STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration Between:

COUNTY OF MORRIS,

Employer,

-and-

MORRIS COUNTY SHERIFF'S OFFICERS,
PBA LOCAL 151
Employee Organization.

Interest Arbitration
Decision
-and-
Award

Docket No. IA-2007-019

Before
Timothy A. Hundley
Interest Arbitrator

Appearances:

For the Employer:

Fredric M. Knapp, Esq.
Special County Counsel and On the Brief

Lauren M. Walter, Esq.
On the Brief

For the Employee Organization:

Donald B. Ross, Jr., Esq.
Lindabury, McCormick, Estabrook & Cooper, P.C.

The County of Morris ("County") and the Morris County Sheriff's Officers, PBA Local 151 ("PBA" or "Local 151") were parties to a collective negotiations agreement that expired on December 31, 2006. After engaging in negotiations for a successor agreement, the parties reached an impasse and, on September 26 2006, the PBA filed a petition with the Public Employment Relations Commission ("PERC"), requesting the initiation of compulsory interest arbitration pursuant to *N.J.S.A.* 34:13A-14 *et seq*. I was mutually selected by the parties in accordance with *N.J.A.C.* 19:16-5.6 and on November 14, 2006, I was appointed interest arbitrator by PERC.

Pre-arbitration mediation sessions were held on January 30, 2007 and February 26, 2007 but the impasse persisted. Accordingly, a formal interest arbitration hearing was conducted on May30, 2007, July 27, 2007, and August 28, 2007, at which time both parties examined and cross-examined witnesses and introduced numerous exhibits into evidence.[1] The parties submitted post-hearing briefs by February 11, 2008, and additional materials were received, without objection, on March 14, 2008, April 30, 2008, and August 19, 2008. The terminal procedure is conventional arbitration, since the parties did not mutually agree to an alternate procedure. *N.J.S.A.* 34:13A-16d(2). While *N.J.S.A.* 34:13A-16f(5) calls

[1] Stenographic transcripts were made of the hearing. "T" refers to the May 30, 2007 transcript; "2T" refers to the July 27, 2007 transcript; and "3T" refers to the August 28, 2007 transcript. The cover page of the transcript for the first hearing day incorrectly lists the date as "May 29."

for an interest arbitrator to issue an award within 120 days of selection or assignment, the statute also permits the parties to agree to an extension. The County and the Association have agreed to extend the time for issuing an award to October 24, 2008. *N.J.S.A.* 34:13A-16f(1) requires that each party submit a final offer. The County and PBA final offers are as follows.

COUNTY'S FINAL OFFER

1. **Schedule A, Salary Guide**

	2007	**2008**	**2009**
Entry	$39,050	$40,416	$41,851
After 1 Year	$40,700	$42,166	$43,701
After 2 Years	$43,600	$45,166	$46,801
After 3 Years	$46,800	$48,466	$50,201
After 4 Years	$50,000	$51,766	$53,601
After 5 Years	$53,516	$55,382	$57,317
After 6 Years	$58,089	$60,055	$62,090
After 7 Years	$63,779	$65,845	$67,980
After 8 Years	$69,479	$71,645	$73,880
After 9 Years	$75,479	$77,745	$80,080

2. **Schedule C, Health Care Contributions**

	2007	**2008**	**2009**
Medallion			
Single	$20.94	$25.13	$30.16
Parent/Child	$39.36	$47.23	$56.88
Family	$55.44	$66.53	$79.84
HMO Blue			
Single	$8.95	$10.74	$12.89
Parent/Child	$16.33	$19.60	$23.52
Family	$24.58	$29.49	$35.39

Wraparound			
Single	$11.70	$14.04	$16.85
Parent/Child	$21.85	$26.22	$31.46
Family	$30.94	$37.12	$44.54

3. Article XXIII, Uniform Allowance, page 33

No Increase in uniform allowance

4. Article XII, Hospital and Medical – Surgical Insurance, Section 1, page 19

HMO Blue - $10.00 co-pay for office visits upon execution of the agreement. Effective January 1, 2009, $15.00 co-pay for specialist and increase eye glass lens reimbursement to $100.00

5. Article XII, Hospital and Medical – Surgical Insurance, Section 1, page 19

Medallion – Effective January 1, 2009, increase co-pay to $20.00, increase deductibles to $300/$600. Add $100.00 eye glass lens reimbursement

6. Article XII, Hospital and Medical – Surgical Insurance, Section 1 (d),

Upon execution of the agreement, co-pays shall be $5.00 for generic, $10.00 name brand and $15.00 for formulary prescriptions. Effective January 1, 2009, two co-pays for a three month supply by mail order.

