by the County, shall receive the following pay and benefits:

Base Salary	\$61,721.00
Longevity	\$800 (assuming 10 years of service – could be more)
Holidays	13 paid at straight-time in accordance with the County's proposal
Vacations	18 work days assuming 10 years of service
Personal Days	3 per year
Contributions to Medical and Hospital Insurance	Zero. Fully Paid Medical Coverage Under the State Health Benefits Plan as well as Prescription, Optical and Dental
Clothing Allowance	\$1,350
Overtime	In excess of 40 hours per week at 1.5 times his/her regular pay
Call-In	Minimum of four hours at 1.5 rate of pay
Sick Leave	16 days/year

D. Stipulation of the Parties

Additionally, the parties agreed to various proposals which were submitted to the Arbitrator in January of 2008.

E. The Lawful Authority of the Parties

The County contends that it has met all of the requirements necessary under this factor throughout this proceeding.

F. Financial Impact on the Governing Unit, Its Resident and Tax Payers

The County argues that its documentation *"including but not limited to budgetary documents, financial statements and tax records clearly highlight not only the precarious financial conditions of the County in the past, present and future, but also the significant impact that the awarding of the FOP Lodge 34's demands would have on the County, its tax rate and its residents."* The County argues that it is abundantly clear that the demands of FOP Lodge 34 will dramatically and drastically affect the property taxes of County residents.

G. Cost of Living

It is clearly in favor of the County, especially in light of the on-going recession and the economic crisis facing the County, the State and the Nation which is likely to continue for the foreseeable future.

H. The Continuity and Stability of Employment

The County argues that based on all of the evidence, both intrinsic and explicit, its proposals will guarantee the continuation and stability of employment for all members of FOP Lodge 34 during their proposed contract term. FOP Lodge 34's proposal cannot guarantee the same.

I. Statutory Restrictions Imposed on the Arbitrator

The County argues that in light of its budget cap and tax levy limitations imposed by N.J.S.A. 40A:4-45.45, the County would be hard-pressed to raise taxes to the degree required to fund the FOP Lodge 34's proposal. The testimony of Jane Lugo, the Atlantic County Treasurer, vividly portrayed the County's financial position. To that extent, the Arbitrator is including Ms. Lugo's complete four-page analysis of FOP Lodge 34's proposals and what impact they

would have upon the County. Ms. Lugo submitted the following to Mr.

Bernstein's associate Deborah Bracaglia:

Dear Deborah: "

As requested, the following is my response to Exhibit B and Exhibit 24 included in the Post Hearing Brief on Behalf of FOP Lodge #34:

Mr. Caprio's first argument is not at issue. The County does receive 100 percent of the tax levy required. At issue is that the County tax rate increased in 2009 by over 2 cents based on the decrease in equalized valuation and the increase in the amount to be raised in taxation.

In both the new exhibits and the brief itself (Page 23), FOP chose the last five years to discuss the surplus. However, the information does not support Mr. Caprio's second argument and FOP's contention that the surplus in the County's budget has continually grown over the past five years and that there is adequate residual surplus to support their wage settlement. In only two years was there growth in surplus. In all other years there was a reduction in the surplus. FOP states that the surplus in 2004 was \$14.3 million but this is not correct. The correct surplus was actually higher at \$17.3 million but was a reduction from the 2003 surplus of 2.10%. In 2003, the County experienced a 9.85% reduction in surplus from 2002. In 2008, the surplus was \$15.5 million, a 25.74% reduction in surplus balance. In 2008, the County needed to replenish the surplus by over \$10.5 million but was only able to add \$5.2 million to the fund balance. Were this to continue, the 2009 surplus would be less than \$13.0 million. As indicated previously, the surplus, until 2009, has remained relatively static as has the amount utilized to support the budget. The surplus available for the 2009 budget was over 25% less than previous years.

Mr. Caprio notes that the County deferred on almost \$100,000 in funding opportunities. There is no argument that the county was \$74,992 under CAP, but it was attributable to changes that the State Division of Local Government Services required after the budget was prepared for introduction. If this amount was added back to the budget, it would have been utilized to provide relief to the County employees that voluntarily agreed to over \$750,000 in furloughs, to retain one of the nine employees that were laid off or to allow one of the 31 positions that was frozen to be filled. In addition, the County did approve the 1% CAP resolution which will be utilized to provide additional CAP capacity in 2010 and 2011. Utilizing 3.5% CAP in 2009 would not have provided additional CAP as the County would have been required to budget in accordance with the 4% CAP. It was noted several times that, unlike municipalities that could use

either CAP calculation, the county was required to use the CAP calculation that produced the least increase to the amount to be raised by taxation.

In response to Mr. Caprio's statement that the County must have reserved prudent resources, I remind FOP that when asked repeatedly about the percent reserved in the 2007 budget, I responded that the last offer by the County was reserved. If I were to reserve FOP's proposed wage settlement in anticipation of such a large award, there would have been even less surplus available for the 2009 budget process. FOP maintains that the County has a pattern of over-budgeting whereas, any appropriations that lapse into surplus are evidence of management controls that are implemented when delaying projects, keeping vacancies open and general fiscal responsibility.

Mr. Caprio maintains that the County has a pattern of over-budgeting. It is my contention that any appropriations that lapse into surplus are evidence of management controls that are implemented when delaying projects, keeping vacancies open and general fiscal responsibility. The chart developed by Mr. Caprio fails to address balances that are needed to satisfy future contract negotiations with the Assistant Prosecutor's, Investigators and Agents in the Prosecutor's Office (Constitutional Officers), this negotiation (Public Safety) and Intergenerational Services (Human Services). Excluding those balance, Mr. Caprio's reserve amount is reduced to less than \$1.2 million.

Finally, the stabilization that Mr. Caprio refers to purely means that there are no expected further decreases. Any upswing will not occur until mid-2010.

Exhibit 24.

In completing Exhibit 24, Mr. Caprio chooses to ignore the current information which he should have garnered from the 2008 Annual Financial Statement and the 2009 Atlantic County Budget provided as requested at the conclusion of the final hearing in December. I have attached an analysis which includes the 2008 data and corrects some inaccurate information included in Mr. Caprio's exhibit. I have also included 2003 data to demonstrate actual trends and I added the excess revenues which Mr. Caprio again chose to ignore.

Mr. Caprio stated that the County cancels on average more than \$200,000 of current appropriations. However, in 2005, the cancellation represented over \$300,000 of debt service for an Atlantic Cape Community College bond that was managed by the State and the interest earned since 1999 was utilized to pay the principle and interest. In 2007, the State was unable to finalize the State contract for vehicles so the County canceled

the unspent appropriation and re-budgeted it in the following year. Excluding these two exceptions, the average is closer to \$45,000 and is related to debt service and cash match for grants.

The added information for 2008 tends to support Mr. Caprio's statement that the County cancels prior fiscal year appropriations of approximately \$2 million, however, it is because of the enforcement of internal fiscal policies that these funds are available. The County continually monitors revenues and expenditures to determine fiscal impact and makes decisions on filling vacancies and moving forward with budgeted projects so that the county can replenish the surplus.

I concur with Mr. Caprio's assessment that the County receives on average \$2.5 million of miscellaneous revenue. These funds are generated from several sources including Added and Omitted Taxes which fluctuate substantially from a high of \$1.9 million in 2007 to a low in 2008 of 0.9 million.

These comments by Mr. Caprio merely dissect those elements that make up the replenishment for the surplus. Again, Mr. Caprio ignored an important contribution to this replenishment process, that being the excess revenues. As you can see, once I added the 2008 data, there is a significant drop of this contribution. While I would agree with Mr. Caprio's statement that the County replenishes more than \$10.4 million to the surplus annually given the information Mr. Caprio presented, it is clear why he chose to ignore this information. The 2008 information which Mr. Caprio chose to ignore clearly does not support his argument of sufficient economic resources.

*Sincerely,
Jane Lugo
Treasurer/CFO*

	2008	2007	2006	2005	2004	2003
<i>Total Fine Appropriations</i>	201,077,821	202,093,993	190,045,003	183,280,875	168,597,223	165,176,578
<i>Final Expenditures</i>	201,054,456	201,717,592	190,000,895	182,912,889	168,533,164	165,132,404
<i>Cancellations</i>	23,365	376,401	44,108	367,986	46,059	44,174
<i>Cancellations of Prior Year Appropriations</i>	2,682,791	2,694,986	1,956,698	1,683,124	1,646,110	1,585,450
<i>Miscellaneous Revenue Not Budgeted</i>	2,365,353	2,549,577	1,970,677	3,078,736	2,557,405	2,513,439
<i>Excess Revenues</i>	134,544	5,209,103	6,127,341	6,881,473	4,579,491	4,625,185
<i>To Surplus</i>	5,206,053	10,830,067	10,098,824	12,011,319	8,829,065	8,768,249

DISCUSSION

The Arbitrator, by statute, is required to separately determine whether the total net economic changes for each year of the Agreement are reasonable under the nine (9) statutory criteria set forth on pages 2-4 of this Award.

