

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

COUNTY OF MIDDLESEX,

“Public Employer”

and

Docket No: ~~IA-2010-012~~

CORRECTIONS, PBA LOCAL 152

“Union”

and

Docket No: IA-2009-096

CORRECTIONS SUPERIORS, PBA LOCAL 152A

“Union”

and

Docket No: IA-2009-097

**PROSECUTOR’S DETECTIVES AND
INVESTIGATORS, PBA LOCAL 214**

“Union”

**INTEREST ARBITRATION
DECISION AND
AWARD**

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the County:

Frederick T. Danser, III, Esq.
Apruzzese, McDermott, Mastro & Murphy

For the Unions:

Leonard C. Schiro, Esq. (PBA Local 152A)
Mets, Schiro & McGovern, LLP

Robert Fagella, Esq. (PBA Local 152)
Zazzali, Fagella, Nowak, Kleinbaum & Friedman

Paul L. Kleinbaum, Esq. (PBA Local 214)
Zazzali, Fagella, Nowak, Kleinbaum & Friedman

I was appointed to serve as interest arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425, in matters involving the County of Middlesex [the "County"] and Corrections Rank and File unit, PBA Local 152, the Corrections Superiors, PBA Local 152A and the Prosecutor's Detectives & Investigators unit, PBA Local 214 [the "Unions"]. The labor agreements between the County and these three employee organizations expired on December 31, 2008. Absent an agreement to utilize an alternative terminal procedure, the mandatory procedure of conventional arbitration was utilized. Under this procedure, the arbitrator has the authority to fashion an award that may not adopt the last offer of either party on any proposed issue.

Pre-interest arbitration mediation sessions were then held with each individual unit on various dates extending into 2010. Because the issues could not be mutually resolved in mediation, formal interest arbitration hearings were held.

The petitions before me were not formally consolidated. However, all parties recognized that the goals of economy and efficiency would be met by receiving evidence that was common to each negotiating unit during the course of combined hearings without having to independently resubmit documentary or testimonial evidence in duplicate fashion. This was especially true for the evidence concerning the finances of the County because the County's economic position in all three units rested upon its claim to diminished overall financial

capacity as a result of the recession that began in late 2008 and continued through the close of the record. For this reason, a single financial presentation from the County applicable to all units was deemed an appropriate procedure. It was also agreed that a single decision would issue covering all three units, although there would be a separate award on individual items for each unit where required.

A joint hearing with all parties in attendance was conducted on Tuesday, May 18, 2010. At that time, the County offered its financial presentation through the testimony of John A. Pulomena, County Administrator and Thomas A. Banker, Financial Consultant.¹ A second joint hearing was conducted on July 8, 2010. At that time, the employee organizations cross-examined County Administrator John Pulomena.² In addition to these hearing dates, separate hearings were conducted to the employee organizations to submit evidence on the issues that each presented in its final offer. That hearing was conducted on May 20, 2010. Testimony at these hearings was received by Theodore Grabowski, Correction Officer and President of PBA Local 152 on issues pertaining to the County's Department of Corrections. Mr. Pulomena offered testimony in response. PBA Local 152 offered substantial documentary evidence in addition to participating in cross-examination of County witnesses. PBA Local 214 submitted Certifications by Prosecutor's Office Investigators Kelly Polack and Wayne Canastra. Investigator Polack is also a State Delegate with PBA

¹ The parties stipulated that Mr. Banker is an expert in public finance.

² There was no cross-examination of Mr. Banker.

Local 214 and Investigator Canastra is President of PBA Local 214. Both certifications were submitted in response to a Certification submitted by County Prosecutor Bruce J. Kaplan. In addition, the employee organizations submitted a financial report authored by Financial Consultant Vincent J. Foti in response to the County's financial presentation. Substantial documentary evidence was also presented by all parties concerning the many issues in dispute. Such evidence is very comprehensive in scope and, while summarized herein, cannot be shown in full detail. The exhibits predominantly center upon the County's finances, the state of the overall economy, and internal and external comparability with public employees and employee organizations that each party deemed relevant for comparison purposes. All parties submitted post-hearing briefs and the record was closed on or about January 1, 2011.

FINAL OFFERS OF THE PARTIES

The County's final offers to each party are identical and are as follows:

THE COUNTY OF MIDDLESEX

1. Term of Agreement – Four years from January 1, 2009 through December 31, 2012.
2. Wages – The first negotiated wage increase (NWI) shall become effective January 1, 2011 and shall be in the amount of 1%. Effective January 1, 2012 there shall be an additional NWI in the amount of 2%.
3. Medical Benefits – Article VII, Section C4 – Prescription Coverage, shall be modified to provide a \$10.00 co-pay per generic drug and a \$20.00 co-pay per brand name drug

effective the first of the month after issuance of final award in the matter and the conclusion of any appeals that may be filed concerning the award.

4. Overtime – Contract language to be modified wherever necessary to provide that eligibility for overtime pay begins after actually working 40 hours in the work week exclusive of paid leave time which shall not count as time worked for overtime entitlement. Time worked beyond the regularly scheduled hours of work per week up to 40 hours of work per week shall be compensated at straight time.

PBA LOCAL 152 (CORRECTIONS)

1. Four years – 1/1/09 through 12/31/2012
2. Wage Increases – 1/1/09 - 3%; 1/1/10 – 3.5%; 1/1/11 – 3.75%; 1/1/12 – 4%

3. Senior Officer Rate

Commencing 1/1/10, Senior Officer changed to the following:

- a) Commencing 13th year of service – 1% of base pay.
- b) Commencing 16th year of service – 2.5% of base pay.
- c) Commencing 21st year of service – 4% of base pay.

4. Clothing Allowance

Commencing 1/1/10 increase to \$1,700.

5. Longevity

Commencing 1/1/12 – Longevity payments to be based on salary of \$55,000 rather than \$30,000.

6. Training in Step 1

For new employees hired after 1/1/12, freeze training step 1 at 2011 salary schedule.

7. Compensatory Time

Commencing 1/1/11 – Increase compensatory time to 80 hours from current 55 hours.

8. Critical Incident Investigation

Include a new provision 8.03 providing that “when an officer is involved in a critical incident, he/she shall be immediately removed from the area or soon thereafter as possible if medical treatment or evaluation is requested.”

9. Workers Compensation

Add additional Section 26.01 to provide that in instances where officers are on Workers Compensation, officers will be permitted to attend approved therapy appointments during normal scheduled work hours when possible. If required to attend Workers Compensation treatment on personal time, officer compensated for time accordingly.

10. PBA Release Time

Amend Section 6.05d to provide that president and State delegate of the PBA shall be given full release time to conduct Union business. Both officials to be listed on the work schedule as “PBA time” for post assignment.

11. Prescription Medication

Effective upon issuance of award, co-pay shall be \$3.00 for generic and \$5.00 for name brand drugs.

PBA LOCAL 152A (CORRECTIONS SUPERIORS)

1. Four years – 1/1/09 through 12/31/2012

2. Wage Increases – 1/1/09 - 3%; 1/1/10 – 3.5%; 1/1/11 – 3.75%; 1/1/12 – 4%

3. Senior Officer Rate

Commencing 1/1/10, Senior Officer changed to the following:

- a) Commencing 13th year of service – 1% of base pay.
- b) Commencing 16th year of service – 2.5% of base pay.

c) Commencing 21st year of service – 4% of base pay.

4. Clothing Allowance

Commencing 1/1/10 increase to \$1,700.

5. Critical Incident Investigation

Include a new provision 8.03 providing that “when an officer is involved in a critical incident, he/she shall be immediately removed from the area or soon thereafter as possible if medical treatment or evaluation is requested.”

6. Workers Compensation

Add additional Section 26.01 to provide that in instances where officers are on Workers Compensation, officers will be permitted to attend approved therapy appointments during normal scheduled work hours when possible. If required to attend Workers Compensation treatment on personal time, officer compensated for time accordingly.

7. Prescription Medication

Effective upon issuance of award, co-pay shall be \$3.00 for generic and \$5.00 for named brand drugs.

PBA LOCAL 214
(PROSECUTOR’S DETECTIVES & INVESTIGATORS)

1. Duration: January 1, 2009 through December 31, 2012

2. Union Representatives – Article II

Up to ten percent of the Union is authorized to attend both the Annual and Mini Convention (as per past practice).

“Authorized Representatives (i.e., Delegate, President and/or their Designee) are authorized to attend County and State Meetings and/or Trainings.”

3. Wages – Article III

4.0% across the board increases each year retroactive to January 1, 2009

4. Overtime – Article V

Beeper Time – Change to “On Call Time”

Employees with Unit Duty who are “on call” shall receive \$50 a day for each day they are “on call,” whether or not the employee is in fact called out.

Also,

Employees with Unit Duty who are “on call” shall receive one hour of “On Call Time” for every day they are “on call,” whether or not the employee is in fact called out. This time can be kept in a separate bank from the compensatory time bank. If the employee is under the 480 cap then they can put in for Compensation time, however, if the employee is over the cap they can put in for “Duty Time.” The “Duty Time” is to be utilized by the employee prior to their retirement. There will be no cash payout for “Duty Time,” and the employee will have the right to use it during their career as an additional means of time off. Whatever time is remaining prior to retirement will be utilized prior to their retirement date. If “Duty Time” is not used, it shall be lost.

5. Longevity – Article VI

Raise cap from \$30,000 to \$50,000

6. Arbitration – Article XVII

Add “working conditions” in addition to economic grievances for those grievances that can be submitted to binding arbitration.

7. Rights and Privileges of the Union – Article XIX

Revise the last sentence as follows:

“The Union shall have the reasonable use of bulletin boards, mailboxes, copy machines, fax machines, e-mail, and/or voice-mail.”

8. County Vehicles (New Provision)

Any member of this bargaining unit who is not assigned a county vehicle on a daily basis that in addition to their work assignments, is used to travel to and from work, shall be compensated in the amount of \$3,000 annually. This amount is to be paid quarterly, as follows:

- 1st payment of \$750 is made the first pay after January 1st of each year
- 2nd payment of \$750 is made the first pay after April 1st of each year
- 3rd payment of \$750 is made the first pay after July 1st of each year
- 4th payment of \$750 is made the first pay after October 1st of each year

In the event a member is assigned vehicle during the course of the year, he/she will not receive the next payments during the time they have said vehicle (i.e. – a member had received their first and second payment, then he/she was assigned a vehicle in June of that year, they would not receive the July payment. If said vehicle was taken from the member prior to the fourth payment, he/she would receive the fourth payment).