7. Article XI, Hospital and Medical – Surgical Insurance, Section 2, page 20

For those employees retire on or after January 1, 2009, the following changes to retiree health insurance shall be made:

a. HMO Blue

- $10.00 co-payment for office visits
- $15.00 for visits to specialists
- $50.00 co-payment for emergency room visits

b. Wraparound

- $500.00 deductible

c. Prescription

- $5.00 for generic
- $10.00 for brand name
- $15.00 for non-preferred

Employees hired after January 1, 2009, who retire and meet the criteria for County paid health insurance will receive a plan for the employee only. Employees hired after January 1, 2009, who meet the requirements for County paid health insurance will have the option to add their eligible dependents to the plan at the expense of the retiree. Consistent with existing practices, Medallion is not provided to retirees under any circumstances.

8. Article VIII, Vacation, Section 3, page 12

Amend the language as follows:

Any vacation or portion thereof which is not taken or granted because of the pressure of work may be taken during the next calendar year. No employee shall have an accumulation on December 31st of any given year which exceeds the hours entitled to during the previous 18 months of employment. There will be no exceptions or extensions granted to this policy.

9. Sick Leave, Article X, Section 4, page 16

A certificate from a reputable physician in attendance shall be required as sufficient proof of need of leave of absence or the need of the employee's attendance upon a member of the employee's immediate family. Where an employee is absent from duty to illness less than five (5) days at one time, the Sheriff may require production of the physician's certificate [deleted the word" not"]. However, in the event of absence from duty due to illness for five (5) or more days at one time, the employee shall be required to submit a physician's certificate to his supervisor to justify payment of sick leave.

10. Article XI, Maintenance of Certain Practices, Section 3, page 18

Clarify the definition of "acting Sergeant" to read as follows:

Where an officer is designated acting sergeant for any eight (8) hour period he/she should be paid regular pay plus an additional four (4) hours at straight time pay. However, the combination of straight pay plus the four (4) hours at straight time shall not exceed the step one sergeant's rate of pay. If the acting sergeant is held over in the responsibility of a sergeant then he shall continue at the same rate of pay at time and one half. If an officer commences a shift at a certain rank then he/she shall maintain that rank for the entire eight (8) hour shift. If the officer works a second shift as a officer then he/she shall be compensated for all second shift work at the officer's rate of overtime compensation.

11. Article XVI, Personal Leaves, Section 2, Military Leave, page 24

    The contract will follow the County policy.

12. Article XVI, Personal Leaves, Section 4, Convention Leave, page 24

    Convention leave shall be consistent with PBA Local 298's collective negotiations agreement.[2]

    Agreement, Article XV, Section 4.

13. Article XVI, Personal Leaves, Section 5, Other Leaves, page 25

    Modify second sentence as follows:

    The employee shall submit a written request to the supervisor at least thirty (30) days in advance stating the reason for the request, and the time required, except in emergency circumstances. [no leave without pay]

14. Article XIX, Bulletin Boards, page 28

    Amend the language as follows:

    The Sheriff shall permit the Association reasonable use of designated bulletin boards located in work areas for the posting of notices concerning Association business and activities, provided any such notices shall not contain malicious, inflammatory or anonymous material. **The designated bulletin board shall not be located where it can be viewed by the public.**

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[2] This proposal is included in the County's brief but at the hearing, Undersheriff John Dempsey stated that the Sheriff was withdrawing this proposal (3T80).

The President or the Vice President of PBA Local 151 shall initial all postings prior to their placement on the designated bulletin boards.

15. Article XXIV, <u>Hours of Work</u>, Section 4, <u>Emergency Duty</u>, page 34

    Clarify the definition of "call out" to address that it does not pertain to requiring officers who have not yet started their shift yet to report to another location during their current shift.

16. <u>Compensatory Time</u> **(NEW)**

    Effective upon execution of this contract, employees may not accumulate more than eighty (80) hours of compensatory time at any time.

    Employees having accumulated more than eighty (80) hours of compensatory time shall be permitted to retain their existing bank of such time but may not accrue any additional compensatory time. The Sheriff reserves the right to require employees to take compensatory time off.