Each criterion must be considered and those deemed relevant must be explained. The Arbitrator is also required to provide explanation as to why any criterion is deemed not to be relevant.

I have carefully considered the evidence which was presented, as well as the arguments of the parties. The record reflects that the FOP presented over 150 exhibits, and the County presented over 100 exhibits. Thousands of pages were submitted to the Arbitrator in support of the relative positions of both parties. I have considered the evidence and arguments in light of the statutory criteria as discussed below. I have considered each criterion and have found each to be relevant, although the weight to be given to the factors varies as discussed. I have determined the total economic annual change for each year of the Agreement, including those changes that are reasonable under the criteria.

My Award will be using conventional arbitration, which will grant me broad authority to fashion the terms of an Award which will be based upon the evidence presented without being held to the final offers of the parties.

The parties, by necessity, base their arguments upon the correlated evidence they presented in support of their final offer and in response to the final offer of the opposing party. I am empowered with the authority and responsibility to develop the terms of this Award in this conventional arbitration proceeding.

It is axiomatic in interest arbitration and/or collective negotiations that in consideration of wages/hours and conditions of employment, the party seeking a change in an existing term and condition of employment bear the burden of showing a need for such a change. That guiding principle has been followed throughout this Award.

The following are the terms of my Award:

- A. I shall award a four year agreement. The duration of the new four year agreement shall be January 1, 2007, through December 31, 2010.
- B. I shall award the following changes and increases to the salary schedule:
 - 1. Add the \$1,350 hazardous duty pay to each step of the December 31, 2006, salary guide. Effective January 1, 2007, adjust each step (except maximum) by 3%.
 - a. Add a one-time \$1,200 equity adjustment to step 7 of the December 31, 2006, salary guide.
 - b. Effective January 1, 2007, add a new maximum step 8. All Officers on steps 6 and 7 of the December 31, 2006, salary guide shall move to step 8. Increase the December 31, 2006, step 7 salary by 4%.
 - c. All % adjustments to steps 1-7 of the December 31, 2006, salary guide shall be in addition to the hazardous duty pay and equity adjustments.
 - 2. Effective January 1, 2008, increase steps 1-7 by 3%. Increase step 8 by 4%.
 - 3. Effective January 1, 2009, increase steps 1-7 by 3.5%. Increase step 8 by 3.75%
 - 4. Effective January 1, 2010, add a new maximum step 9. All Officers on steps 7 and 8 of the December 31, 2009, guide shall move to the new step 9. Increase steps 1-7 by 3.5%. Increase step 8 by 4.0%.

5. All salary increases are fully retroactive to January 1, 2007.

- C. Delete Article V, Section d.
- D. All Salary guides appear in Appendix A.
- E. Effective January 1, 2007, increase current clothing allowance of \$1,250 to \$1,350.
- F. Effective January 1, 2009, all members of the Special Emergency Response Team (SERT) shall receive a \$500 stipend. This is not part of base pay.
- G. Payment for unused sick leave:
 - 1. Effective January 1, 2007, increase by \$1,000 at 50% of days (total \$13,000).
 - 2. Effective January 1, 2008, increase by \$1,000 at 50% of days (total \$14,000).
 - 3. Effective January 1, 2009, increase by \$1,000 at 50% (total \$15,000 at 50% of days).
 - 4. Effective January 1, 2010, change to \$15,000 at 100% of days.
- H. Article IV – Overtime:
 - 1. Revise paragraph H as follows:

An Officer shall have the option to refuse mandatory overtime two times (2x) per calendar year without being subject to disciplinary action. Overtime refusal shall apply to Thanksgiving Day, Christmas Day and New Year's Day. Overtime refusal shall not apply to the ten (10) remaining holidays or Super Bowl Sunday. This provision shall not apply in emergent situations and whether a situation is deemed emergent shall be determined by the Shift Commander.
- I. Article VII – Health Benefits at Retirement:

1. Revise paragraph B as follows:

- a. Employees hired on or before December 31, 2006, shall be eligible for the provisions of this Article upon retirement if they have twenty-five (25) years or more service credit in the State Pension Plan and at least fifteen (15) years or more of full-time service with Atlantic County at the time of retirement or upon reaching the age of sixty-two (62) or older and having at least 15 years of service with Atlantic County.**
- b. Employees hired on or after January, 1, 2010, shall be eligible for the provisions of this Article upon retirement if they have twenty-five (25) years or more service credit in the State Pension Plan and at least twenty-five (25) years or more of full-time service with Atlantic County at the time of retirement or upon reaching the age of sixty-two (62) or older and having at least 15 years of service with Atlantic County.**

J. Article XVIII – Working Conditions and Safety Items:

- 1. Paragraph D – Vests and Carriers: All new employees shall receive a properly fitted vest. Vests for any employees shall be replaced with a new vest at the manufacturer's recommendation or earlier if defective. All new employees shall receive \$100 to purchase two (2) vest carriers. Replacements of vest carriers shall be the responsibility of the Officer, the cost of which may be covered under his annual clothing allowance.**

K. Article XXII – Miscellaneous

- 1. Add new section – Continuation of Benefits:**

Continuation of Benefits - All terms and conditions of employment, including any past or present benefits, practices or privileges which are enjoyed by the employees covered by this Agreement that have not been included in this Agreement shall not be reduced nor eliminated and shall be continued in full force and effect.

L. Article III – Work Schedules (Section A):

1. Language modified to ensure a guaranteed thirty (30) minute uninterrupted lunch/meal period per shift. In an event an emergent situation defined as a situation in which an Officer's presence is required to prevent possible injury to a person or an urgent situation which cannot be handled at any other time arises and an Officer's attendance is required, said Officers shall be allowed to make up such time in order to complete his meal.

M. I shall Award the parties' eighteen pages of stipulated agreements set forth in both of their final offers dated August 5, 2008 (FOP 34) and August 8, 2008 (County). All other proposals of FOP 34 and the County of Atlantic are denied.

N. Shift Differential

1. I shall award the following shift differential to be effective January 1, 2007:

0730-1530	\$.50 per hour
1530-2330	\$.55 per hour

THE COST OF SALARY PROPOSALS

The current bargaining unit is composed of 176 Correction Officers of which 82 are at the maximum salary of \$54,400.00. Forty-one (41) Correction Officers are moving through the guide with salaries ranging from \$29,000 to \$42,000. As of December 31, 2006 the base cost is \$7,579,800. The total cost of the current longevity schedule is \$99,000. The last offers of the parties do not include any incremental step increase nor roll-up cost. It is not uncommon, and in fact it is historical for incremental costs to have not been included in any offer by the parties in interest arbitration. It is important to note that incremental costs have a tendency to vary depending upon turnover in a particular bargaining unit. A high turnover has the net effect of keeping public employer's average salary

cost down. Those senior Officers leaving for retirement or a higher paying position elsewhere and maybe not in law enforcement are usually replaced by entry level Officers whose salaries are significantly less than the senior Officers. The impact of that on the County is that the total cost of a salary package is lessened for the employer because they have the so-called breakage money to utilize. It is less for the employer because the payout is not as high as it would be if the senior Officers were still on the payroll.

2007

The FOP proposed that the \$1,350 hazardous duty pay be rolled into the 2006 base salary by adding it to the 2006 base salaries and then applying any increases to that revised number. The cost of that proposal is \$237,600. The FOP also proposed a \$1,200 equity adjustment for those on the maximum step. The cost of that proposal is \$98,400. The FOP also proposed to add an eighth step to the Salary guide. Their flow chart for the Salary guide shows a two-step movement for all Correction Officers. The cost of that two-step advancement is extremely high. The FOP also proposed a one-time payment of \$2,000 for each step of the salary guide to be comparable with PBA 243. The cost of that is \$352,800. The FOP also proposed to increase the base by 4.43% which is \$335,785. That current base is \$7,579,800. The FOP's proposals (excluding the two-step movement) are \$1, 023,785 creating a new base of \$8,603,585. . That equates to a 13% increase over the current base. However, it must be remembered that the \$237,600 is not an additional cost to the County because that money has already been paid to Correction Officers. While it was not part of

base pay, it was money that they did receive. If you deduct the \$237,600, the actual cost of the FOP's 2007 Salary guide is 10% higher than the 2006 Salary guide. That percentage is without longevity, shift differential, uniform increase, and without everyone on the December 31, 2006, guide except those at Step 6 moving two steps. The FOP's longevity proposal is a \$50,700 increase from the current \$99,000 longevity cost, which creates a new longevity total of \$149,700 for 2007.

The FOP also proposed a shift differential as follows:

Shift Differential - 0730 hrs – 1530 hrs - \$1250/year
1530 hrs – 2330 hrs - \$2750/year

Using the data submitted shows the following:

71 Officers x \$1250 =	\$ 88,750
40 Officers x \$2750 =	<u>\$110,000</u>
	\$198,750

In 2007 Shift differentials would cost the County \$198,750. During the term of the Agreement that cost would rise to \$795,000.

The County proposed to insert a step between Steps 6 and 7 on the December 31, 2006, guide with dollar increases ranging from \$500 to \$700 at Steps 1 to 5. The County offered 4.8% or \$2,600 on the maximum step which cost \$261,360. The County proposed that anybody who was on Step 6 on the 2006 Salary guide should move to Step 8 effective January 1, 2007.