9. Layoffs and Re-hire (New Section)

- (a) Whenever a layoff is necessary due to economic reasons, the Prosecutor agrees to lay off Detectives/Investigators in inverse seniority order so that individuals with the least amount of seniority and subject to layoff first. No layoffs will be implemented without at least 45 days written notice personally served on the Investigator. As used in this Article, “seniority” means the total length of service as a Detective/Investigator with the Middlesex County Prosecutor. Employment in job classifications other than that of Detective/Investigator shall not be counted when calculating seniority.
- (b) All employees identified for layoff shall be placed on an eligible rehire list in the order in which they are laid off. Prior to hiring any new Detective/Investigator, the Prosecutor agrees to first offer employment to individuals on the rehire list, beginning with the first named individual on the list. In the event the first

named individual on the list declines the offer of employment, the Prosecutor agrees to extend offers of employment to the other individuals on that list. The Prosecutor agrees that no individual whose name does not appear on the rehire list shall be hired unless and until all individuals on the rehire list have declined an offer of employment.

BACKGROUND

The County of Middlesex, the public employer in these matters, is a central New Jersey county consisting of 25 municipalities and approximately 800,000 residents within a 320 square mile area. It has the third highest population among the 21 counties in New Jersey.

Although the County has emphasized a declining financial condition in this proceeding, it historically has occupied a favorable ranking among United States metropolitan areas for median household buying income where it ranks third. It has excellent road and rail access that includes the New Jersey Turnpike, Garden State Parkway and New Jersey Transit. It is home to many well known corporations such as Johnson & Johnson and Bristol Meyers Squibb and houses several major hospitals including Robert Wood Johnson, JFK Medical Center and St. Peters. Rutgers University and Middlesex County College offer higher education services.

The employees in this proceeding are included in bargaining units in the Department of Corrections and in the County Prosecutor's Office. The Prosecutor's Office is engaged in a broad variety of law enforcement activities.

The record includes a depiction of the scope and complexity of the work of that office. A cursory view of its law enforcement responsibilities includes homicide, Homeland Security, gang violence and suppression, bias crimes, domestic violence, apprehensive of criminal fugitives, sex crimes, child abuse and a special prosecutions section that, among other things, investigates financial crime, political corruption, police misconduct, insurance and consumer fraud. Notwithstanding the desirability of residing within the County's various municipalities, the County ranks in the top third of the state in the number of adult and juvenile arrests and robbery, burglary and larceny offenses. In 2008, the County's crime index offenses increased by 5%. The County does not dispute the excellent of the services provided by the County Prosecutor and the detectives and investigators that are employed. The certifications from County Prosecutor Kaplan and Investigators Canastra and Polack shed light on many of the activities of the office.

The Corrections Officers primarily in the Middlesex County Adult Corrections Center. It is staffed by 191 Corrections Officers, a decrease from a high of 204 in 2000. The bargaining units note that the inmate to officer ratio has increased from 4.5 in 2000 to over 6. It observes that this ratio is well above that in other major counties such as Bergen, Morris and Union.

Testimony concerning activities in the Corrections facility was offered by Officer Grabowski who is President of PBA Local 152. His testimony was broad

in nature and reflected his opinion that the work of a Corrections Officer has become much more difficult due to the increasingly violent nature of inmates who enter the facility. He testified to the presence of gang members in the facility who attempt to control the behavior of the inmate population. He further testified to an increase in training which has become more intense and includes semiannual qualification in firearms. The supervisory unit, PBA Local 152A, offers an exhibit reflecting higher mortality rates for those employed in corrections occupations due to stressful, demanding and dangerous job duties.

POSITIONS OF THE PARTIES

There are many economic and non-economic issues in dispute. I will offer a brief summary of the positions of the parties based upon the record that the parties have developed. The County's emphasis in these proceedings centers on the economic downturn and its claimed adverse affect on the County's finances causing deteriorating budgetary health. These circumstances are asserted to support its final offer that includes no increases to the salary schedules in 2009 and 2010 followed by a 1.0% increase in 2011 and 2.0% in 2012. The County points out that while the across the board increases total 3.0% over four years, the overall financial impact of its proposal is substantially higher due to step increases that employees receive on the existing salary schedules. Because of this, it calculates its final offer as producing a 15.6% increase to the PBA Local 152, Corrections Officers Unit and a 9.71% increase to PBA Local 214 Investigators Unit. The County acknowledges that its proposal to

PBA Local 152A Superior Corrections Officers amounts to a lesser sum of 3.59% over four years due to the lack of step increases for those unit members but notes that the base rates for these unit employees all approach or exceed \$100,000 and that Local 152A's overall economic proposal, in contrast, amounts to 22.25% over the four years. The County calculates the respective costs of the salary proposals in each unit as follows:

| | Total Cost Per Unit (2009-2012) | Cost Differences Per Unit |
|----------------|------------------------------------|------------------------------|
| County | \$1,996,442 | \$1,877,028 |
| PBA Local 152 | \$3,873,470 | |
| County | \$476,458 | \$724,727 |
| PBA Local 214 | \$1,201,185 | |
| County | \$128,232 | \$583,553 |
| PBA Local 152A | \$711,785 | |

According to the County, its changed financial condition is of such overall concern that it was required to propose a uniform economic offer in all of these law enforcement units that it acknowledges is less than earlier contracts it settled with AFSCME blue and white collar units prior to confronting worsening budgetary conditions.³ The evidence in support of the County's economic position are contained in the myriad of financial documents in the record and in the testimony of Pulomena and Banker. In broad terms, the County contends that it has shown that it depends upon property taxes for revenue and that

³ I have received a stipulation from the County and PBA Local 214 representing Prosecutor's Investigators Supervisors that they and the County have voluntarily agreed to accept terms that will be set by the terms of this award although they are not parties to this proceeding.

property values have been negatively impacted by sharply reduced sales, heightened credit standards, high vacancy rates, and an over-supply of commercial and industrial space. The real estate values are said to have been negatively impacted by an increasing number of tax appeals, by increasing foreclosures, reductions in construction and declines in sale prices.

In addition, the County asserts that modifications to the Cap law have severely limited its ability to appropriate funds. Pointing to Banker's testimony and drawing upon exhibits, the County asserts a reduction in Cap bank ability from \$15.8 million to \$2.2 million between 2005 and 2010. The County further notes that there was a sharp difference between its maximum Cap and total levy of \$20 million in 2005 to only \$400,000 in 2010. Emphasizing this point, the County references an exhibit showing that its cash position declined from 23.9% of appropriations in 2005 to 12.6% in 2010 while its surplus was 8.8% of appropriations in 2005 in contrast to 3.671% in 2010.

According to the County, there is increasing pressure on its tax levy due to declines in revenue causing greater reliance on property taxes as its main revenue source to support its budget. The County supports this claim by showing that in 2005, the ratio of tax levy total miscellaneous and tax revenue was 72% and that this ratio had increased to 80.09% by 2010. The County points out that miscellaneous revenue without grants increased from \$62,665,000 in 2004 to \$59,075,000 in 2009 and was projected to decline to \$54 million in

2010. Turning back to statutory restrictions, the County notes that, even if it were inclined to do so, there are greater statutory restrictions on the amount that it can raise through additional taxation and that anything that approaches the Unions' final offers, if adopted, would place a severe strain on its finances and its ability to maintain the workforce at current levels.

Based upon these highlights from its financial presentation, the County argues that its proposal more favors the interests of the public than does the salary proposals of all of the employee organizations and is more consistent with the criteria that concerns financial impact and statutory limitations.

The Unions collectively and individually do not agree with the County's assessment of its financial condition. They assert that the public interest would be furthered by an acceptance of its proposals. Its central theme is that it is in the public interest to maintain productive and efficient law enforcement agencies in order to maintain the safety and security of the County and its residents. The Unions assert that the County's position would undermine the morale of the law enforcement agencies and thus be detrimental to the well-being of the County's residents in addition to destroying its relative comparability status in county corrections and prosecutor offices.

All three employee organizations rely upon the cross-examination of the County's witnesses and the financial report of its own financial consultant. It

notes that the County has retained a AAA bond rating from Standard and Pours as well as a Aa1 rating from Moodys. It further notes that the County had a fund balance of almost \$16 million at the end of 2009 and stood well below the statutory debt limit of 2% of equalized value by its current rate of 0.56%. Referring to statutory budget restraints, the Unions point out that the County was below the statutory cap by approximately \$330,000 for 2010 and that this is an amount that could be banked for the ensuing year. Pointing to the 2010 County budget, the Unions appropriations with unspent salary and wage reserves as of December 31, 2009 of \$558,434 in the Prosecutor's Office, \$863,834 and \$678,652 in the Sheriff's Office.

The employee organizations all contend that the comparability evidence supports their proposals over those of the County. A general overview of their submissions on this issue reflect the following. PBA Local 152 submits that its 2009 base salary with senior pay and longevity pay at \$82,643 (with its proposed salary increase of 3%) falls short of Somerset County at \$84,526, Morris County at \$88,199, Ocean County at \$91,610 and Bergen at \$108,493. It further points out that the 2009 percentage wage increases for County Corrections units in all four of those counties were at, or exceeded, 4%.

PBA Local 152A asserts that its salary structure does not compare favorably with the County's other law enforcement superior officer associations. It compares Sergeant pay at \$87,664, Lieutenant pay at \$99,527 and Captain

pay at \$115,458 to the salaries of Sheriff's Office Sergeants, Lieutenants and Captains at \$88,683, \$101,985, and \$117,283 respectively. At the time of hearing, the parties indicated that the bargaining units on the Sheriff's office were also at impasse. Turning to comparisons with Prosecutor's Office superiors, Local 152A notes that Sergeants earned \$112,056, Lieutenants earned \$128,864 and Captains \$135,000 in 2008. Local 152A also offers a similar argument that was offered by Local 152, namely that salary levels for their units are lower in Middlesex County than those in Somerset, Morris, Ocean and Bergen counties.

PBA Local 214 similarly complains that the County's offer of 3% over four years would have a devastating impact on the morale of the Prosecutor's Investigators. It seeks to maintain the relative standing of PBA Local 214 members in relation to the salaries in other county prosecutor offices. It contends that the County's proposal is contrary to the negotiated settlements with the County's civilian bargaining units and at odds with the results of negotiations and interest arbitration awards with other municipal, county and state law enforcement groups. It asserts that when cost of living is taken into consideration, the County's proposal would result in a significant reduction in compensation.