17. **The Employer reserves the right to submit new proposals, counterproposals or modify these proposals at any time consistent with the parties' agreed upon ground rules.**

PBA'S FINAL OFFER

1. Term: four year contract from January 1, 2007 through December 31, 2010.

2. Salary/wages: each officer at the top step of the guide to receive a salary adjustment of $6,441 effective 1/1/07. Thereafter, apply 4.4% increase per to all steps exclusive of increment.[3]

3. Article 2, Sheriff's Rights and Responsibilities: revise to provide a just cause provision.

4. Article 8, Vacations: Section 3: increase period of time that accumulation of vacation days is allowed from one year to eighteen (18) months.

[3] This is a modification of the PBA's original proposal, which was to provide an equity adjustment to all officers.

5. Article 10, Sick Leave: Section 5 (new): Add the following as a new section:

Section 5: Employees covered by this agreement who have accrued a minimum of 500 hours of sick time may elect to receive a cash payment up to a maximum of one hundred twenty (120) hours once every calendar year.

6. Article 10, Sick Leave: Section 6: Increase the maximum payment at retirement for accumulated sick leave to thirty thousand ($30,000.00).

7. Article 11, Maintenance of Certain Practices: Section 4 (new): Add the following as a new section:

Section 4: Compensatory Time – The Sheriff shall maintain the current practice that compensatory time off will be allowed as a pay option for employees covered under this agreement. In accordance with the Fair Labor Standards Act and past practice, employees covered under this Agreement shall be allowed to accrue and carry indefinitely, a maximum of four hundred eighty (480) hours. At any time an employee may elect to receive a cash payment of his/her compensatory time with no minimum or maximum limits on payment.

8. Article 11, Maintenance of Certain Practices: Section 6 (new): Add the following as a new section:

Section 6: Section 457 Plans – The County of Morris shall continue to allow employees to defer compensation on a pre-tax basis through payroll deductions to a Section 457 plan that defers federal and state taxes until the assets are withdrawn.

9. Article 11, Maintenance of Certain Practices: Section 7 (new): Add the following as a new section:

Section 7: Disability Leave – For employees covered by the Agreement, the County of Morris shall provide a self-insured disability plan to pay employees who are sick or injured off the job the sum of two hundred fifty-five dollars ($255.00) per week after sick leave has been exhausted, for a period not to exceed twenty-six (26) weeks. Each employee shall contribute a percentage, to be deducted from wages, up to a maximum of sixty seven dollars and twenty-four cents ($67.24) per year. These disability benefits are paid to all eligible employees who have exhausted their earned sick leave and are unable to work because of sickness or off the job accidents.

10. Article 16, Personal Leave: Section 3: Personal Days: increase allowance of personal days by one (1) day to a total of four (4) days.

11. Article 17, Bereavement Leave: Section 1 – increase number of days by two for a total of five (5) bereavement days for relatives of the first degree and by one for a total of two (2) bereavement days for relatives of the second degree.

12. Article 21, Seniority: Delete current section and replace with the following:

    Seniority in the daily operation of the Morris County Sheriff's Office – *Bureau of Law Enforcement* is established first by rank and second by time served in rank. Where a conflict occurs because of identical service or dates of appointment, the member with the higher position on the civil service eligibility list from which the appointments were made is deemed to be senior. In situations requiring decision or control where officers are of equal rank, the senior will make the decision and exercise control unless otherwise directed by a higher-ranking command or supervisory officer.

    Seniority in the assignment of outside details in Morris County Sheriff's Office – *Bureau of Law Enforcement* is established by the date of hire regardless of rank. Where conflict occurs because of identical date of hire, the member with the higher operator number shall be deemed to be the senior. In situations requiring decision or control where officers are of equal rank, the senior will make the decision and exercise control unless otherwise directed by a higher-ranking command or supervisory officer.

13. Article 23, Uniform Allowance: Increase uniform allowance as follows: 2007 - $1,300; 2008 - $1,400; 2009 - $1,500; and 2010 - $1,600.

14. Article 25, Hours of Work (previously Article 24): Delete sections 3 & 4 and replace with the following:

    Section 4; Call-out Duty/Call Back Pay – When any employee is called out or called back to work during off duty time or on call duty, including court time, s/he shall be entitled to time and one-half (1/2) with a minimum guarantee of four (4) hours (OTS).

Section 5 (new): Scheduled Day After Shift – Employees who attend a pre-scheduled event, meeting public demonstration, or any other function approved by the Sheriff or his/her designee, which falls outside of a continuous, normally scheduled shift shall receive time and one-half (1 ½) with a minimum guarantee of four hours pay (OTS) for such duty.