The County's proposal creates a new base of \$7,883,560.

I awarded the \$1,350 hazardous duty pay rolled into each step on the December 31, 2006, salary guide, and added a one-time \$1,200 equity

adjustment at the maximum step for an adjusted base of \$7,935,400. I increased step 7 by 4% and also awarded that those Officers on step 6 of the December 31, 2006, be moved to step 8. The new step 8, after factoring in the \$1,350, the \$1,200 and a 4% increase is \$59,228. That cost is \$215,424. I also increased each step (1-6) by 3% .The new base is \$8,253,648 (excluding increments and shift differential). If the \$1,350 hazardous duty pay, and the \$1,200 equity adjustment totals are deducted from the \$8,253,648 the base would be \$7,897,248.

Those on Step 6 moving to Step 8 receive a salary increase of \$17,228. Those on Step 7 moving to the new Step 8 receive a salary increase of \$4,828. The FOP's proposal for its 2007 guide in adding a new 8th Step of \$61,560 created a \$7,160 increase for those on Step 7 of the 2006 salary guide.

I awarded a shift differential of 0730-1530 @ \$.50 per hour and 1530-2330 @ \$.55 per hour. There are 71 Officers on the 0730-1530 shift and 40 Officers on the 1530-2330 shift. The cost is as follows:

$$\begin{aligned} \$0.50 \times 8 &= \$4.00 \times 5 = \$20.00/\text{week} \times 50 \text{ weeks} = \$1000 \times 71 = \$ 71,000 \\ \$0.55 \times 8 &= \$4.40 \times 5 = \$22.00/\text{week} \times 50 \text{ weeks} = \$1100 \times 40 = \$ 44,000 \\ &\quad \underline{\$115,000} \end{aligned}$$

The County's proposal of \$2,600 on maximum did not include the \$1,350 hazardous duty pay in 2007. The 17 individuals on Step 6 moving to Step 8 creates a total on the maximum salary (Step 8) of 99. I did not award any increases in longevity.

2008

The FOP proposed an additional six people to be on the maximum step which would equal 105 employees on Step 8. They also proposed an equity adjustment of \$500 for that maximum step. That totals \$52,600. The FOP also proposed a 4.24% increase (excluding increments) as well as a longevity increase of \$64,515 creating a new longevity total of \$214,215. The new base under the FOP's proposal is \$9,018,892 (excluding increments). Step 8 under the FOP proposal is \$64,690.

The County proposed a 4% increase on Step 8 or \$2,280 for a cost of \$225,720 and adjustments of \$500 to \$800 on Steps 1 through 7. Step 8 under the County's proposal is \$59,280. I awarded a 4% increase on max, which created a new base of \$8,583,793 (excluding increments) which is lower than the FOP and higher than the County. The Salary guides in Appendix A shows that the new Step 8 for 2008 is \$61,597 or a \$2,369 increase.

I did not award any longevity increase.

2009

The FOP proposed a \$250 equity adjustment on the maximum step. Moving more people onto the maximum step under their original proposal of everybody moving two steps, adds ten additional people from Step 4 on the 2006 guide or a total cost for the \$250 equity adjustment of \$28,750. The FOP also proposed a 4.2% increase (excluding increments) for a new base of \$9,436,540. They also proposed a longevity increase of \$89,985 bringing the longevity total to \$304,200 for 2009. The Step 8 proposal from the FOP is \$67,660.

The County rolled the \$1,350 into the base salary of all Correction Officers at a cost of \$237,600. The County also proposed to increase the Step 8 (maximum) by 4.1% or \$2,441 for a step 8 salary of \$61,721. The cost of that proposal is \$241,659. The total cost of the County's proposal is \$479,259. I awarded a 3.75% increase on the maximum salary creating a new base of \$8,905,685. The new Step 8 is \$63,907 which is \$2,310 over the 2008 salary. I also awarded the \$500 SERT stipend for team members, with a cost of \$5,500 which is not part of the base.

2010

~~The FOP proposed a \$750 equity adjustment for those on Step 8.~~ Under their original proposal that creates an additional 16 people from Step 3 which then shows 131 Correction Officers on the maximum step. That additional \$750 equity adjustment is \$98,250. The FOP also proposed a 4.25% increase and Step 8 under their proposal is \$71,317. Their new base is \$9,771.506 (excluding increments). Their longevity proposal increases longevity by \$113,500 bringing the total cost of their longevity proposal as of January 1, 2010, to \$417,700.

The County proposed a 4% increase on Step 8, which is a \$2,469 increase over the 2009 salary guide maximum. The County's new Step 8 is \$64,190. I awarded 4% on max creating a new maximum salary of \$66,643 and a new base of \$9,269,112 (excluding increments). That equates to a \$2,231 increase from the 2009 maximum salary. The Guide found in Appendix A shows that those Officers on Step 7 as of December 31, 2006, moving to the new Step

8 in 2007 and remaining on Step 8 over three years and moving to step 9 in 2010 received a \$12,063 increase or \$3,015 per year.

Those Correction Officers on Step 6 in 2006 with a salary of \$42,000 moved to step 9 at \$66,463 as of January 1, 2010. That is a four year increase of \$24,463 or \$6,115 per year. Those on Step 4 of the December 31, 2006, salary guide had a salary of \$33,500 and moved to Step 8 as of January 1, 2010, with a salary of \$66,463. That is a four year increase of \$32,963 or \$8,240 per year. That is without any adjustments to longevity. Since I did not increase longevity, those who are eligible to receive longevity will have that added to their salary. Longevity is not part of the base.

INTEREST AND WELFARE OF THE PUBLIC

The New Jersey Supreme Court determined in Hillsdale (citations omitted) that the interest and welfare of the public must always be considered in the rendering of an interest arbitration award. Moreover, the Court determined that an Award which failed to consider this criterion might be considered deficient.

There are numerous elements to the public interest factor but I believe and have determined that this initial criteria is always worthy of substantial weight in determining the most reasonable resolution of the parties' dispute. A major component of the public interest is fiscal responsibility. Additionally, the public interest elements of the CAP Law must be considered when an arbitrator is rendering an award in an interest arbitration matter.

The interest and welfare of the public obviously require that an arbitrator balance many considerations such as, but not limited to, the employer's desire to

provide the most efficient and appropriate level of government services in the most cost effective manner.

The Employer takes into account the impact of those costs on the tax rate. Moreover, the interest and welfare of the public certainly require fairness to employees in order to maintain high morale and harmony within the labor force. I believe that reasonable levels of compensation and good working conditions certainly contribute to a productive and efficient Correction Department and that leads to labor stability.

No one can deny that the work of a Correction Officer is demanding, sometimes traumatic and dangerous. There is no question that the public is well-served by providing a structure of compensation and benefits that keeps morale high and retains experienced Officers, as well as attracting new recruits at the caliber that the County is seeking.

An integral part of the public interest criteria is the implication of the CAP Law and that will be analyzed at greater length under the lawful authority of the Employer criterion. I do not believe that the CAP Law presents a problem to the County in terms of resolution of the dispute at hand because the County's financial data certainly supports my awarded salary increases.

An arbitrator must be careful that the determinations made do not create an undue financial burden upon the County. More importantly, an Award should not detract from other important municipal services to provide compensation and

benefits to other public employees. I agree with Arbitrator Jeffrey B. Tener's analysis in his interest arbitration award in Cliffside Park¹, wherein he stated,

"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 performed 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 general well-being and benefit of the citizens. The procedure is to give due respect to the interests of the tax paying public and to promote labor, peace and harmony. "

I shall discuss the open items with respect to the interest and welfare of the public criterion.

TERM OF AGREEMENT:

Both parties proposed a four year agreement, and I awarded a four year agreement. The parties have been without an agreement since December 31, 2006. A four year agreement commencing on January 1, 2007, and terminating on December 31, 2010, provides continued stability for the Township and its financial and operational management. It also promotes a much more harmonious bargaining relationship.

The parties need to be free from the stress and pressure of negotiating a comprehensive agreement. By the time this Award is implemented, thirty-nine months (39) of a forty-eight month (48) agreement will have passed.

¹ In the matter of the Borough of Cliffside Park and PBA Local 96, PERC Docket No. IA-98-91-14, page 45.

SALARY:

Both parties submitted an in-depth analysis of salary data in support of their relative positions. Additionally, both parties relied upon settlements as reported by PERC to give a barometer of statewide salary data. The Employer relied upon the impact of its salary offer in comparison to adjacent communities in Atlantic County and settlements for the Atlantic County law enforcement bargaining units. The PERC data shows that for calendar year 2007, the average of all Awards was 3.77%, and the average salary increase of reported voluntary settlements was 3.97%. For calendar year 2008, the average salary increase for all Awards was 3.73%, and the average salary increase for voluntary settlements was 3.92%. For calendar year 2009, the average salary increase for all Awards was 3.75% and the average salary increase of voluntary settlements was 3.60%.