All three employee organizations complain that the County's wage offer is significantly less than the negotiated agreements the County reached with other bargaining groups representing non-law enforcement employees. The Unions

cite documents, as supported by County testimony, that the County negotiated percentage increases of 0% in 2009, 2% in 2010, 3% in 2011 and 3.75% in 2012 with twelve different unions including AFSCME which represents 60% of the employee base in the County. The Unions also contend that the County's proposal falls below the increases in the CPI, with published wage increases for private sector employees and without regard to legislation requiring contributions to health insurance contributions and that the County ignores the projected cost savings from pension eligible law enforcement officers who have retired or will retire.

In addition to the comprehensive submissions on salary offered by all parties that center mainly on the County's finances and comparability, each party has presented evidence and arguments concerning other compensation related and non-economic issues. Their submissions with respect to those individualized issues will be addressed in the later analysis evaluating each issue as well as the County's proposals on medical insurance and overtime.

DISCUSSION

As stated above, all parties in this proceeding have offered substantial evidence and argument in support of their respective positions on the disputed issues. I am required to make a reasonable determination of those issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (9) that I

find relevant to the resolution of these negotiations. These factors, commonly called the statutory criteria, are as follows:

- (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.)).
- (2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
 - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq).

- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.
- (9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L. 2007, c 62 (C.40A:4-45.45).

Any party seeking to modify existing terms and conditions of employment has the burden to prove that there is a basis for its proposed change. This burden must be met at a level that goes beyond merely seeking a change without sufficient evidentiary support. Moreover, any decision to award or deny any

individual issue in dispute must include consideration as to the reasonableness of that individual issue in relations to the terms of the entire award. I will address the issues by indicating each issue and the units that are involved with that issue.

Contract Duration – PBA Locals 152, 152A & 214

All parties have proposed a four year agreement commencing January 1, 2009 and expiring on December 31, 2012. Based upon the common position taken by all parties with respect to contract duration, I accept their proposals as a stipulation pursuant to N.J.S.A. 34:13A-16g(4). Accordingly, I award a contract duration of January 1, 2009 through December 31, 2012.

Prescription Coverage – PBA Locals 152, 152A & 214

All three labor agreements provide for a drug prescription benefit. Unit employees and their dependents are covered. The current co-payment program has existed since 1999. Under the existing contractual benefit no payment is required for generic and a \$3.00 co-payment is required for brand name prescription drugs. The County has proposed to change the co-pays to \$10.00 for generic and \$20.00 for brand name drugs effective the first of the month after the issuance of final award and the conclusion of any appeals that maybe filed concerning the award. PBA Locals 152 and 152A propose a change to \$3.00 for generic drugs and \$5.00 for brand name drugs effective upon issuance of the

Award. PBA Local 214 proposes no change thereby seeking to preserve the status quo.

The record clearly establishes a basis for a change in the level of existing co-pays. The existing program has been administered for more than ten years. In the meantime, the record shows that adjustments to prescription coverage have become commonplace in both the private and public sectors, including law enforcement. However, the County's proposed change well exceeds the existing levels of co-payments within the County and is not consistent with the terms that have been established in other County agreements. The proposal by Local 214 seeks no change and is not consistent with the uniformity the County has established while the proposals of Local 152 and 152A are. Therefore, the proposals of Local 152 and 152A are awarded effective the first day of the month after the formal execution of the collective negotiations agreements.

In addition to the above, the parties have addressed health care contributions required by law and their impact. The agreement shall reflect that health care contributions shall be consistent with that required by P.L. 2010, Chapter 2 and P.L. 2011, Chapter 78.

Longevity – PBA Locals 152 & 214

All three employee organizations have a longevity program in their existing agreements. That longevity program provides the following:

All eligible employees are entitled to receive longevity based upon their base salaries (maximum base \$30,000.00) as of December 31st of the previous calendar year starting with completion of the 8th year of service as follows:

| | | |
|--------------------------------|---|-------------|
| 9 through 15 years of service | - | 4% = \$1200 |
| 16 through 20 years of service | - | 6% = \$1800 |
| 21 years and over | - | 8% = \$2400 |

As is evident from the above program, the percentage amounts are capped by computing that percentage off of a maximum base of \$30,000. In this proceeding, PBA Local 152 proposes that the longevity payments be based on a maximum base of \$55,000 rather than \$30,000. PBA Local 152A does not propose a change. PBA Local 214 proposes that the longevity payments be based upon a maximum base of \$50,000. The County proposes no change.

The existing program represents a hybrid of percentages and dollar amounts although, for all practical purposes, it has become a dollar longevity program for all employees in all units because their minimum pay exceeds the maximum base upon which the longevity amounts are calculated.

The longevity program was last modified in 2007 by an increase in the percentages upon which to apply to the maximum base. I do not award the proposals to increase the maximum base pay upon which the longevity pay is calculated. The record shows that there has been uniformity in this benefit for all County units. Even assuming that there may now be a basis for change for these law enforcement units, I do not award the proposals because they would

affect the total annual economic impact of this award in a manner inconsistent with the criteria that concern financial impact.

Clothing Allowance – PBA Locals 152 & 152A

PBA Locals 152 and 152A each propose to increase the clothing allowance from \$1,100 to \$1,700 effective January 1, 2010. The clothing allowance was last modified in 2007. The terms of the Local 214 contract reflect that its clothing maintenance allowance was eliminated and that the amounts in that benefit are now being received as part of the employees' base pay and have been adjusted accordingly.

There is no dispute that there is a legitimate connection between the allowance provided and the use of that allowance towards the maintenance of clothing required in the performance of duty. Moreover, the vast weight of the evidence shows that there has been an increase in expenditures and reasonable increases over the past several years in this type of allowance in virtually all law enforcement units. Accordingly, I award an increase of \$100 in the clothing allowance for Locals 152 and 152A effective January 1, 2012.

Critical Incident Investigation – PBA Locals 152 & 152A

PBA Locals 152 and 152A propose a new section to Article 8.00, Correction Center Investigations. Each propose a new provision at Article 8.03

stating that “when an officer is involved in a critical incident, he/she shall be immediately removed from the area or soon thereafter as possible if medical treatment or evaluation is requested.” The County neither agrees nor disagrees with the proposal but instead recommends that continued negotiations be pursued on the issue because it does not believe that the parties engaged in full prior discussion of the issue. It requests the arbitrator, if he deems it appropriate, retain jurisdiction over the issue.

The Unions assert that the language proposed would protect employees who are physically or mentally unable to continue working following a disturbance. The Unions note that a corrections officer frequently confronts violent attacks and medical treatment should be allowed to the employee without fear of reprisal. The Unions also submits that the proposed language is also common and is contained in the Union County Superior Correction Officer Agreement.

The purpose of the language proposed is clearly job related. However, as proposed, it leaves the judgment to whether a critical incident has occurred solely to the officer who was involved in the incident. This language, if awarded, could give rise to disputes over whether a critical incident has in fact occurred and, if so, whether medical evaluation or treatment is required. The proposed language omits supervisory oversight. The proposal appears to suggest that some supervisory or managerial personnel are not fully responsive when such

incidents occur. If this were to be the case, under the language I have awarded, a review procedure would be available to affected officers if a reasonable request is denied. Accordingly, I award the proposal with modified language that states:

When, in the judgment of the Warden or the Warden's designee, an officer is involved in a critical incident, he/she shall be immediately removed from the area or soon thereafter as possible if, in the judgment of the Warden or the Warden's designee, medical treatment or evaluation is requested and required. Such request shall not be unreasonably denied.

Workers Compensation – PBA Locals 152 & 152A

PBA Locals 152 and 152A each propose to add an additional section to the existing provisions on work incurred injury set forth in Article 26. Article 26 is a comprehensive provision that regulates rights and responsibilities of employees who are injured or disabled as a result of their employment and who are deemed physically unfit for duty. The proposal would add an additional section that would provide for the following: "In instances where officers are on Workers Compensation, officers will be permitted to attend approved therapy appointments during normal scheduled work hours when possible. If required to attend Workers Compensation treatment on personal time, the officer will be compensated for time accordingly." The County opposes the awarding of its proposal. It asserts that the parties did not engage in full discussions on this issue and that they should be directed to resume negotiations.

The record on this issue contains insufficient evidence to support an award of the Unions' proposal. For example, it is not know the extent to which the proposal, if awarded, would impact on the amount of working time or on the amount of compensation that could potentially be required to be paid for non-duty hour treatment for fill-ins if required. Accordingly, while there may be persuasive elements to the proposal, its merits should be pursued during future negotiations in a fuller factual context. Accordingly, I do not award the proposal during this contract term.

PBA Release Time – PBA Locals 152 & 214

PBA Local 152 and PBA Local 214 have proposals which deal with PBA release time. PBA Local 152 seeks to amend Section 6.05 to require full release time to conduct Union business for its President and State delegates. Currently, the PBA President and/or is designee is excused with pay from normal assignments when processing grievances during regular work hours. The County opposes this proposal.

The overall provision at Article 6 is comprehensive. It speaks to, among other things, release time for PBA conventions, mini conventions, contract negotiations, attendance at regular monthly meetings at Local and PBA executive board meetings. A time bank of 80 hours per year is provided to allow PBA officers to attend conferences and seminars relating to corrections and/or labor relations or to conduct other PBA business. PBA Local 152 agreement

provides a detailed framework for release time. It has not established a basis for full release time to conduct Union business. It has also not been shown that full release time is a benefit that has been the subject of interest arbitration awards. Where it exists, the parties have done so by voluntary agreement. Absent such showings, this proposal is not awarded.

PBA Local 214 asserts that there is a past practice of allowing 10% of its unit to attend PBA annual and mini conventions. It seeks to have the asserted practice codified into the agreement. It also proposes that PBA representatives be allowed to attend County and state meetings and/or training sessions. There is no provision in the Local 214 agreement that directly speaks to the release time that is the subject of Local 214's proposal, although Article II – Union Representatives contains anti-discrimination language and a standard for union access. The County responds that PBA Local 214 has not demonstrated the existence of a past practice and disputes that such a practice exists. It further submits that there has never been an unreasonable denial of a time off request for a Union representative. The County notes that it is required to provide authorized time off in accordance with applicable statutory provisions.