15. Article 27, Longevity: Delete all language limiting eligibility to officers hired prior to January 1, 1995.

STATUTORY FACTORS

I am required to resolve this dispute based on a reasonable determination of the issues, giving due weight to those statutory factors set forth in *N.J.S.A.* 34:13A-16g deemed relevant. The nine statutory factors 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) Comparisons of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

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

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

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995, c. 425 (C:34:13A-16.2); provided, however that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

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

(4) Stipulations of the parties.

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

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

(7) The cost of living.

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

(9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the

limitations imposed upon the employer by Section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

BACKGROUND

This interest arbitration involves the approximately 69 rank-and-file sheriff's officers in the 93-member Morris County Sheriff's Department. These officers are appointed by the County Sheriff subject to the County's budget, *N.J.S.A.* 40A:9-117.6, and they constitute one of the County's 22 negotiations units – including seven other law enforcement groups and 14 civilian units. Most civilian units contracts expired on December 31, 2007 or will do so on December 31, 2008. The majority of law enforcement agreements expired on December 31, 2006.

Both the Sheriff's Department and the County itself are unusual and exemplary. The County stands out for the soundness of its financial administration and the strength of its economy, while the Sheriff's Department has been nationally recognized and certified.

Morris County covers 470.24 square miles in north central New Jersey and is the world or national headquarters for many large industrial and pharmaceutical firms. The County has a population density of 1,027.5 per square mile (about one-half the State average) and 77.75% of the County's total property value is attributable to residential units, the sixth highest percentage among New Jersey's 21 counties. The County has a low "crime rate per 100" and a low "violent crime rate per 100". Thirty-two of the County's 39 municipalities are included within the Highland Preservation Act's preservation or planning areas. Since 1993, the County has also preserved 15,000 farmland acres under its county open space program and it has the largest preservation trust fund in the country.

According to the U.S. Department of Commerce, the County's 2005 per capita income of $62,583 ranks as the eighth highest of 3,111 counties nationwide. The County's average adjusted residential property value for 2006 was $518,700 and, of the total taxes raised in the County during 2004 for all forms of government, 11.62% went to County government, the second lowest percentage in the State.

For the past 32 years, the County has received the highest possible "AAA" credit rating from each of the three nationally recognized rating agencies—Moody's, Standard & Poor's and Fitch's. According to Standard & Poor's, an AAA-rated County is a member of a "very exclusive club", characterized by a deep, diverse, and growing economy; strong financial management; and a low debt burden. Standard & Poor's adds that such counties have typically demonstrated an ability to weather all economic cycles by "maintaining tight budgetary controls, articulating and executing well thought-out capital plans, maintaining sufficient reserves, and planning for future contingencies." The County's overarching goal in this proceeding is to maintain this AAA rating, and the substantial fund balance and conservative budgetary practices to which it is linked, despite what it characterizes as a number of future financial concerns relating to health benefits, pension costs, a declining housing market, and a new CAP law.

Turning to the Sheriff's Department, the County Sheriff is statutorily charged with appointing officers to provide court security; prisoner transportation; service of process and ballistics identification. *See N.J.S.A.* 40A:9-117.6. In Morris County, however, the role of the Sheriff's Department extends far beyond these mandates, and the Department provides a wide range of programs and resources to both County residents and other law enforcement agencies.

The department is organized into four divisions -- Warrants, Administration, Protective Services, and Special Services – that roughly reflect its statutory responsibilities. Thus, the Warrants Division handles all criminal, civil and juvenile court warrants; Special Services provides K-9 services, crime scene investigations; and service of process; Protective Services is in charge of judicial security and prisoner movement and transportation; and, finally, Administrative Services consists of research, planning, training, traffic, community services and internal affairs. Certain specialized units such as marine patrol; Project Life Saver, Crime Stoppers; a search and rescue (" SERT") team; and a FBI-recognized bomb squad are also assigned to the Administrative Division.

Unit members are cross-trained and serve in a wide range of assignments that require advanced training. Thus, at the FBI's request, the County's bomb squad participated in the investigation of the 1993 World Trade Center bombing and assisted at Ground Zero, as did the County's SERT term. Municipal police departments in the County have called in the department's SWAT team to handle hostage situations and narcotics raids. In addition, sheriff's officers trained in radar and laser detection have helped local departments set up checkpoints and run radar.