The average increase for those three calendar years for all Awards is 3.75% and salary increases for voluntary settlements is 3.83%. That data does not support the FOP's last offer nor is it supportive of the County's last offer. The PERC salary data is more consistent with my Award providing for an annual salary increase of 4% in 2007 and 2008, 3.75% in 2009 and 4% in 2010.

Nevertheless, it is important to stress the significant position advanced by the FOP concerning salaries. The FOP maintains and has submitted documentation in support of its argument concerning comparability with respect to PBA Local 243. The documents submitted to continue the differential of the

maximum salary between PBA 243 and FOP Lodge 34 must be addressed at this juncture.

Part of FOP 34's proposal is a \$2,000 adjustment on each step of the December 31, 2006, Salary guide. That guide, which is the last guide in effect, will be referred to as the current guide. In addition to adding \$2,000 to each step, the FOP also attempts to mirror PBA 243's equity adjustment enhancement on the maximum step of the Salary guide.

It is important to reflect what occurred during the negotiations for PBA 243 as referenced by the voluntary settlement the parties reached. That can be found in the matter of Atlantic County Sheriff's Office and PBA Local 243, PERC Docket: IA-2006-026 before Arbitrator Robert Glasson. In those negotiations, there was a recommended settlement that was ultimately ratified by both parties. Of particular importance is the issue dealing with the \$2,000 one-time payment that Arbitrator Glasson awarded. That can be found on page 9 of his recommended settlement, which states under Section 3(a):

"I recommend that in consideration of a one-time payment of \$2,000, which shall be included in an officer's base salary by adding \$2,000 to each separate 2006 salary guide, that the Union will forego the work of hospital/custodial duty. Effective January 1, 2006, hospital/custodial duty will no longer constitute unit work for this bargaining unit and the hospital/custodial duty assignments shall be transferred to employees of the Atlantic County Division of Adult Detention (Correction Officers)."

The FOP strenuously argues that in order to maintain the differential on the maximum step between PBA 243 and FOP Lodge 34, they must also receive the \$2,000 one-time payment in 2007.

The County has submitted documentation which will be found on pages 13 and 14 of its Reply Brief which indicates that the reason for the \$2,000 payment was because PBA 243 members were going to give up overtime by no longer handling the hospital/custodial duty assignments. That would represent a 35-40% savings to the County. In other words, PBA 243 gave up something to receive the one-time \$2,000 payment. In order for the FOP to receive the same \$2,000, the basis for that must be the same as the basis for PBA 243.

I don't find justification in the record to grant support to the FOP's position of a one-time payment of \$2,000. Arbitrator Glasson's voluntary settlement was ~~signed on April 21, 2006, and implemented shortly thereafter.~~ Negotiations with FOP Lodge 34 began on August 3, 2006. They filed a Petition for Compulsory Interest Arbitration on February 5, 2007. At no time did FOP Lodge 34 file an unfair practice charge against the County and/or file a grievance against the County alleging that they had a workload increase.

As I review the facts, there is no workload increase. Correction Officers work an eight (8) hour day less a half hour lunch. During that eight (8) hour day they are either at the Correction Facility or they will be dealing with hospital/custodial duty assignments. They can't work more than the hours on their individual shifts without getting paid overtime. It may very well be that in some instances because a Correction Officer is out sick, someone is called in and that person will be paid overtime. It may also mean that handling a hospital/custodial duty assignment would also result in someone receiving overtime.

That is not the issue before me. The issue before me is the \$2,000 added to each step of the 2006 Salary guide. There simply is no justification for awarding the \$2,000 to each step of FOP 34's guide. In order to receive the one-time payment of \$2,000 something must be eliminated or given back by FOP Lodge 34. Examples of that in the State of New Jersey can be found in the following areas:

(1) Atlantic County Prosecutor's Office and PBA Local 77 and the SOA, PERC Docket Nos.: IA-2007-105/106 before Arbitrator Gerard Restaino. As a result of voluntary settlements that I was actively involved with, those bargaining unit members agreed to pay for health insurance and also agreed to three furlough days in 2009 and three furlough days in 2010. . The time period for this award is the same as in the instant matter January 1, 2007, through December 31, 2010. This settlement occurred in the spring of 2009.

(2) Morris County Sheriff's Office (Bureau of Corrections), PBA Local 298, PERC Docket No.: IA-2008-084 before Arbitrator James Mastriani. Those employees agreed to pay for health insurance. As a result, they received a 4% salary increase each year of the four year agreement. . The time period for this award is the same as in the instant matter January 1, 2007, through December 31, 2010. Award is dated October 5, 2009.

(3) The State of New Jersey, PBA Local 105, PERC Docket No.: IA-2008-014 before Arbitrator James Mastriani. Correction Officers employed by the State of New Jersey will be paying for health insurance and also have a zero salary increase for one of the years of a multi-year agreement. The time period

for this award is July 1, 2007, through June 30, 2011. Award is dated May 5, 2009.

None of the above is operational in the instant matter. Even though there is no health insurance proposal on the table from the County, it is important to reference that to receive the \$2,000, something must be given up. Nothing was given up. I referenced it to show that the FOP's position cannot be sustained. That has a dramatic impact upon the salary guide submitted by the FOP as they relate to the positions advanced by the County for a four-year salary settlement in my Award.

~~The comparability for maximum salaries shown in FOP Exhibits 112~~ through 115 shows from 2003 through 2005 the average differential between FOP 34 and PBA 243 was 5.87%. The FOP's proposed salaries were based on a formula that would maintain the average annual salary differential of approximately 5.87% in effect between them and PBA 243. Exhibit 113 shows that relationship, not including the \$1,350 roll-in, from 2003 projected through 2010. The PBA's agreement expired on December 31, 2009, and the top salary was \$68,068 with a nine step guide. Exhibit 113 shows that position is increased by 4%, the differential averaging a ten (10) year period would be 5.8%.

The thrust of FOP Lodge 34's salary proposals was to maintain the average annual salary differential of approximately 5.87% that was in effect for a number of years. Unfortunately, I can't reach that conclusion because there is nothing in the record to show what FOP Lodge 34 is willing to give up or modify to receive the one-time payment of \$2,000.00. Accordingly, as I reviewed all of

the documentation, it became abundantly clear to me that FOP Lodge 34's salary proposal for four years was drastically inflated to maintain a differential that was changed for a specific set of circumstances. Once that differential was changed, unless there is an accompanying ability for FOP Lodge 34 to modify its collective negotiations agreement to comport with what PBA 243 did, the differentials don't exist anymore. The fact that the differentials do not exist anymore is a product of collective negotiations. To argue that a pattern exists and that the pattern must remain is not in compliance with the facts in the instant matter.

I did incorporate the \$1,200 equity adjustment that Arbitrator Glasson added to the maximum step. That particular salary guide is a nine step salary guide. Arbitrator Glasson determined that in order to maintain experience and qualified County Sheriff's Officers, additional compensation of \$1,200 shall be added to the base salary of those eligible Sheriff's Officers to be effective January 1, 2006. I have incorporated that \$1,200 in the FOP 34 2007 Salary guide. Both parties agree that the \$1,350 hazardous duty pay should be rolled into the base salary. The FOP wants it rolled in for 2007, and the County wants it rolled in for 2009. The County argues that since the Correction Officers have already received that money, it would mean that they would receive \$1,350 twice. That is not accurate because the \$1,350 already paid could easily be deducted from the retroactivity check. The \$1,350 has to be part of the 2007 guide in order to achieve the necessary changes on the salary guide. To do it later makes it much more difficult to have an equitable salary guide and at the same time maintain the current staff of employees.

The final issue that has to be addressed concerning the FOP's arguments is their position concerning staffing and inmate population. FOP Exhibit 51 shows that the Atlantic County Justice Facility was built in 1985 with an anticipated inmate population of 398. In 2007, the average inmate population was 1,286. FOP Exhibit 53 shows that in 2004 a study relative to staffing at the Atlantic County Jail was completed and that study recommended that Shift #1 should have 27 Officers, Shift #2 should have 55 Officers and Shift #3 should have 35 Officers for a total of 202 Officers. Neither inmate population nor staffing is subject to collective negotiations. FOP Exhibit 52 shows that Atlantic County has the highest ratio of inmates to Officers in 8 of the 10 southern counties. An arbitrator cannot add more staff, and inmate population is a function of society. If you violate the law you are arrested, found guilty and usually go to jail. That I have no control over.

The documentation both parties submitted to me concerning the scattergram created an enormous problem for me, and I asked the parties to help me solve it. FOP Lodge 34's scattergram shows 195 employees, and the County's showed 176 employees. On February 12, 2010, I received a letter from County Labor Counsel, Eric Bernstein, in which he indicated that there were 176 active Officers as of December 31, 2006. However, there were an additional 19 Officers on the list who retired or otherwise left the County at one point or another during the calendar year 2006. These Officers were included on the list and placed back on the payroll because certain items had to be paid out to them. Accordingly, he deducted 19 from the 195 to arrive at number of 176.

All of my calculations are based on 176. Unfortunately, all of FOP Lodge 34's calculations and documentation submitted by their financial expert, Dr. Raphael Caprio, used the base number of 195.