I do not award Local PBA 214's proposal as it has been phrased. The County is required to provide authorized time off in accordance with applicable statutory provisions (see N.J.S.A. 11A:6-107). If indeed there is a past practice, an alleged violation of that practice can be the subject of grievance. The County

does not seek to eliminate a past practice but does not agree that one exists. My award on this issue neither confirms nor rejects the existence of a practice. The record does not reflect that there has ever been an unreasonable denial of a time off request. Because there is evidence that release time has been provided, there is a basis for the inclusion of a release time provision reflecting the County's statutory obligations and a procedure for review of time off requests made by Union representatives for attendance at authorized meetings and/or training sessions. Accordingly, I award the following new paragraph to the existing language in Article II of the Local 214 agreement:

Article II – Union Representatives

The PBA shall receive all rights to authorized time off for union leave pursuant to N.J.S.A. 11A:6-10. Union release time shall also be provided in accordance with established practice. In the event of a dispute over the existence of a binding past practice, the PBA shall have the burden to prove the existence of a binding and enforceable past practice.

Overtime – County Proposal

The County has proposed to modify contract language in all three labor agreements to provide that "eligibility for overtime pay begins after actually working 40 hours in the work week exclusive of paid leave time which shall not count as time worked for overtime entitlement. Time worked beyond the regularly scheduled hours of work per week up to 40 hours of work per week shall be compensated at straight time." PBA Locals 152, 152A and 214 all oppose the County's proposal.

The existing agreements have a forty (40) hour threshold before overtime is required. After that threshold is reached an employee is paid overtime at the rate of time and one half. The County seeks no change to the forty (40) hour threshold, but proposes that the forty (40) hour threshold consist solely of hours actually worked rather than crediting any hours of paid time off that are not actually worked. The County acknowledges that the crediting of paid time towards overtime eligibility is a contractual entitlement that it seeks to change. According to the County, this proposal would provide for controls in the increases in overtime earnings.

PBA Local 214 urges rejection of the County's proposal. It points to County testimony that the current language is not inconsistent with the FLSA and that there is no awareness of any abuses committed by investigators employed in the Prosecutors office. Local 214 further notes that overtime in the Prosecutor's office is not significant compared to overtime worked elsewhere in County law enforcement. Pointing to a County exhibit showing that there was \$7.7 million in overtime, PBA Local 214 cites the fact that only \$189,000 was expended on overtime for investigators. It concludes that the County has failed to present sufficient evidence that would justify a change in the current provision.

PBA Locals 152 and 152A also urge rejection of the County's proposal. The Locals contend that the County has not met its burden on this proposal

because it has not provided sufficient evidence reflecting any abuse or any reasonably accurate estimates of the amount of money that would be “saved” under the County’s proposal.

I do not award the County’s proposal. The amount of overtime in the Prosecutor’s office is minimal. While the County has shown that there is a considerable amount of overtime in Corrections, it is an obligation to show that such overtime is caused by present overtime calculations as opposed to the fact that overtime in a 24/7 operation such as in corrections is merely a consequence of its unique operation. There is insufficient credible evidence that there has been abuse of the existing provision or on the projected amount of compensation that would be saved if the proposal were to be awarded.

Training Step One – PBA Local 152

PBA Local 152 proposes to freeze training step one at the 2011 salary schedule for new employees hired after January 1, 2012. The County voices no objection to this proposal. The proposal is put forth by Local 152 as a cost saving measure to offset the cost increases caused by its salary proposal. The proposal is awarded effective July 1, 2012.

Compensatory Time – PBA Local 152

PBA Local 152 proposes to increase compensatory time to 80 hours from the current cap of 55 hours. According to Local 152, its proposal represents a modest increase in the amount of compensatory time that it can bank. Because officers must either use the compensatory time or be paid out for the time by the end of the year, the PBA points out that the carryover of the time is not permitted. Local 152 complains that this restriction compels officers to take off even when they do not seek time off. The County opposes the proposal. I do not award the proposal in the absence of credible evidence on the potential impact of the proposal on replacement staffing caused by the increase in compensatory time and on projected increases in overtime costs.

Arbitration Article 16 – PBA Local 214

PBA Local 214 proposes to add “working conditions” in addition to economic grievances that can be submitted to binding arbitration. Article 16 – Arbitration states in pertinent part that:

Only economic grievances that would affect an employee's income, hours, or economic fringe benefits may be submitted to binding arbitration. If a dispute arises as to the determination of whether a grievance is economic or non-economic in nature, the parties will file the appropriate documents pursuant to N.J.A.C. 19:16-6.2 and the PERC shall render a decision on the matter. The parties agree to abide by the final decision in the issue determination.

The County opposes the proposal. It does so on the basis that further discussions should take place on the issue and that the arbitrator can retain jurisdiction.

There is merit to Local 214's proposal because there is no evidence that supports the existing basis for precluding Local 214 from seeking to enforce contractual provisions that fall outside of the narrow definition now set forth in Article 16. However, the term "working conditions" is somewhat ambiguous and could lead to conflict as to what constitutes a grievable subject. Accordingly, I award the Union's proposal as modified:

Economic grievances that would affect an employee's income, hours, or economic fringe benefits may be submitted to binding arbitration. Non-economic grievances that concern an interpretation or application of specific and/or express language set forth in the Agreement may also be submitted to arbitration.

Rights and Privileges of the Union – Article XIX – PBA Local 214

Under the existing terms of Article XIX, PBA Local 214 shall have the reasonable use of bulletin boards and mail boxes. Its proposal would broaden the scope of the provision by adding "copy machines, fax machines, email and/or voicemail." According to the Union, its proposal simply represents an update and takes into account other forms of communication and technology. It sees its proposal as benefiting both parties by enhancing its ability to communicate both with its members and with the Prosecutor's office over issues of mutual concern. The County opposes the proposal based upon its view that the proposal has not

been fully discussed. Therefore, it suggests that the arbitrator to direct the parties to resume negotiations and retain jurisdiction. I agree with the County that the subject matter of this proposal warrants further direct discussion between the parties. While the Union's proposal does not appear to be unreasonable, the use of office technology is normally accompanied by certain managerial controls that are subject to office policy. Accordingly, I do not award the proposal but encourage continued discussion between the parties as to the acceptable use of office equipment. I do not retain jurisdiction.

County Vehicles – PBA Local 214

PBA Local 214 proposes a new provision concerning compensation for investigators who are not assigned vehicles. The proposal is as follows:

Any member of this bargaining unit who is not assigned a county vehicle on a daily basis that in addition to their work assignments, is used to travel to and from work, shall be compensated in the amount of \$3,000 annually. This amount is to be paid quarterly, as follows:

- 1st payment of \$750 is made the first pay after January 1st of each year
- 2nd payment of \$750 is made the first pay after April 1st of each year
- 3rd payment of \$750 is made the first pay after July 1st of each year
- 4th payment of \$750 is made the first pay after October 1st of each year

In the event a member is assigned vehicle during the course of the year, he/she will not receive the next payments during the time they have said vehicle (i.e. – a member had received their first and second payment, then he/she was assigned a vehicle in June of that year, they would not receive the July payment. If said vehicle

was taken from the member prior to the fourth payment, he/she would receive the fourth payment).

The position of the PBA on this issue is broad in scope. The basis for its proposal is explained in Certifications from Investigators Wayne Canastra and Kelly Polack. The support for its proposal is best summarized as set forth in its post hearing brief:

The issue of the use the County vehicles has been a continuing source of problems for more than 20 years. Despite the efforts of the parties to reach some accommodation about the use of vehicles, a satisfactory solution has not been achieved. Because a resolution over the use of County vehicles has not be the subject of an agreement by the parties, the PBA has presented a proposal which provides for compensation for Investigators and Detectives who do not have vehicles. The Prosecutor has a managerial prerogative to assign and deploy vehicles. As a result, the PBA does not, and cannot, require that the Prosecutor provide them with vehicles. Instead, the PBA has proposed a stipend based upon the stipend provided to Assistant Prosecutors who have had vehicles removed.

At the outset, this was an issue in the 1990 interest arbitration proceeding before Arbitrator Weaver (PBA Vol. III, Exhibit G). At that time, the County proposed to grant unlimited use of a County vehicle to all members of the unit. The PBA rejected the proposal because the Prosecutor had, and has, the right to rescind the use of vehicles. It was a managerial prerogative then and it is today. E.g., Morris County, 8 NJPER 561 (¶13259 1982), aff'd. App. Div. Dkt. No. A-795-82T2, 10 NJPER 103 (¶15052 1984), certif. den. N.J. 672 (1984); N.J. Turnpike Authority, 19 NJPER 154 (¶24077 1993).

Thus, the Prosecutor's proposal at that time was illusory and was not a proposal which could be enforced through grievance arbitration or even unfair practice charge proceedings. Arbitrator Weaver, at that time, recognized it and did not award the Prosecutor's proposal. He noted that "this proposal could be eliminated by the County by unilateral action at any time." (PBA Vol. III, Exhibit G at p. 11).

Since that time, the parties have attempted to resolve this dispute.³ In 2007, the County amended its personnel policy to prohibit Investigators who live out of county to use vehicles to commute to and from work (PBA Vol. III, Exhibit D). At that time, 21 investigator were affected by the decision. (PBA Vol. III, Exhibits C through E). Although the PBA initially prepared an unfair practice charge (PBA Vol. III, Exhibit E), it did not file it as a courtesy to the Prosecutor and in an effort to reach an accommodation with the Prosecutor. There was a compromise reached in 2002 which held until 2007 (Polack Certification, PBA Vol. III, Exhibit U at 4). As noted by Polack in her certification, the PBA's proposal here recognizes that the Prosecutor has a managerial right to assign vehicles. The amount of the proposed stipend, \$3,000, is based upon the stipend given to Assistant Prosecutors. It also provides for quarterly payments over the course of the year to Investigators who may be assigned vehicles for part of the year. This takes into account circumstances in which a vehicle might be assigned to an Investigator during only a part of the year. The Prosecutor, in his certification, does not dispute that the Assistant Prosecutors who had vehicles taken away in 2007 receive a \$3,000 stipend.

³ The Prosecutor attached to his Certification a letter from the PBA's counsel and a memo from the PBA regarding settlement proposals in 2007 (Prosecutor Certification at Exhibits A and C). The Prosecutor should know better than to attempt to rely upon settlement proposals for any purpose. As an experienced attorney, the Prosecutor must know that proposals to settle disputes are not evidentiary.