The Department has also implemented such initiatives as "Project Lifesaver" which helps officers locate lost Alzheimer's patients or autistic children. Further, in 2007, four officers received marine training and now assist the State Police in patrolling Lake Hoptacong.

The Department has been officially accredited by the Commission on Accreditation of Law Enforcement Agencies ("CALEA") a national organization that offers its certification only after on-site assessments and a determination that the law enforcement agency is in compliance with CALEA's high performance standards on over 400 criteria. In New Jersey, only the Morris and Monmouth County Sheriff's Departments are CALEA-accredited and, statewide, less than 10 municipal police departments have received the CALEA imprimatur. The PBA's broad goal in this interest arbitration is to raise unit members' salaries to a level that it believes is commensurate with their skills and the compensation received by their supervisors and by municipal police officers in the County.

Against this backdrop, the County and the PBA each urges that the nine statutory criteria weigh in favor of its own proposals. Both parties have submitted comprehensive briefs and a wealth of exhibits. The record includes, among other items, County budgets and audit reports for several years; recent interest arbitration awards and PERC-compiled settlement data; contracts involving other County employees and sheriff's officers statewide; and federal and state data on the cost of living, private sector wage increases; and economic trends. Finally, the parties have submitted information on New Jersey's CAP laws, the County's health insurance costs, and its tax rate and ratable base.

County witnesses included County Treasurer Glenn Roe; Labor Relations Manager Allison Stapleton; Director of Personnel Grace Kelly; and Planning Director Walter Kirch. Local 151 President Mark Chiarolanza testified on behalf of the union, as did Ralph Caprio, the union's financial expert, and Sheriff's Officer David Daniello, Local 151's delegate to the State PBA. The following is a summary of the parties' respective arguments.

COUNTY'S POSITION

The County asserts that its economic proposals are essential to achieving its long term budgetary goals and it asks that I issue an award "at the low end of the

PERC range" in view of its increasing taxes, health care costs, and pension liabilities. The County also vigorously maintains that its proposals are consistent with its longstanding practice of "pattern bargaining" and it cites *Somerset Cty. Sheriff's Office and Somerset Cty. Sheriff's FOP Lodge No. 39*, P.E.R.C.No. 2007-33, 32 *NJPER* 372 (¶156 2006), aff'd 34 *NJPER* 21(¶8 App. Div. 2008) for the proposition that internal settlements implicate such statutory criteria as the public interest, comparability, the continuity and stability of employment, and factors ordinarily considered in determining wages, hours, and employment conditions.

As a prelude to, and interwoven with, its extensive discussion of the statutory criteria, the County offers its perspective on its labor relations history, particularly with respect to health benefits. It also provides an overview of its fiscal record and future financial concerns. I summarize the County's presentation on these points before detailing how it relates the statutory criteria to its proposals.

Overview of Negotiations History

The County explains that for many years it has offered three types of health insurance plans.[4] The most expensive is the Medallion plan, followed by the "wraparound" plan and, finally, HMO Blue, the least costly. The County maintains that, beginning in the early 1990s, all County units agreed to annual health insurance contributions of $100 for single coverage and $150 for family or

[4] As discussed *infra*, not all County employees are eligible for the Medallion plan.

parent/child coverage. These figures pertained to all three plans. During the mid-1990s, the County and its unions agreed to a $400 annual contribution for all coverage levels for what Stapleton described as the benefit-rich Medallion plan. However, contributions were no longer required for the other plans.

In 2002, the existing contribution framework began to go into effect. Thus, Stapleton testified that all civilian and all law enforcement units agreed to a 5% premium contribution for the Medallion plan and 3% premium contributions for the HMO Blue and wraparound plans. In addition, beginning in 2003, all law enforcement units agreed to an additional annual 20% increase in premium contributions for 2003 through 2006. Employer Exhibit 58 lists the following 2006 annual dollar amount contributions for law enforcement and civilian units. The range of contributions for each plan reflects different obligations for single, parent/child, and family coverage.

	Law enforcement	**Civilian**
Medallion	$453.70 to $1,201.20	$351.84 to $658.44
Wraparound	$253.50 to $670.28	$196.81 to $365.74
HMO Blue	$193.96 to $532.48	$139.41 to $250.84

Stapleton explained that the County had also offered the various units the option of paying the lesser of 6% of the premium for the selected plan and coverage level or 1.2 % of the employee's salary. While no unit had agreed to such a provision at the time of the hearing, the formula pertains to non-aligned employees and the Corrections Officers Superiors' 2007-2010 contract, submitted by the County post-hearing, includes a similar clause.