Both parties proposed to roll the \$1,350 hazardous duty pay into the base. I determined it was more appropriate to roll-in the \$1,350 as part of the 2007 salary guide so I could begin to re-structure the incremental pattern. Between step 6 and 7 of the December 31, 2006, guide the increment is \$12,400. Currently, there are 76 Officers on steps 1-5 of the December 31, 2006, guide. That high or bubble increment would cost the County \$942,400 as those 76 ~~Officers pass through current step 6.~~ That detracts from salary increases for new hires and those on the maximum step. I addressed that major problem by reducing that increment to \$7,289 on the 2007 salary guide. I further reduced the increment between steps 6 and 7 of the 2010 salary guide to \$3,559.

By adding two steps to the current salary guide, a better increment pattern was created and affordable raises were developed for the entire bargaining unit.

The FOP's longevity proposals were unreasonable. We are facing a severe economic problem in the Country with double-digit unemployment and over a \$1 billion dollar deficit in the State budget. State employees were furloughed and State Aid has been cut to municipalities and school districts. Compound those issues with the pension debacle, and it becomes evident some issues cannot be achieved in today's economic climate.

Most importantly, FOP 34 members have not lost their benefits and have received salary increases, and the County pays 100% of their health insurance.

Both parties proposed to roll-in the \$1,350 hazardous duty pay, and both proposed to add 1 step to the December 31, 2006, salary guide. After adding the \$2,000 one-time adjustment and equity adjustments, the FOP proposed to increase the maximum step by 17.12% over the term of the Agreement. The County proposed to increase the maximum step by 16.9% over the term of the Agreement. The County further suggested that by compounding their salary proposal, the 16.9 % is actually 18%. (see page 47 of County's 4/23/09 brief) The FOP's four-year proposal generated a \$16,917 increase on maximum while the County's proposal increased maximum by \$9,790 over the term of the Agreement.

After I factored in the \$1,350 hazardous duty pay and \$1,200 equity adjustments, and added two steps, I increased maximum by 15.75% over the four-year Agreement. That generated a \$12,063 increase for those on maximum. That amount is \$4,854 less than the FOP's proposal and \$2,273 more than the County's proposal.

Nevertheless, that % is in line and comparable with % settlements within Atlantic County. I am not referencing guide adjustments; I am simply referencing % settlements. The % settlements with PBA 243 and PBA 77 are parallel to my 15.75 % award.

As of January 1, 2007, there were 99 Officers on the top step and as of January 1, 2010, there are 115 Officers on the top step leaving 61 Officers within the salary guide. Those 61 Officers were on steps 1-3 of the December 31, 2006, salary guide.

I cannot challenge the maximum salaries of the ten (10) southern counties found on Charts A-C below. They are what they are. I cannot change them. However, the FOP's salary of \$61,560 for 2007 includes the \$2,000, adjustment, \$1,350 hazardous duty pay and the \$1,200 equity adjustment. I awarded a maximum salary for 2007 of \$59,228, which ranks 5 out of 10.

The public interest criterion requires the Arbitrator to balance many components giving significant weight to each party's proposals. My awarded salary increases service to address these competing elements and to maintain a stable workforce and harmonious labor relations. I find that the interests and ~~welfare of the public have been satisfied by my Award and that the County's~~ ability to recruit and retain qualified Correction Officers will be maintained by my Award.

COMPARISON OF THE WAGES, SALARIES, HOURS

AND CONDITIONS OF EMPLOYMENT:

This criterion requires an arbitrator to review the following sub criteria:

- a. In private employment in general;
- b. In public employment in general;
- c. In public employment in the same or similar comparable jurisdictions;

The parties did not submit extensive documentation concerning private employment in general.

It should be noted that the Arbitrator has determined that there are no employees in the private sector that are performing the same or similar functions as Correction Officers in Atlantic County. The nature of law enforcement work is

unquestionably public in nature and, in fact, in recent years has become much more transparent than it was in the past. Therefore, any comparisons to the private sector can only be made on a general basis.

Internal comparisons are important because they usually show some type of benchmark and/or pattern of bargaining either with other law enforcement units or with other public employees in the same county. Pattern bargaining can develop to a degree that would show an indication in favor of maintaining the current pattern. The following Exhibits draw a comparison with the ten southern counties being utilized in this Interest Arbitration, as well as a comparison between PBA 243 and FOP Lodge 34:

COMPARISON OF BENEFITS FOR CORRECTION OFFICERS IN TEN (10) SOUTHERN COUNTIES

<u>County</u>	<u>Contract Expiration</u>	<u>Sick Days</u>	<u>Personal Days</u>	<u>Bereav. Days</u>	<u>Holidays</u>	<u>Court Time Minimum</u>	<u>Call-Back Minimum</u>	<u>Pay for Sick Lv. on Retirement</u>
ATLANTIC	2006	15	2	3	13	OT	4	50% \$12,000
Burlington	2008	15	3	0	14	OT	2	50% \$15,000
Camden	2005	15	2	7/3	12	OT	3	100% per diem
Cape May	2008	15	3	5/3	14	OT	4	50% \$15,000
Cumberland	2007	15	3	3	13	OT	4	50% \$9,000
Gloucester	2011	15	2	4/3/1	14	OT	2	50% \$15,000
Mercer	2008	15	3	5	14	OT	4	100% \$18,000
Monmouth	2008	15	3	5/3	13	2 hr. min OT	4	0
Ocean	2010	15	3	3	14	OT	4/8	50% \$15,000
Salem	2008	15	3	3	14	OT	OT	50% \$15,000

CHART A**COMPARISON OF MAXIMUM SALARIES OF CORRECTION
OFFICERS AND RANKING UNDER FOP PROPSAL****2007****2007 MAXIMUM SALARY
(Based on Officer's Maximum Salary
Including Hazardous Pay)**

<u>County</u>	<u>Maximum 2007 Base Salary</u>	<u>Rank</u>
Atlantic	\$61,560	4
Burlington	\$57,584	7
Camden (not settled)	n/a	
Cape May	\$60,205	6
Cumberland	\$51,050	8
Gloucester	\$60,295	5
Mercer	\$75,933	3
Monmouth	\$81,929	1
Ocean	\$80,120	2
Salem	\$50,211	9
Total Counties - 9		
Average (incl. Atlantic Co.)		\$64,321
<u>DIFFERENCE</u>		<u>- 2,760</u>
Average (excl. Atlantic Co.)		\$64,666
<u>DIFFERENCE</u>		<u>- 3,106</u>

ATLANTIC COUNTY RANKS 4TH OUT OF 9 COUNTIES

CHART B

**COMPARISON OF MAXIMUM SALARIES OF CORRECTION
OFFICERS AND RANKING UNDER FOP PROPOSAL**

2008

2008 MAXIMUM SALARY
(Based on Officer's Maximum Salary
Including Hazardous Pay)

<u>County</u>	<u>Maximum 2008 Base Salary</u>	<u>Rank</u>
Atlantic	\$64,690	4
Burlington	\$60,387	7
Camden (not settled)	n/a	
Cape May	\$63,210	6
Cumberland	n/a	
Gloucester	\$63,501	5
Mercer	\$79,161	3
Monmouth	\$85,001	1
Ocean	\$83,324	2
Salem	\$56,139	8

Total Counties - 8

Average (incl. Atlantic Co.)	\$69,427
<u>DIFFERENCE</u>	<u>- 4,737</u>

Average (excl. Atlantic Co.)	\$70,103
<u>DIFFERENCE</u>	<u>- 5,413</u>

ATLANTIC COUNTY RANKS 4TH OUT OF 8 COUNTIES

CHART C

COMPARISON OF CORRECTION OFFICERS' MAXIMUM BASE SALARIES
(23+ Yrs)
(Excluding Longevity)
2006-2010 FOP PROPOSALS & AVERAGE SALARIES OF 10 SOUTHERN
COUNTIES

<u>Year</u>	<u>County Average</u>	<u>FOP Proposal</u>	<u>Difference</u>
2006	\$61,279	\$54,400 (actual)	-\$6,870
<hr/>			
2007	\$64,090	\$60,210 (proposed)	-\$3,880
2008	\$70,103	\$63,340 (proposed)	-\$6,763
2009	\$72,907 (assuming 4%)	\$66,310 (proposed)	-\$6,597
2010	\$75,823 (assuming 4%)	\$69,697 (proposed)	-\$6,126
TOTAL DIFFERENCE OVER 4 YR AGREEMENT			-\$23,366

CHART D**ATLANTIC COUNTY FOP LODGE #34 AND
COUNTY OF ATLANTIC****COMPARISON OF MAXIMUM BASE SALARY
DIFFERENTIALS****FOP # 34 PROPOSED SALARIES & COUNTY
PROPOSED SALARIES (not Incl. roll-in)**

The following FOP salaries are based on a formula that would maintain the salary differential of approximately 5.87% in effect between FOP #34 and PBA #243 prior to 2007 in each year:

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
PBA # 243	\$60,528	\$62,949	\$65,467	\$68,086
FOP #34	\$54,400	\$59,460	\$61,840	\$64,310
DIFFER.	\$6,128 (11.26%)	\$3,489 (5.87%)	\$3,627 (5.87%)	\$3,776 (5.87%)

To compensate for the increased differential in 2005, the FOP proposes salaries that would maintain the 5.87% average differential which would result in the following salaries (exclusive of roll-in):

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
PBA # 243	\$60,528	\$62,949	\$65,467	\$68,086
FOP #34	\$54,400	\$60,210	\$63,340	\$66,310
DIFFER.	\$6,128 (11.26%)	\$2,739 (4.54%)	\$2,127 (3.35%)	\$1,776 (2.67%)

2003-2005 Avg. Differential = 5.87%

2006-2009 Avg. Differential = 5.45%

CHART E

COMPARISON OF MAXIMUM BASE SALARY DIFFERENTIALS

The following shows the salary differential between FOP 34's proposed max salaries and PBA 243's max salaries from 2003-2010.