The County opposes Local 214's proposal and seeks that it be dismissed in its entirety. It relies in large part upon a Certification from Prosecutor Kaplan who described the history of the dispute over vehicles and how vehicles have been assigned. The Certification states the following:

1. I am presently the Middlesex County Prosecutor and have held that position since July 6, 2002.
2. At the time of my appointment, this office had a motor pool of 124 cars, of which most were assigned to specific individuals. A specific breakdown of the fleet is set forth below:

| | |
|------------------------|----------|
| Detective Bureau Staff | 85 |
| Assistant Prosecutors | 30 |
| Other | <u>9</u> |
| Total | 124 |

3. After reviewing both the size of the motor pool as well as the assignment, it was the consensus of senior management that we could reduce both the overall size of the fleet and the number of employees taking cars home.
4. As a result, the overall fleet was reduced to 99 cars. More specifically, the number of Investigators taking cars home was reduced to 54. The number of Assistant Prosecutors taking cars home was also reduced to 21. In doing so, we attempted to create a structure in the assignment of cars based on unit assignment and seniority within that unit. All units were assigned a specific number of vehicles for use by that unit. The senior members of that unit were allowed to take their car home. As Investigators were reassigned to a different unit, they could likely lose their car because they would not have adequate seniority within the new unit to warrant an assignment of a car.
5. The reduction of the fleet and the assignment of vehicles was discussed with and signed off by the leadership of the PBA.
6. On September 6, 2007, in the face of rising gas prices (which approached, if not exceeded, \$4.00 per gallon) the Middlesex County Board of Chosen Freeholders passed a resolution to amend the County Personnel Policy which provided that:

County vehicles shall not be permitted under any circumstances to be taken out of Middlesex County for commuting to and from work, or for any other non-business purpose, unless such use is specifically authorized by contract, Resolution of the Board of Chosen Freeholders or such County employee is on active law enforcement on-call status as determined by the County Prosecutor and/or the County Sheriff.

This resulted in the reduction of an additional 10 vehicles bringing the total number of vehicles in the MCPO fleet to 89.

7. At the time the resolution was passed, 30 in-County Investigators had cars and 23 out of county Investigators also had cars assigned. Following a review by senior staff, it was determined that 20 of the 23 out of county Investigators

were not on permanent on-call status and therefore were using the County vehicle largely just for commuting purposes.

8. With regard to these 20 out of county Investigators who lost their car assignment, 2 have since left the employment with the Middlesex County Prosecutor's Office, and 3 have since been assigned cars due to their change to an on-call status. Accordingly, only 15 Investigators of the approximately 75 total number of Investigators currently employed by the Middlesex County Prosecutor's Office lost their cars to commute back and forth to home as a result of the Freeholder resolution. Since the passage of the Freeholder resolution, approximately 10 different in-County Investigators have been assigned a car who did not have a car prior to the resolution. This occurred because of retirements and transfers which impacted seniority within the different units.
9. With that said, it cannot be over emphasized that every single Middlesex County Prosecutor's Office Investigator, whether they live in County or out of county, has the use of a County vehicle when they are on-call or when needed for a specific assignment. Accordingly, out of County Investigators routinely take cars home if they are on-call (whether for a day or a week). Out of County Investigators are simply no longer allowed to utilize County vehicles and gas for commuting purposes only.
10. As it relates to the 36 senior in-County Investigators who are assigned cars, most, if not all, do not need their car for work purposes since they are not on call but simply use the car to commute back and forth to work.

It is my understanding that the final offer of the Union includes a demand that any of its members who is not assigned a car on a daily basis to be used to travel to and from work in addition to work assignments be paid an annual stipend in the amount of \$3,000.00 with payments to be quarterly so that adjustments can be made for cars that may be given or taken to and from a member during the year.

11. This latest demand is significantly different than the December 5, 2007 proposal of the Union wherein it only sought a stipend for those investigators who lost a car as a result of the Freeholder resolution, which are now approximately 15 in number. (Letter attached as Exhibit A).

This latest demand is made despite the uncontroverted fact that investigators are provided cars for work purposes whenever needed. Accordingly, there is no work related argument set forth or that could be set forth in furtherance of this demand.

12. It appears that this current demand is premised on the union simply not wanting to be divided into two classes of employees, those with a car and those without. From a review of the Certifications, it also appears that the union believes its entire membership should now and forever receive a car stipend or a car because Assistant Prosecutors receive a stipend. These arguments are simply not accurate or convincing.
13. With regard to the union's "have and have not" argument, I am a proponent that only Investigators who are on-call should have use of a County vehicle to take back and forth to work, thus eliminating the assignment of in County Investigators who use the cars for commutation. This will establish a need based assignment of vehicles that remove any legitimate claim of disparate treatment, and also produces appropriate savings for the taxpayers.
14. Although the union would have the arbitrator believe that assignment of cars is the only difference between the investigators of similar rank that is simply not the case. There exist significant differences between the benefits and responsibility of similarly ranked officers, depending on their assignments and date of hire. For example, the Sex Crimes Unit has a second shift and receives a shift differential. The Homicide Investigators tend to receive more overtime than the Trial Team Investigators, while other Investigators might receive beeper pay. In fact, through negotiations, the union created differentiations among its members when it agreed that only certain of its members would receive terminal leave pay, or prior service credit for senior pay, and that its newest members would have to contribute for health benefits.
15. During my tenure as Prosecutor I have hired 32 of the 75 Investigators now employed by this office. I certify that none of these individuals was promised that a car was part of the County benefit package. To the best of my knowledge, no such promise was made by any of my predecessors who advised cars were taken home as a convenience to the County, which at the time had limited parking space

available after hours. It is interesting to note that Investigator Polack makes no assertion that a promise of a car as part of the County benefit package was made to her.

16. Following passage of the 2007 Freeholder Resolution, but prior to enforcing same, discussions occurred with the Union leadership. As a result of those discussions, this office agreed to reassign cars taken from out of county Investigators to less senior in-County Investigators. (Letter attached hereto as Exhibit B). In other words, attempts were made to address the union's concern that resulted from the passage of the 2007 Freeholder Resolution.
17. As noted, the Union also attempts to leverage the stipend/cars given to the Assistant Prosecutors in furtherance of its argument that its entire membership, now and forever, should receive a car or car allowance. For the following reasons, this argument must also be rejected:
 - a. First and foremost there is a clear distinction between assignment of cars to investigators and vehicle assignment and/or stipend pay to Assistant Prosecutors. Not all Assistant Prosecutors receive a stipend and/or a car. Specifically, only 18 of the 48 Assistant Prosecutors in this office have a car, receive stipends or both.
 - b. More importantly, there are work related reasons for assignment of cars or stipends to Assistant Prosecutors since only Assistant Prosecutors who are either team leaders, section chiefs or are on-call receive the stipend or car or both. Furthermore, whether the Assistant Prosecutor lives in county or out of county, he/she does not receive a car or a stipend unless he/she falls within one of these limited categories.
 - c. The Assistant Prosecutors who are team leaders or section chiefs or are on call do not receive any additional compensation for these additional duties. Moreover, Investigators receive additional compensation for being on all and for overtime worked. Assistant Prosecutors do not receive such additional compensation. Thus, an Investigator can be working overtime on a case with an Assistant Prosecutor and receives overtime for all hours worked

while the Assistant Prosecutor receives no additional compensation.

- d. If the duties of the Assistant Prosecutors change and they are no longer on-call, a team leader or section chief, they will lose the car and stipend.
- e. As with the Detective Bureau, any Assistant Prosecutor who needs a car for work purposes has access to the office motor pool.

As is evident from the parties' submissions, the issue of County vehicle usage for Detectives/Investigators has been one of significance for many years. Changes to the motor pool pursuant to a 2007 Freeholder Resolution has clearly resulted in vehicle reduction and has impacted the entire office including Investigators and Assistant Prosecutors. The fleet reductions caused the Prosecutor to regulate vehicle usage and to limit the use of vehicles to those Investigators who are on call or require the vehicle for a specific assignment. The policy has not authorized the use of county vehicles for the purpose of commuting to and from work, although the PBA has established that such usage had been commonplace in the past and appears, pursuant to the above Certification to be authorized for Detectives/Investigators who reside in-county.

According to Prosecutor Kaplan, every Investigator has use of a County vehicle when he or she is on-call or when the Investigator is on a specific assignment. These parameters do not appear to be in dispute and the Agreement should codify this practice coupled with language that would apply if

the County were to further reduce or eliminate the fleet. Accordingly, I award the following language to be incorporated into the Agreement as a new provision:

Investigators shall continue to be provided a County vehicle when on-call or when needed for a specific assignment. In the event that the number of vehicles is reduced or eliminated that cause a limit on such use, negotiations shall be undertaken concerning the impact of any such decision.

The PBA's position, as set forth in its proposal, is to compensate each Investigator as an annual stipend of \$3,000 or \$750 per quarter if the Investigator "is not assigned a County vehicle on a daily basis that in addition to work assignments, is used to travel to and from work." As such, the proposal appears to provide compensation for commuting purposes to those Investigators who are not assigned vehicles but are not on-call or need a vehicle to perform a specific assignment.

The record does show that prior to the 2007 Resolution, the usage of cars for commuting purposes was routine but that this changed during a series of fleet reductions. The record does not show, however, that the use of a vehicle was a benefit promised as part of a compensation package, although there had been a reasonable expectation that the usage would continue until the time that some of the vehicles were withdrawn. The record reflects that there have been ongoing efforts to resolve the issue since that time. I sustain Local 214's objection to the County's reference to settlement proposals in the past which have been part of the negotiations.

Local 214 recognizes that the size or existence of the County motor pool is a managerial prerogative and instead seeks compensation. While compensation is, as the PBA has pointed out, a negotiable subject, it has not proven that its members have a right to quarterly or annual compensation when not assigned a vehicle outside of the disputed circumstances when vehicles are assigned. I am not persuaded that there is any merit to Local 214's reference to out of unit Assistant Prosecutors who are assigned vehicles is a meaningful comparison. The facts and distinctions shown in the Prosecutor's Certification at paragraph 8 does not support Local 214's comparability claims. However, there is merit to a more limited claim of awarding some compensation to those Investigators, primarily if not exclusively those who reside out of county, who have remained employed and who, while not on an on-call status at the time of the Prosecutor's certification, had previously been assigned vehicles for commutation purposes but then had their cars withdrawn. Equitable consideration limited to those Investigators warrants their receipt of a one-time stipend of \$500. This shall extend to the fifteen (15) out of county Investigators identified at hearing and in the Prosecutor's Certification at paragraph 8 and shall not extend to retirees, those Investigators who have been assigned a car but did not have one prior to the Resolution, those who have had their cars withdrawn but have since been assigned cars due to on-call status or are those who otherwise assigned cars by the Prosecutor for reasons that include in-county status. This award shall not constitute a waiver of the right to negotiate over

vehicle usage and compensation in the future except to the extent that such negotiations are over compensation or usage claims arising out of the withdrawal of vehicles because fleet reductions pursuant to the September 6, 2007 Freeholder Resolution.