The FOP's proposed salary is based on the formula that would maintain the average annual salary differential of approximately 5.87% in effect between FOP #34 and PBA #243 prior to 2007 in each year:

<u>Year</u>	<u>PBA Salary</u>	<u>FOP Salary</u>	<u>Differential</u>
2003	\$50,835	\$48,000	\$2,835 = 5.91%
2004	\$52,868	\$50,000	\$2,868 = 5.74%
2005	\$55,000	\$51,900	\$3,100 = 5.97%
2006	\$60,528	\$54,400	\$6,128 = 11.26%
2007	\$62,949	\$60,210	\$2,739 = 4.54%
2008	\$65,467	\$63,340	\$2,127 = 3.35%
2009	\$68,086	\$66,310	\$1,776 = 2.67%
2010	\$70,809 (assuming 4% increase)	\$69,967	\$842 = 1.2%

AVERAGE FROM 2003 -2005 = 5.87%

AVERAGE OVER 10 YEARS = 5.08%

CHART F

**ATLANTIC COUNTY FOP LODGE #34 AND
COUNTY OF ATLANTIC**

FOP 34 & PBA 243 & COUNTY PROPOSAL

Salary Differentials

2003-2006

	PBA 243	FOP 34	Difference	Differential*
2003	\$50,835	\$48,000	\$2,835	5.91%
2004	\$52,868	\$50,000	\$2,868	5.74%
2005	\$55,000	\$51,900	\$3,100	5.97%
2006	\$60,528	\$54,400	\$6,128	\$11.26%

*Average differential 2003-2005 was 5.87%

2007-2009 Salaries Maintaining a 5.87% Differential

	PBA 243	FOP 34	Difference	Differential*
2007	\$62,949	\$59,460	43,489	5.87%
2008	\$65,467	\$61,840	\$3,627	5.87%
2009	\$68,086	\$64,310	\$3,776	5.87%

Salaries as Proposed by the County of Atlantic

	PBA 243	FOP 34 County	Difference	Differential*
2007	\$62,949	\$57,000	\$5,949	10.43%
2008	\$65,467	\$59,280	\$6,187	10.43%
2009	\$68,086	\$61,721	\$6,365	10.31%

CHART G

SHIFT DIFFERENTIALS
IN 10 SOUTHERN COUNTY JAILS

<u>County</u>	<u># of Inmates</u>	<u>Shift Differential</u>
Atlantic	1,282	0730 hrs. – 1530 hrs. - \$1,250/yr 1530 hrs. – 2330 hrs. - \$2,750/hr (proposed)
Burlington	567	0
Camden (not settled)	2,180	1600 hrs – 2400 hrs. – 6% (\$3,300/yr) 1530 hrs – 2330 hrs. – 85 (\$4,400/yr)
Cape May	246	0
Cumberland	684	0
Gloucester	338	6:00 a.m. – 6:00 p.m. + \$.95 per hr.
Mercer	794	3:00 p.m. – 11:00 p.m. + \$.30 per hr 11:00 p.m. – 7:00 a.m. + \$.35 per hr
Monmouth	1,230	0
Ocean	469	0
Salem	289	3:00 p.m. – 11:00 p.m. + \$.50 per hr 11:00 p.m. – 7:00 a.m. + \$.55 per hr

In order for pattern bargaining to be maintained at its current level, the pattern must be the same. FOP Lodge 34 has used as a basis for its argument the PBA 243 voluntary settlement with the County which was completed on April 21, 2006. That settlement increased each step by \$2,000 plus an additional \$1,200 added to the maximum salary. The reason for the \$2,000 was because that bargaining unit gave up the work of hospital/custodial duty. Therefore, the one-time \$2,000 adjustment was to compensate for that loss. That cannot be said for FOP Lodge 34.

I incorporated the equity adjustment for the top of the December 31, 2006, Salary guide for the very same reason utilized by Arbitrator Glasson to maintain experienced and qualified Correction Officers. There is no question that the Correction Officers in Atlantic County are not paid at the same level as PBA 243. Nevertheless, to maintain a stable workforce the \$1,200 equity adjustment must be placed on Step 7 of the December 31, 2006, Salary guide.

That Salary guide at Step 6 had a \$12,400 increment. Compounding that out to January 1, 2010, that increment becomes unwieldy. That certainly gives pause to the structure of the Salary guide. Thirty-nine (39) months have elapsed since the December 31, 2006, Salary guide. Employees on Steps 1 through 5 moved along that Guide. I placed those employees on Step 6 of the December 31, 2006, Salary guide on the new Step 8. Those on Step 7 went to the new Step 8. Nevertheless, as employees moved through the Guide, more Correction Officers started to reach the maximum salary. Unfortunately, the parties have not been unanimous in their determination on how to structure the Salary guide. The FOP just wants to add Step 8, while the County wants to put a step between Steps 6 and 7 to break up that bubble. If I were to add a

new step between Steps 6 and 7 and break up the bubble, some employees who already received raises definitely would be put into a difficult situation throughout the term of the Agreement. It is not my intent to do that, nor is it my intent to structure a new Salary guide that the parties are unwilling to address.

The easiest thing for me to do on the Salary guide is to remand it back to the parties for them to create a new Guide, and I would retain jurisdiction. However, that would be abdication of my responsibilities. Since my Award will expire on December 31, 2010, it certainly stands to reason that from the spring of 2010 through the ending of December 2010 the parties will be meeting to negotiate a new contract. At that point, they should be addressing a new Salary guide and at the same time creating an incremental pattern that is consistent on every single step.

The comparisons FOP Lodge 34 used with relationship to PBA 243 is one aspect of internal comparisons and whether or not pattern bargaining exists. PBA 77 had a different Salary guide which was concluded in 2009. I was the Interest Arbitrator in two cases with PBA 77 and PBA 77 SOA. In those two cases for 2007, there was a 4% increase at every step of the Salary guide. For 2008, the top step was increased by \$2,800 and 4% was added to that and a 3.8% for all of the other steps. For 2009, \$2,800 was added to the top step and that amount was divided by 9 steps, which equates to \$311. Step 1, \$311 was added, at Step 2, another \$311 (\$622) was added and so forth to reach \$2,800 at Step 9. Step 9 maximum was then increased by 4% (maximum) and all of the other steps were increased by 3.8%. For 2010, the top step was increased by \$2,000 and following the same concept, dividing by 9, created \$222 to

the first step and then that amount was doubled and so forth till the top reached \$2,000. The top step was then increased by 4%, and all other steps were increased by 3.8%.

It is important in this Interest Arbitration for all concerned and in particular the FOP that the reason for those settlements was because PBA 77 for both groups agreed to two significant issues that could be considered concessionary bargaining. They agreed to make health insurance contributions of 1% of their base salary and agreed to three furlough days in 2009 and three furlough days in 2010.

Even though health insurance is not on the table with FOP Lodge 34, the fact remains that the salary increases were negotiated by PBA 77 because of give-backs. There are no give-backs from FOP Lodge 34.

Therefore, the pattern that FOP Lodge 34 continually argues concerning the top step of the PBA 243 Salary ceased to exist the moment the \$2,000 was added to every single step of that guide in 2006. At that juncture, the comparison to the differential of 5.87% from 2003-2005 can't be utilized in this award. The average according to FOP Exhibit 113 over a ten year period, assuming a 4% increase at the top step for PBA 243, would be a 5.08% differential.

Pattern bargaining means that the components that make up the pattern have to consistent. There is no consistency here the moment PBA 243 received the one-time payment of \$2,000 because they eliminated the work of hospital/custodial duty.

LONGEVITY:

Even though I did not award any longevity increases it is important to know my reasoning.

The current longevity for FOP Lodge 34 is:

- 6-10 yrs \$800
- 11-15 yrs \$1150
- 16-20 yrs \$1700
- 21 and on \$2500

That is the same as PBA 243.

PBA Local 77 has longevity as follows:

- 4 yrs \$600
- 7 yrs \$800
- After 10 yrs \$1400

IBT Local 331 and CWA Local 1040 both have a maximum longevity of \$1,200, less than half of the current FOP Lodge 34 top longevity payment. Most importantly, the increases sought by FOP 34 would have put the County into a difficult financial situation. I did not award any increase in longevity for those very reasons.

SHIFT DIFFERENTIAL:

I awarded the following shift differential:

0730-1530 (a) 71 Officers
1530-2330 (b) 40 Officers

$\$0.50 \times 8 = \$4.00 \times 5 = \$20.00/\text{week} \times 50 \text{ weeks} = \$1000 \times 71 = \$71,000$
 $\$0.55 \times 8 = \$4.40 \times 5 = \$22.00/\text{week} \times 50 \text{ weeks} = \$1100 \times 40 = \$44,000$
\$115,000

The data submitted shows that Atlantic County Correction Officers are the only County employees who work shifts and do not receive any additional compensation. The County Correctional Facility is a 24/7 operation. I determined that using Chart G above plus the County's data found on page 26 of their 4/23/09, brief a reasonable first-time shift differential payment could be created.

That Chart shows the shift differential payments in the ten southern counties where applicable. Of the ten, three pay an hourly rate. The County's data shows that Middlesex County pays an hourly rate, and Union County pays a dollar amount. Using an hourly rate composite of all data in the record, an average of \$0.55 is paid for the a shift and \$0.59 for the b shift. I awarded \$0.50 and \$0.55 respectively.

OVERALL COMPENSATION:

FOP Exhibit 72 shows that the comparison of benefits for Correction Officers in the ten (10) southern counties clearly establishes that they are comparable if not the same in many of the contractual benefits. The issue of payment for sick leave upon retirement will be addressed and they will receive a higher dollar amount and a higher percentage by January 1, 2010. Therefore, when I look at all of the comparisons, I don't find that FOP Lodge 34 has less of a benefit range than other Correction Officers in Atlantic County. Additionally, internal comparisons have already been addressed. Beside the salary increases and the shift differential, these Correction Officers also receive medical and hospitalization benefits, insurance and pensions, holidays, vacations, which must be factored into a total economic settlement. Currently, they have 13 holidays for which they receive overtime pay. The Employer has challenged that because they cannot continue to allow Correction Officers to receive time and one

half pay for not working. Unfortunately, the County's position cannot be sustained because they had bargained that in the past and even though we have different economic circumstances now, nothing has been presented to me to have that removed from the equation of benefits.

STIPULATIONS:

I have already addressed the 18 pages of Stipulations between the parties.

LAWFUL AUTHORITY OF THE EMPLOYER

This criterion requires the Arbitrator to consider the limitations imposed by the CAP Law, as well as any limitations on the authority of the Employer. The County ~~argues that its lawful authority is statutory and that it is constrained by the limitations of the CAP Law.~~

The FOP argues that while Atlantic County is facing some of the same challenges faced elsewhere, nevertheless the County is able to provide a competitive wage settlement to members of the Corrections Union. Moreover, as evidenced by the documentation submitted by Dr. Caprio, *"County government, unlike municipal units, face significantly less uncertainty as it relates to the collection of property tax revenues. Unlike municipalities, which must assume 100% of the risk of delinquencies, County government does not and has provided 100% of the tax levy required. Accordingly, there is a much higher degree of certainty of revenue projections."*

Dr. Caprio also contends that when the County used the 2.5% CAP limitation, they also deferred on almost \$100,000 in funding opportunities. Dr. Caprio also contends *"that the County has a predictable pattern of over-budgeting in its current budget and this has manifest again in the 2009 budget."* He argues that the importance

of this pattern is that it reserves resources in an artificially high appropriation level. His review of the current 2009 budget indicates that this trend will continue and the documentation he submitted shows that the past practices of the County will be consistently adhered to and applied to because it can reasonably be concluded that the County has more than \$2.7 million in appropriated reserves against which more than \$2 million will go unexpended in 2009 and canceled.

Ms. Jane Lugo, the County Treasurer, agrees with some of Dr. Caprio's assessments but disagrees with his analysis that the County has sufficient surplus money to fund the settlement proposed by FOP Lodge 34. She argues that the County does receive 100% of the tax levy as required, but that is not the issue. The issue is that the County tax rate increased in 2009 by over \$.02 based on the decrease in equalized valuation and the increase in the amount to be raised in taxation. She also contends that the information submitted, and in particular page 23 of the FOP post-hearing brief, shows that Dr. Caprio's second argument is not supported. Ms. Lugo contends that, in fact, in only two years was there growth in surplus. In all other years there was a reduction in the surplus. The FOP's position that the surplus in 2004 was \$14.3 million is not correct. The correct surplus was actually higher at \$17.3 million but was reduced from the 2003 surplus by 2.10%.

In 2008 the surplus was \$15.5 million, a 25.74% reduction in surplus balance. Also in 2008, the County needed to replenish the surplus by over \$10.5 million but was only able to add \$5.2 million to the Fund balance. Ms. Lugo contends that *"if this were to continue, the 2009 surplus would be less than \$13 million."* As indicated previously,

the surplus, until 2009, has remained relatively static as has the amount utilized to support the budget.

Ms. Lugo agrees that the County deferred on almost \$100,000 of funding opportunity and that there is no argument the County was \$74,992 under CAP, but it was attributed to changes that the State Division of Local Government Services required after the budget was prepared for introduction. This amount was *"added back to the budget and would have been utilized to provide relief to the County employees that voluntarily agreed to over \$750,000 in furloughs, in order to retain one of the nine employees that were laid off or to allow 2 of the 31 positions that were frozen to be filled."*

Ms. Lugo says that the County did, in fact, approve the 1% CAP resolution, but it will be utilized to provide additional CAP capacity for 2010 and 2011. She argues that the 3.5% CAP in 2009 would not have provided additional CAP as the County would then have been required to budget in accordance with the 4% CAP. Unlike municipalities that could use either CAP calculation, the County was required to use the CAP calculation that produced the least increase to the amount to be raised by taxation.

Ms. Lugo contends that Dr. Caprio's argument that the County has a pattern of over-budgeting is not accurate. She argues, *"It is my contention that any appropriations that lapse in the surplus or evidence of management controls that are implemented when delaying projects, keeping vacancies open and general fiscal responsibility."* Looking at the information presented by Dr. Caprio, and excluding the balance she submitted, Ms. Lugo says that this reserve is reduced to less than \$1.2 million.

Ms. Lugo concurs with Dr. Caprio's assessment that the County receives on average \$2.5 million of miscellaneous revenue. These funds are generated from several sources including added and omitted taxes which fluctuate substantially from a high of \$1.9 million in 2007 to a low of \$0.9 million in 2008. Ms. Lugo also agrees that the County replenishes more than \$10.4 million to the surplus annually based upon the information presented by Dr. Caprio; however, he ignored specific information which definitely does not support his argument of sufficient economic resources.

The financial documentation presented certainly showed the Arbitrator that the County does have the financial resources to fund a settlement that will be comparable to other settlements within Atlantic County itself. However, the focal point of FOP Lodge 34's entire argument has been based upon the one-time \$2,000 that was added to every step for PBA 243's Salary guide. As previously indicated, that does not carry forth with the documentation in evidence. The financial circumstances facing the County, as well as any other County and/or municipality in the State of New Jersey, are not at the level of being draconian, but they are severe. The State of New Jersey is facing a huge deficit and the economy in the Country is in a downward spiral. The economic stimulus packages presented by the Obama administration have not created the types of job that people believe are necessary to keep this Country out of a depression. Facts and figures presented to me clearly show that the County has sufficient reserves to fund my Award without have any adverse impact upon the residents of Atlantic County.

**FINANCIAL IMPACT OF THE GOVERNING UNIT, ITS RESIDENTS
AND TAXPAYERS**

The documentation submitted supports my Award in the instant matter. There was no evidence presented to the terms of my Award that will require the County to exceeds its lawful authority and impose any financial constraints upon the residents of Atlantic County. The County has a solid financial base for funding my Award, and I do not see any financial impact/impediment to funding this Award. The data submitted shows that the County has a very sound, well thought out financial management program and has created and maintains appropriate reserves. This is attributed to the conservative and responsible financial management in the County.

Based on the evidence in the record, I conclude that the Award's financial impact will not adversely affect the governing unit, its residents and its taxpayers.

COST OF LIVING

I conclude that the awarded base salary increases, while in some instances marginally higher than the increase in the cost of living, particularly in 2007 and 2008, actually provides for an increase in real earnings and must be measured against the continued delivery of quality service by the County's Correction Officers.

The most recent cost of living information as reported on February 12, 2010, by the U.S. Department of Labor, Bureau of Labor Statistics, (BLS), for Philadelphia-Wilmington-Atlantic City shows the following Consumer Price Index increases:

<u>Year</u>	<u>Annual %</u>
2006	3.9
2007	2.2
2008	3.4
2009	less than 1

The modification of retiree health benefits as of January 1, 2010, and the elimination of ten holidays from mandatory overtime will reduce the County's overall costs for the FOP 34 bargaining unit. Moreover, both parties proposed increases in the uniform allowance, and both proposed to roll the \$1,350 hazardous duty pay into the base salary. Additionally, the County proposed to pay a \$500.00 stipend to SERT team members.

I have determined that my awarded increases do not undermine the cost of living criterion.