Layoffs and Rehire (New Section)(PBA Local 214)

The existing agreement contains no language. The Union proposes to add the following new language to the agreement:

- (a) Whenever a layoff is necessary due to economic reasons, the Prosecutor agrees to lay off Detectives/Investigators in inverse seniority order so that individuals with the least amount of seniority and subject to layoff first. No layoffs will be implemented without at least 45 days written notice personally served on the Investigator. As used in this Article, "seniority" means the total length of service as a Detective/Investigator with the Middlesex County Prosecutor. Employment in job classifications other than that of Detective/Investigator shall not be counted when calculating seniority.
- (b) All employees identified for layoff shall be placed on an eligible rehire list in the order in which they are laid off. Prior to hiring any new Detective/Investigator, the Prosecutor agrees to first offer employment to individuals on the rehire list, beginning with the first named individual on the list. In the event the first named individual on the list declines the offer of employment, the Prosecutor agrees to extend offers of employment to the other individuals on that list. The Prosecutor agrees that no individual whose name does not appear on the rehire list shall be hired unless and until all individuals on the rehire list have declined an offer of employment.

The County opposes this proposal in all respects. It contends that the proposal substantially limits the managerial prerogatives of the Prosecutor and could adversely affect the operation of the office. It views the proposal as one that is only designed to protect seniority in the case of layoff without regard to any other considerations that could affect the operation of the office and the work that it is required to perform.

Local 214's proposal is designed to protect the seniority rights of Detectives/Investigators in instances of layoff and rehire. This underlying rationale to have seniority govern in those instances is a traditional approach and, in fact, is part of civil service law. However, in situations involving offices of county prosecutors, the use of seniority as a governing factor in layoff and recall has, as the County has argued, been found to significantly interfere with the exercise of the prosecutor's managerial prerogatives. (See Union County Prosecutor's Office and PBA Local 250, P.E.R.C. No. 2011-074, April 28, 2011). Given this recognition of managerial prerogative, the proposal cannot be awarded.

Overtime (On Call Time) – PBA Local 214

Local 214 has proposed several changes to Article V – Overtime. It proposes to change the title of one paragraph called "Beeper Time" to "On Call Time." It also proposes to increase on-call time from \$15 per day to \$50 per day and to require that employees of the unit who are on call will receive one hour of

on-call time for every day they are on call. In 2009, on-call time amounted to only \$33,000 according to a Certification from Investigator Canastra. The PBA makes the following argument on behalf of its proposal:

The current rate for on-call time of \$15 per day was last increased in 1990 as a result of an arbitration award when it was increased from \$10 to \$15 (PBA Vol. III, Exhibit T at p. 12). At that time, the maximum salary for Investigators and Detectives was increased to \$44,075 effective January 1, 1990. As of January 1, 2008, the maximum salary for Detective and Investigators, not including senior pay, was \$98,840 – more than double the salary in 1990 when the on-call time was last increased.

The PBA's proposal is also predicated on the increased amount of time Investigators are spending on the phone or waiting for calls (Canastra Certification, PBA Vol. III, Exhibit T, ¶4). If Investigators are not called out, they only receive \$15.00 whether they spend 2 minutes on the phone or two hours (Id.). Canastra described examples of situations in which Investigators might spend substantial periods of time waiting for calls, sometimes hours (Id., ¶¶ 7-9). As a result, the PBA's proposal is intended to begin to rectify this imbalance (Id. at ¶10).

The PBA's proposal also includes an alternative for compensatory time. This alternative would not cost the County any additional time. It would also not have any negative impact on the personnel available as claimed by the Prosecutor in his certification. As noted in Kelly Polack's supplemental certification, compensatory time must first be approved by a supervisor who must show that there is sufficient coverage in the office (Polack Certification, Exhibit V at ¶7). Thus, there is absolutely no basis to the Prosecutor's claim that there would be a negative impact on staffing.

Local 214 also proposes the following new language:

Employees with Unit Duty who are "on call" shall receive one hour of "On Call Time" for every day they are "on call," whether or not the employee is in fact called out. This time can be kept in a separate bank from the compensatory time bank. If the employee is under the 480 cap then they can put in for Compensation time, however, if the employee is over the cap they can put in for "Duty

Time.” The “Duty Time” is to be utilized by the employee prior to their retirement. There will be no cash payout for “Duty Time,” and the employee will have the right to use it during their career as an additional means of time off. Whatever time is remaining prior to retirement will be utilized prior to their retirement date. If “Duty Time” is not used, it shall be lost.

The County urges rejection of the proposals on the basis of cost and its view that they are unsupported by credible evidence. I have not been persuaded by the evidence and argument that Local 214 has established the basis for any of the changes it has proposed to Article V – Overtime with the exception of the rate to be paid to unit employees who receive daily compensation for each day they are on call. I am mindful that the language of the agreement providing compensation is attributed to those who carry beepers and are on call and that this nomenclature may no longer be appropriate. Any such clarification can be made by the parties during negotiations for the succeeding agreement. The Certification of Investigator Canastra is compelling concerning the increased amount of time spent by unit employees who are on call but not called out and the fact that it has been more than two decades since the existing daily rate of pay was established. For these reasons, I award a modification to Article V as follows, effective January 1, 2012:

Beeper Time: Employees with Unit Duty who carry beepers shall receive forty-five (\$45.00) dollars a day for each day on call, whether or not the employee is in fact called out.

Senior Officer Pay – PBA Local 152 & 152A

Locals 152 and 152A each propose a modification to the existing provisions of their agreements that concern Senior Officer Pay. It appears in the Local 152 agreement at Article 10.04 as follows:

- a) For the year 2005, Employees who have more than 20 years of service with the County of Middlesex shall receive the negotiated wage increased noted above plus 4% over their base salary. Employees hired after September 6, 2011 are required to have 20 plus years with the Middlesex County Adult Correction Center to receive Senior Officer Pay of 4%. The senior step is base pay and employees paid at said rate may be required to provide additional services for such additional pay.
- b) Effective January 1, 2006, the Senior Officer Pay shall be revised to provide that officers hired prior to September 6, 2001 who have completed fifteen (15) years of service with the County of Middlesex shall be entitled to 2% over their base salary (defined as rate at Step 6 for officers hired prior to January 1, 2006 and rate at Step 7 for officers hired on or after January 1, 2006) and those officers who have completed twenty (20) years of service with the County of Middlesex shall receive an additional 2% above their base rate after completion of fifteen (15) years of services. Employees hired after September 6, 2001 are required to have 15 completed years of service or 20 completed years of service with the Middlesex County Adult Correction Center to receive the Senior Officer Pay as set forth herein. The senior steps are base pay and employees paid at said rate may be required to provide additional services for such additional pay.

Senior Officer Pay appears in the Local 152A agreement as Superior Senior Step at Article 10.03 as follows:

- A. Between January 1, 2005 and December 31, 2006, a superior senior step of 1.5% shall be added to the base

salary of all unit employees. This senior step shall be treated in all respects as base pay that the employee paid at such rate may be expected to provide additional services for such additional pay. To qualify for payment on this Superior Senior Step, the employee must have not less than 20 years of sworn duty in the Middlesex County Adult Correction Center. As of April 5, 2002, all present members of the bargaining unit shall be given credit for non-bargaining unit prior service (full-time only) plus sworn service within the County of Middlesex provided such previous service has been recognized for determination of vacation eligibility, etc. by the employer.

- B. Commencing January 1, 2007, a superior senior step of 1% of base pay for unit personnel who have completed 15 years of service and after completion of 20 years of service the senior pay shall increase by an additional 1.5% of base pay to reflect a total of 2.5% shall be added to the base salary of all unit employees. This senior step shall be treated in all respects as base pay that the employee paid at such rate may be expected to provide additional services for such additional pay. To qualify for payment on this Superior Senior Step, the employee must have not less than 15 years of sworn duty in the Middlesex County Adult Correction Center. As of April 5, 2002, all present members of the bargaining unit shall be given credit for non-bargaining unit prior service (full-time only) plus sworn service within the County of Middlesex provided such previous service has been recognized for determination of vacation eligibility, etc. by the employer.

Although the existing provisions in the above agreements state different terms in respect to senior pay, Locals 152 and 152A propose modifications that would result in future terms being the same. Their proposals are as follows:

Commencing 1/1/10, Senior Officer changed to the following:

- a) Commencing 13th year of service – 1% of base pay.
- b) Commencing 16th year of service – 2.5% of base pay.
- c) Commencing 21st year of service – 4% of base pay.

A review of the existing provisions reflect that Correction Officers now receive 2% after the completion of 15 years of service and an additional 2% after the completion of 20 years of service and that Corrections Superiors receive 1.0% after the completion of 15 years of service and an additional 1.5% after the completion of 20 years of service. The historical basis for these differences are reflected in an interest arbitration award between the County of Middlesex and PBA Local 152A [Docket No. IA-2002-002] and the Sheriff's SOA [Docket No. IA-2000-083] issued on April 5, 2002 at pages 41 through 48. Those reasons need not be fully restated here but a few comments must be noted. In that prior proceeding, the County urged that no senior officer pay be provided for superior officers while the employee organizations sought identical treatment with their rank and file units. The Award rejected the County's position and awarded senior officer pay but at a lesser level than sought by the employee organizations. The Award found that the level awarded for the superiors was appropriate for several reasons, including the fact that the value of the benefit on a unit by unit basis was far greater in the superior officer unit due to comparative seniority levels.

The record on this issue supports a comparable increase in the existing level of senior officer's pay but does not support an equalization in the existing rate of senior officer's pay. Senior officer pay in Middlesex County Corrections has contributed to the continuity and stability of employment and has provided for some consideration towards improving overall compensation and benefit levels.