CONTINUITY AND STABILITY OF EMPLOYMENT

I do not believe that this Award will cause Correction Officers to leave the County because of their salary or overall compensation, nor do I believe that this Award will cause the County to reduce the level of law enforcement and/or municipal employees. Nothing has been presented to challenge those two positions. Therefore, I have determined that the continuity and stability of employment will not be jeopardized by this Award.

SUMMARY:

I have carefully considered the evidence and arguments of the parties in relation to the statutory criteria. I am mindful that the Award does not interfere with the lawful authority of the Employer, and furthermore, the Award is consistent with the public interest and will not have any deleterious impact on the governing unit or its residents and taxpayers.

I respectfully enter the terms of the following award as a reasonable determination of the issues in dispute based upon the facts in evidence:

While the Award is higher than the County had proposed, it is less than what the FOP has proposed and strikes a balance between those two positions, as well as the law enforcement settlements in Atlantic County.

I have to continually emphasize that the position advanced concerning an equity adjustment at the top step of the Salary guide from January 1, 2007, through January 1, 2010, proposed by the FOP was not supported by the evidence in the record, as well as what has occurred with other bargaining units. As previously indicated, I did award a \$1,200 equity adjustment on Step 7 of the December 31, 2006, Salary guide.

The FOP cannot point to any proposal they made that would have reduced ~~and/or detracted from any existing term and condition of employment and/or benefit.~~ It may very well be that there is not enough within that negotiations agreement to make any type of modifications. However, salary increases were awarded, shift differential was awarded, SERT stipend was awarded, uniform increase was awarded, which clearly established that from December 31, 2006, to present, Correction Officers represented by FOP Lodge 34 have received salary increases and have maintained their level of benefits.

Accordingly, I hereby issue the following Award:

AWARD

A. Term of Agreement

There shall be a four year agreement effective January 1, 2007, through December 31, 2010.

B. Salary (See Appendix A)

1. Add the \$1,350 hazardous duty pay to each step of the December 31, 2006, salary guide. Effective January 1, 2007, increase each step (except maximum) by 3%.
 - b. Add a one-time \$1,200 equity adjustment to step 7 of the December 31, 2006, salary guide.
 - d. Effective January 1, 2007, add a new maximum step 8. All Officers on steps 6 and 7 of the December 31, 2006, salary guide shall move to step 8. Increase the December 31, 2006, step 7 salary by 4%.
 - e. All % adjustments to steps 1-7 of the December 31, 2006, salary guide shall be in addition to the hazardous duty pay and equity adjustments.
2. Effective January 1, 2008, increase steps 1-7 by 3%. increase step 8 by 4%.
3. Effective January 1, 2009, increase steps 1-7 by 3.5%. increase step 8 by 3.75%
4. Effective January 1, 2010, add a new maximum step 9. All Officers on steps 7 and 8 of the December 31, 2009, guide shall move to the new step 9. Increase steps 1-7 by 3.5%. Increase step 8 by 4.0%.
5. All salary increases are fully retroactive to January 1, 2007.

C. Delete Article V, Section d.

D. All Salary guides appear in Appendix A.

E. Effective January 1, 2007, increase current clothing allowance of \$1,250 to \$1,350.

F. Effective January 1, 2009, all members of the Special Emergency Response Team (SERT) shall receive a \$500 stipend. This is not part of base pay.

G. Payment for unused sick leave:

1. Effective January 1, 2007, increase by \$1,000 at 50% of days (total \$13,000).
2. Effective January 1, 2008, increase by \$1,000 at 50% of days (total \$14,000).
3. Effective January 1, 2009, increase by \$1,000 at 50% (total \$15,000 at 50% of days).
4. Effective January 1, 2010, change to \$15,000 at 100% of days.

H. Article IV – Overtime:

1. Revise paragraph H as follows:

An Officer shall have the option to refuse mandatory overtime two times (2x) per calendar year without being subject to disciplinary action. Overtime refusal shall apply to Thanksgiving Day, Christmas Day and New Year's Day. Overtime refusal shall not apply to the ten (10) remaining holidays or Super Bowl Sunday. This provision shall not apply in emergent situations and whether a situation is deemed emergent shall be determined by the Shift Commander.

I. Article VII – Health Benefits at Retirement:

2. Revise paragraph B as follows:

- a. Employees hired on or before December 31, 2006, shall be eligible for the provisions of this Article upon retirement if they have twenty-five (25) years or more service credit in the State Pension Plan and at least fifteen (15) years or more of full-time service with Atlantic County at the time of retirement or upon reaching the age of sixty-two (62) or older and having at least 15 years of service with Atlantic County.

- b. Employees hired on or after January, 1, 2010, shall be eligible for the provisions of this Article upon retirement if they have twenty-five (25) years or more service credit in the State Pension Plan and at least twenty-five (25) years or more of full-time service with Atlantic County at the time of retirement or upon reaching the age of sixty-two (62) or older and having at least 15 years of service with Atlantic County.

J. Article XVIII – Working Conditions and Safety Items:

- 2. Paragraph D – Vests and Carriers: All new employees shall receive a properly fitted vest. Vests for any employees shall be replaced with a new vest at the manufacturer's recommendation or earlier if defective. All new employees shall receive \$100 to purchase two (2) vest carriers. Replacements of vest carriers shall be the responsibility of the Officer, the cost of which may be covered under his annual clothing allowance.

K. Article XXII – Miscellaneous

- 1. Add new section – Continuation of Benefits:

Continuation of Benefits - All terms and conditions of employment, including any past or present benefits, practices or privileges which are enjoyed by the employees covered by this Agreement that have not been included in this Agreement shall not be reduced nor eliminated and shall be continued in full force and effect.

L. Article III – Work Schedules (Section A):

- 1. Language modified to ensure a guaranteed thirty (30) minute uninterrupted lunch/meal period per shift. In an event an emergent situation defined as a situation in which an Officer's presence is required to prevent possible injury to a person or an urgent situation which cannot be handled at any other time arises and an Officer's attendance is required, said Officers shall be allowed to make up such time in order to complete his meal.

M. I shall Award the parties' eighteen pages of stipulated agreements set forth in both of their final offers dated August 5, 2008 (FOP 34) and

August 8, 2008 (County). All other proposals of FOP 34 and the County of Atlantic are denied.

N. Shift Differential

1. I shall award the following shift differential to be effective January 1, 2007:

0730-1530	\$.50 per hour
1530-2330	\$.55 per hour

Dated: April 2, 2010


Gerard G. Restaino, Arbitrator

AT County FOP/34		ATTACHMENT A					Includes adj.
BASE YEAR 2006		2006	2007	2008	2009	2010	
# staff	Salary Guide	READ ACROSS 4 YEAR STEP MOVEMENT					Raise
		Step					
27		1	\$ 31,261	\$ 32,198	\$ 33,325	\$ 36,152	
18		2	\$ 33,321	\$ 34,320	\$ 35,521	\$ 40,152	
16		3	\$ 33,836	\$ 34,851	\$ 36,070	\$ 42,152	
10		4	\$ 35,896	\$ 36,972	\$ 38,266	\$ 44,152	52.2%
6		5	\$ 40,016	\$ 41,216	\$ 42,659	\$ 49,266	58.9%
			\$ 44,651	\$ 45,990	\$ 47,600	\$ 59,346	88.4%
			\$ 51,939	\$ 55,400	\$ 57,339	\$ 66,463	98.4%
			\$ 59,228	\$ 61,597	\$ 63,907	\$ 66,463	77.2%
17		6	\$ 59,228	\$ 61,597	\$ 63,907	\$ 66,463	58.2%
82		7	\$ 59,228	\$ 61,597	\$ 63,907	\$ 66,463	22.2%

FOR ACTUAL CONTRACT

2006		2007 YR 1		2008 YR 2		2009 YR 3		2010 YR 4	
								Step	
Step		Step		Step		Step		Step	
1	\$ 29,000	1	\$ 31,261	1	\$ 32,198	1	\$ 33,325	1	\$ 36,152
2	\$ 31,000	2	\$ 33,321	2	\$ 34,320	2	\$ 35,521	2	\$ 38,152
3	\$ 31,500	3	\$ 33,836	3	\$ 34,851	3	\$ 36,070	3	\$ 40,152
4	\$ 33,500	4	\$ 35,896	4	\$ 36,972	4	\$ 38,266	4	\$ 42,152
5	\$ 37,500	5	\$ 40,016	5	\$ 41,216	5	\$ 42,659	5	\$ 44,152
6	\$ 42,000	6	\$ 44,651	6	\$ 45,990	6	\$ 47,600	6	\$ 49,266
7	\$ 54,400	7	\$ 51,939	7	\$ 55,400	7	\$ 57,339	7	\$ 59,346
		8	\$ 59,228	8	\$ 61,597	8	\$ 63,907	8	\$ 62,905
								9	\$ 66,463

State of Pennsylvania)

County of Wayne) ss:

On this 2nd day of April, 2010, before me personally came and appeared GERARD G. RESTAINO to me known to be the person who executed the foregoing document and he duly acknowledged to me that he executed the same.

Judith K. Restaino