An adjustment in senior officer pay will provide some additional reward for Correction Officers, line and superior, who have devoted their careers to the County, thereby saving the County of the substantial costs of retraining that are due to employee turnover. For this reason, I award an increase of 1% for those employees in each unit who have completed fifteen (15) years of service. I do not award the proposal that would set identical senior officer rates between these two units. Whatever the merits may be concerning equalization, the additional 1.5% that would be received by Local 152A towards equalization is not justifiable based upon the financial resources that can be committed towards the totality of the economic value of the terms of this award. Accordingly, effective January 1, 2012, I award an additional 1% in the amount of senior pay to be received for employees in the Local 152 and Local 152A units who have completed fifteen (15) years of service pursuant to the standards set forth in Articles 10.03 and 10.04 of the respective agreements. I do not award a change to the level of completion of twenty (20) years of service except that the amounts to be received shall be calculated in the same manner as is currently calculated under the terms of Article X.

The costs of this term of the award vary by unit because of the differences in seniority levels. The approximate cost in the Local 152 unit is 0.31% and 0.71% in the Local 152A unit. These costs commence on January 1, 2012.

Salary – PBA Locals 152, 152A & 214

The parties are at impasse over the salary issue as evidenced by the significant differences in their last offers. PBA Local 214 seeks a 4% annual increase retroactive to January 1, 2009 while PBA Locals 152 and 152A propose increases of 3%, 3.5%, 3.75% and 4% during contract years 2009 through 2012. The County's proposal extends to all three units and provides for no changes to the salary schedules in 2009 and 2010 followed by a 1% increase to the salary schedules in 2011 and a 2% increase in 2012.

The basic themes of all parties concerning the basis for their proposal across the board increases have been previously set forth. The evidence in support of their proposals falls mainly into areas such as the County's finances as reflected by economic downturn, the budgetary impact of the Unions' wage proposals, comparability data between Correction Officers, Correction Superiors and Prosecutors' Investigators/ Detectives employed in Middlesex County and those similarly employed in other counties, the impact of the onset of the 2008 recession on the State and local economies, the statutory limitations on the County relating to its appropriation and tax levy caps and internal comparisons between the County's wage proposal to the PBA units and the agreements the County entered into with its civilian bargaining units. The parties have sharp conflicts in their perspectives on the budget and the financial impact of the proposals. The voluminous evidence in support of the positions of all parties has been thoroughly reviewed and considered.

When all of the statutory criteria are applied to the record evidence, I am convinced that none of the last offers of the parties represents a reasonable determination of the wage issue. I set forth an overview of the rationale in support of this conclusion.

In general, the County's proposal is reflective of how it views the substantial change in economic conditions towards the end of 2008 and through the close of the record on or about January 1, 2011 that impacted the County's revenues and its overall budget. In response to this transitional period, the County concludes that its wage proposals could no longer be consistent with the terms that it had previously voluntarily reached with its many civilian units due to budget reassessments caused by the changed financial climate. Having negotiated a four year agreement with its civilian units containing a wage freeze in 2009, the County emphasizes that worsening financial conditions thereafter required it to propose wage freezes for these law enforcement units not only in 2009 but also in 2010 to be coupled with increases in 2011 and 2012 that were less than the terms that it had negotiated with the civilian units. The County has provided written post-hearing argument reflecting this view:

In response to the economic condition of the county outlined by the Administrator the Blue and White Collar employees represented by AFSCME and many other non-law enforcement units negotiated settlements in the first half of 2009 that provided for a salary freeze in 2009 followed by annual increases of 2%, 3% and 3.75% in calendar years 2010, 2011 and 2012. While this package was available for the law enforcement units at that time, they declined to

accept and instead invoked their right to initiate interest arbitration proceedings. During the ensuing months economic conditions for the County did not improve as hoped and projected but rather deteriorated even further than existed in the first half of 2009.

Consistent with its legal obligations the County did pay contractual increments to law enforcement employees in 2009 and 2010. Due to the worsening economic conditions, however, the County determined that its budget construct for 2010 required yet another year of pass on Negotiated Wage Increases (hereafter "NWI") for the unsettled law enforcement units PBA found the position proposed by the County unacceptable, thus resulting in the dispute presented to this arbitrator for resolution. Particularly objectionable was the concept of a calendar year without an NWI. The objection only became magnified when the County was compelled to propose two years with no NWI.

The evidence supports that the County's proposal was in response to its changed financial circumstances. However, while doing so, the County gives no weight to internal or external comparability data and little weight to cost of living data or financial evidence that shows a somewhat greater ability to fund terms at an improved level. Moreover, the Unions' have provided persuasive rebuttal evidence to the County's financial presentation showing that the County's financial condition, while clearly in decline, was not so dire as to require the awarding of the County's proposal for a 3% increase over four years including two years of wage freeze. I do not award the County's wage proposal.

The proposals of the Unions place great emphasis on law enforcement comparability and the terms of the AFSCME settlement⁴ but they give little or no

⁴ Under the facts of this case, I do not find that there is a pattern of settlement. The record does not show that in the past the law enforcement unit contracts have been controlled by civilian unit settlements or that the civilian unit contracts have been controlled by law enforcement units. This is not to say that such evidence is not relevant or has not been compelling on certain issues such as health insurance and longevity. But the contracts show that many terms deviate and indeed, certain terms in the instant award

weight to the worsening budget conditions that were occurring within the County during the initial contract years of 2009 and 2010 and what the impact of those conditions were projected to be for contract years 2011 and 2012. Its financial presentation helps justify an award at a higher level than the County has proposed but its emphasis on seeking an award based mainly on comparability cannot be sustained. While comparability is relevant and entitled to some weight, that data must be considered within the context of the duration of the agreements that were being negotiated and the transitions that were occurring in public finance generally and, in particular, in Middlesex County.

This above general framework, as supported by the evidence that I have found to be the most relevant, provides the basis for me to conclude that a reasonable determination of the salary issue for all units include the following elements:

1. All employees eligible for step movement under their salary schedules shall receive their next step in each year of the agreement. The record reflects that such movement has occurred.
2. All across the board increases shall be retroactive to their effective dates.
3. There shall be no across the board increase to any step or rank on any of the Unions' wage schedules during contract year 2009. In 2010, all steps on the salary schedules and ranks shall be adjusted by 1% effective January 1, 2010 and by an additional 1.5% effective July 1, 2010. In 2011, the

deviate from the terms of the civilian unit based upon PBA proposals for change. To the extent that any party alleges the existence of a pattern during 2009-2012 on across the board increases, I conclude that a basis for deviation exists during this contract term based upon changed financial circumstances during the respective negotiations processes.

salary schedules and ranks shall be adjusted by 1% effective January 1, 2011 and by an additional 1.5% effective July 1, 2011. In 2012, all steps on the salary schedules and ranks shall be adjusted by 2% effective January 1, 2012.

Turning again to the statutory criteria, I note that the terms of the Award are more consistent with the cost of living data [N.J.S.A. 34:13A-16g(7)] than are the respective proposals of the parties. I also observe that there is no evidence that existing compensation and benefit terms, when viewed overall [N.J.S.A. 34:13A-16g(3)], are at such levels that the continuity and stability of any of the three units has been impaired in the past or require terms beyond that that have been awarded to maintain the continuity and stability of the bargaining units [N.J.S.A. 34:13A-16g(8)].

In my examination of the external comparables I note that each individual unit has some variation in compensation and benefit levels in relation to similarly situated units elsewhere. Middlesex ranks in the upper third of the counties when overall compensation and benefit levels are examined and third in the Prosecutor unit. The record here supports uniform treatment among these units concerning across the board increases. The terms of the Award, 7% over four years in addition to step increases where applicable, will not disturb existing relationships between these units and county units within the State. The agreements in evidence that are reflective of settlements and awards that were negotiated prior to the onset and impacts of the recession cannot be given the weight sought by the Unions. Yet, the County's proposal is in such sharp conflict

with the comparability evidence for settlements and awards both prior to and after the onset of the recession for contracts that expire in 2012 that its proposal must be deemed unreasonable for the contract years at issue. I have balanced the comparability data with the County's financial abilities and statutory limitations during this contract period in order to render a reasonable determination of the salary issue.

The record does support the County's position that the recession had a negative impact on the County's finances. The County suffered a dramatic loss in its cash position and surplus and a sharp reduction in Cap Bank availability. This is attributed to declines in miscellaneous and tax revenues. This has caused an increasing reliance on property tax as a revenue source to support the budget while restrictions arising under the tax levy cap actually reduce the County's ability to raise revenues from that source even if it were inclined to do so. The Unions have pointed out that the County in recent past decreased its tax rates while property valuations rose dramatically, but this argument is misplaced because there were increases in tax revenues despite declining County tax rates during the robust economic period prior to 2008 due to these increases in valuations but the valuations have since sharply decreased without the concomitant ability to increase the tax rates to levels that would restore the revenues to prior levels. On the other hand, the Unions' have established that the County's AAA bond rating and its reserve and fund balances allow for additional expenditures in salaries for these units, especially in light of its many

internal settlements that exceed what has been awarded. The terms of the Award have taken all of this evidence into consideration.

The Award will increase the terms of the costs above the County's proposal that it has calculated at \$1,996,442 for Local 152, \$128,232 for Local 152A and \$476,458 for Local 214 but only modestly so without adverse financial impact or interference with its lawful limitations. The cost calculations arising from the parties' last offers show that the cost of the PBA salary proposals alone, \$3,873,470 for Local 152, \$711,785 for Local 152A and \$1,201,185 for Local 214 would have adverse financial impact on the County and place stress on its ability to meet its Cap limitations with the tax cap levy, the lowest of the two caps, being the applicable limitation. The terms of the Award cannot be calculated with absolute precision due to many variables, but the calculations for all units show a carry over of 2008 cost into 2009 with the exception of step movement and new eligibilities for senior officer pay at an increased cost of 2.5% (in rate but 1.75% in payout) above the County's proposal in 2010, an additional 1.5% (in rate but 0.75% in payout) above the County's proposal in 2011, and with the same projected costs for 2012 except for the fold in of the additional costs to the County for the increases from 2010 and 2011.

Accordingly, and based upon all of the above, I respectfully submit the following Award:

AWARD

1. All proposals by the parties not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those which have been modified by the terms of this Award.

2. **Duration – PBA Locals 152, 152A & 214**

There shall be a four-year agreement effective January 1, 2009 through December 31, 2012.

3. **Prescription - PBA Locals 152, 152A & 214**

Prescription Coverage, shall be modified to provide a \$3.00 co-pay per generic drug and a \$5.00 co-pay per brand name drug effective the first of the month after issuance of final award in the matter and the conclusion of any appeals that may be filed concerning the award.

Health care contributions shall be consistent with that required by P.L. 2010, Chapter 2 and P.L. 2011, Chapter 78.

4. **Clothing Allowance – PBA Locals 152 & 152A**

Effective January 1, 2012, the clothing allowance for Locals 152 and 152A shall be increased by \$100.

5. **Critical Incident Investigation – PBA Locals 152 & 152A**

When, in the judgment of the Warden or the Warden's designee, an officer is involved in a critical incident, he/she shall be immediately removed from the area or soon thereafter as possible if, in the judgment of the Warden or the Warden's designee, medical treatment or evaluation is requested and required. Such request shall not be unreasonably denied.

6. **Arbitration – PBA Local 214**

Economic grievances that would affect an employee's income, hours, or economic fringe benefits may be submitted to binding arbitration. Non-economic grievances that concern an interpretation or application of specific and/or express language set forth in the Agreement may also be submitted to arbitration.

7. **PBA Release Time – PBA Local 214**

I award the following new paragraph to the existing language in Article II of the Local 214 agreement:

The PBA shall receive all rights to authorized time off for union leave pursuant to N.J.S.A. 11A:6-10. Union release time shall also be provided in accordance with established practice. In the event of a dispute over the existence of a binding past practice, the PBA shall have the burden to prove the existence of a binding and enforceable past practice.

8. County Vehicles – PBA Local 214

Investigators shall continue to be provided a County vehicle when on-call or when needed for a specific assignment. In the event that the number of vehicles is reduced or eliminated that cause a limit on such use, negotiations shall be undertaken concerning the impact of any such decision.

Equitable consideration limited to certain Investigators warrants their receipt of a one-time stipend of \$500. This shall extend to the fifteen (15) out of county Investigators identified at hearing and in the Prosecutor's Certification at paragraph 8. It shall not extend to retirees, those Investigators who have been assigned cars but did not have one prior to the Resolution, those who have had their cars withdrawn but have since been assigned cars due to on-call status or are otherwise assigned cars by the Prosecutor for reasons that include in-county status. This award shall not constitute a waiver of the right to negotiate over vehicle usage and compensation in the future except to the extent that such negotiations are over compensation or usage claims arising out of fleet reductions pursuant to the September 6, 2007 Freeholder Resolution.

9. Senior Officer Pay – PBA Locals 152 & 152A

Effective January 1, 2012, I award an additional 1% in the amount of senior pay to be received for employees who have completed fifteen (15) years of service pursuant to the standards set forth in Articles 10.03 and 10.04 of the respective agreements. I do not award a change to the level of completion of twenty (20) years of service except that the amounts to be received shall be calculated in the same manner as is currently calculated under the terms of Article X.

10. Overtime (On Call Time) – PBA Local 214

Beeper Time: Effective January 1, 2012, employees with Unit Duty who carry beepers shall receive forty-five (\$45.00) dollars a day for each day on call, whether or not the employee is in fact called out.

11. Salary

Salary schedules for all units shall remain at 2008 levels for 2009 and then be adjusted at each step and rank by 1% effective January 1, 2010, 1.5% effective July 1, 2010, 1% effective January 1, 2011, 1.5% effective July 1, 2011, and 2% effective January 1, 2012. They shall be retroactive to their effective dates employees and those who have retired on normal or disability pension and except for those who have voluntarily resigned or have been separated from employment without good standing. The hourly rates shall be set forth in the 2009-2012 agreement in the same method as in the past.

Salary Schedules

Local 152 – Appendix A

| | 1/1/2009 | 1/1/2010 | 7/1/2010 | 1/1/2011 | 7/1/2011 | 1/1/2012 |
|-------------------|----------|----------|----------|----------|----------|----------|
| Trainee | \$34,064 | \$34,405 | \$34,921 | \$35,270 | \$35,799 | \$35,799 |
| 1st Year A | \$41,237 | \$41,649 | \$42,274 | \$42,697 | \$43,337 | \$44,204 |
| 2nd Year B | \$44,985 | \$45,435 | \$46,116 | \$46,578 | \$47,276 | \$48,222 |
| 3rd Year C | \$48,736 | \$49,223 | \$49,962 | \$50,461 | \$51,218 | \$52,243 |
| 4th Year D | \$56,231 | \$56,793 | \$57,645 | \$58,222 | \$59,095 | \$60,277 |
| 5th Year E | \$65,602 | \$66,258 | \$67,252 | \$67,924 | \$68,943 | \$70,322 |
| 6th Year F | \$74,974 | \$75,724 | \$76,860 | \$77,628 | \$78,793 | \$80,368 |
| Senior Pay | | | | | | |
| 15 Years | \$76,473 | \$77,238 | \$78,397 | \$79,181 | \$80,368 | \$82,780 |
| Senior Pay | | | | | | |
| 20 Years | \$78,002 | \$78,783 | \$79,965 | \$80,764 | \$81,976 | \$84,435 |

Local 152 – Appendix A-1

| | 1/1/2009 | 1/1/2010 | 7/1/2010 | 1/1/2011 | 7/1/2011 | 1/1/2012 |
|-------------------|----------|----------|----------|----------|----------|----------|
| Trainee | \$34,064 | \$34,405 | \$34,921 | \$35,270 | \$35,799 | \$36,515 |
| 1st Year A | \$38,542 | \$38,927 | \$39,511 | \$39,906 | \$40,505 | \$41,315 |
| 2nd Year B | \$43,020 | \$43,450 | \$44,102 | \$44,543 | \$45,211 | \$46,115 |
| 3rd Year C | \$47,497 | \$47,972 | \$48,692 | \$49,178 | \$49,916 | \$50,914 |
| 4th Year D | \$54,326 | \$54,869 | \$55,692 | \$56,249 | \$57,093 | \$58,235 |
| 5th Year E | \$61,155 | \$61,767 | \$62,693 | \$63,320 | \$64,270 | \$65,555 |
| 6th Year F | \$67,983 | \$68,663 | \$69,693 | \$70,390 | \$71,446 | \$72,874 |
| 7th Year G | \$74,974 | \$75,724 | \$76,860 | \$77,628 | \$78,793 | \$80,368 |
| Senior Pay | | | | | | |
| 15 Years | \$76,473 | \$77,238 | \$78,397 | \$79,181 | \$80,368 | \$82,780 |
| Senior Pay | | | | | | |
| 20 Years | \$78,002 | \$78,783 | \$79,965 | \$80,764 | \$81,976 | \$84,435 |

Local 152A – Appendix A

Senior Correction 1% - 15 Yr., 1.5% - 20 Yr. 2009-2011

Senior Correction 2% - 15 Yr., 1.5% - 20 Yr. 2012

| | 1/1/2009 | 1/1/2010 | 7/1/2010 | 1/1/2011 | 7/1/2011 |
|---------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Sergeant | \$87,664 | \$88,541 | \$89,869 | \$90,767 | \$92,129 |
| Sergeant +15 yr 1% | \$88,541 | \$89,426 | \$90,768 | \$91,675 | \$93,050 |
| Sergeant/Senior +20 yr 1.5% | \$89,869 | \$90,768 | \$92,129 | \$93,050 | \$94,446 |
| Lieutenant | \$99,527 | \$100,522 | \$102,030 | \$103,050 | \$104,596 |
| Lieutenant +15 yr 1% | \$100,522 | \$101,527 | \$103,050 | \$104,081 | \$105,642 |
| Lieutenant/Senior +20 yr. 1.5% | \$102,030 | \$103,050 | \$104,596 | \$105,642 | \$107,227 |
| Captain | \$114,458 | \$115,603 | \$117,337 | \$118,510 | \$120,288 |
| Captain +15 yr 1% | \$115,602 | \$116,759 | \$118,510 | \$119,695 | \$121,491 |
| Captain/Senior +20 yr 1.5% | \$117,336 | \$118,510 | \$120,288 | \$121,491 | \$123,313 |

| | 1/1/2012 |
|---------------------------------------|-----------|
| Sergeant | \$93,972 |
| Sergeant +15 yr 2% | \$95,851 |
| Sergeant/Senior +20 yr 1.5% | \$97,289 |
| Lieutenant | \$106,688 |
| Lieutenant +15 yr 2% | \$108,822 |
| Lieutenant/Senior +20 yr. 1.5% | \$110,454 |
| Captain | \$122,693 |
| Captain +15 yr 2% | \$125,147 |
| Captain/Senior +20 yr 1.5% | \$127,024 |

Local 214

Appendix II – Salary Schedule

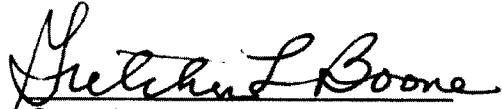
| | 1/1/2009 | 1/1/2010 | 7/1/2010 | 1/1/2011 | 7/1/2011 | 1/1/2012 |
|-------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Step A | \$42,409 | \$42,833 | \$43,476 | \$43,910 | \$44,569 | \$45,460 |
| Step B | \$51,686 | \$52,203 | \$52,986 | \$53,516 | \$54,318 | \$55,405 |
| Step 1 | \$67,264 | \$67,937 | \$68,956 | \$69,645 | \$70,690 | \$72,104 |
| Step 2 | \$71,735 | \$72,452 | \$73,539 | \$74,275 | \$75,389 | \$76,896 |
| Step 3 | \$76,199 | \$76,961 | \$78,115 | \$78,897 | \$80,080 | \$81,682 |
| Step 4 | \$80,668 | \$81,475 | \$82,697 | \$83,524 | \$84,777 | \$86,472 |
| Step 5 | \$85,138 | \$85,989 | \$87,279 | \$88,152 | \$89,474 | \$91,264 |
| Step 6 | \$89,604 | \$90,500 | \$91,858 | \$92,776 | \$94,168 | \$96,051 |
| Step 7 | \$94,071 | \$95,012 | \$96,437 | \$97,401 | \$98,862 | \$100,840 |
| Step 8 | \$98,840 | \$99,828 | \$101,326 | \$102,339 | \$103,874 | \$105,952 |
| Senior Pay | \$102,793 | \$103,821 | \$105,378 | \$106,432 | \$108,029 | \$110,189 |

Dated: May 13, 2012
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 13th day of May, 2012, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.


Gretchen L. Boone
Notary Public of New Jersey
Commission Expires 4/30/2014