Beginning in 2005, County negotiations agreements began to provide for three-tier prescription plans with co-pays of $5 for generic; $10 for brand name; and $15 for newly designed formulary drugs. These are the co-pays the County is proposing for this unit although there are some units, such as PBA Weights and Measures, which now have co-pays of $10/$20/$35. In elaborating on the County's current proposal to increase the Medallion deductible from $200 single/$400 family to $300/$600, Stapleton commented that the deductibles have been in place since 1988 and that most units with contracts expiring in 2007 or 2008 had agreed to the change (3T117). The exception is the Park Police unit, whose agreement was executed earlier than the civilian contracts.

With respect to salaries, the County maintains that there has been an historical consistency among law enforcement units with respect to both salary guides and the County's own negotiations proposals to the various units. Thus, it notes that for many years this unit and the corrections officers (PBA Local 298) have had exactly the same salary guides. It further stresses that for 2007 and 2008, the Park Police PBA Local 264 has already agreed to the same guide that is being offered both to this unit and to the corrections officers, who are also currently in interest arbitration for a successor to their 2003-2006 contract.

Employer Exhibit 23 compares the top step salary of the park police and corrections and sheriff's officers for 1999 through 2006. It shows that while the latter two groups have had identical salaries throughout that time period, the park police lagged behind those units until 2006, when all three groups attained a top step salary of $73,279.

Overview of Current Fiscal Status and Future Financial Concerns

The County underscores that it has an outstanding record of fiscal stability, as evidenced by the extremely consistent rates at which its total budget; taxes; and employee salaries have increased over the last ten years, as well by its proven ability to maintain a substantial fund balance that is well within rating agency guidelines.

The County underscores that preservation of this fund balance level is one of its highest fiscal priorities because it is essential both to retaining its AAA rating and to providing necessary liquidity in an unstable economy. Roe explained that E- 37, Section II-B, includes a fund balance analysis which shows that, from 2000 to 2006, the County has been able to achieve something that rating agencies value highly: a close correspondence between the amount of surplus generated in one year and the amount of surplus used in the next year's budget. During this period, the County has generated substantial surpluses – ranging from 11.3% to 17.04% of the next year's total budget. This circumstance allowed it to appropriate a portion of the end-of-year balance as a revenue item in the succeeding year's budget, while still retaining a surplus of anywhere from 5.32% to 7.39% of the total budget to meet unforeseen contingencies.

The County stresses that its AAA rating enabled it to obtain a low interest rate on its bonds, thereby saving County residents approximately $3 million over the last ten years. In addition, the County's AAA rating extends to the Morris County Improvement Authority which acts as a "conduit borrower" for municipalities and school districts, thereby allowing these entities to obtain a low interest rate on their bonds as well.

The County also emphasizes its excellent record of controlling expenditures and taxes. It points to E-37, Section IIB, page I-10 which states that, from 1997 to 2007, the average annual increase in the total budget was 4.38% , while for the same period the average annual increase in total wages and salaries was 4.37% and the total tax levy rose at an annual average rate of 4.46%.

Turning to the looming financial pressures that it faces, the County maintains that its ability to meet the PBA's economic demands is limited by such factors as a decrease in federal Medicaid funding for the County-run Morris View Nursing Home, in part as a result of a shift away from long-term institutional care. In a similar vein, the County emphasizes County Treasurer Glenn Roe's testimony to the effect that, between 2007 and 2008, a consultant projected a 14% increase in the County's health care benefit costs, a figure consistent with the10-14% cost increase for PPO plans anticipated in a survey by the Segal Group, a national consulting firm. *See* Employer Exhibit 37, Section II.

The County also points to new legislative and regulatory initiatives that will affect the County's finances. Beginning in 2008, *L.* 2007, *c.* 62 imposes a maximum annual tax levy increase of 4% on governmental units and, as applied to counties, will likely require them to calculate their CAP levy in accordance with either the new legislation or *N.J.S.A.* 40A:4-45.4, whichever results in the lesser figure.[5] Roe expressed concern that, compared with the old CAP law, there appear to be fewer exceptions for expenditures that are "outside the cap." He was also uncertain as to whether the new statute allows for the "cap banking" that had previously provided counties with some budgetary flexibility.

Similarly, in connection with the phased-in reinstitution of employer contributions to State pension funds, the County emphasizes that its total projected 2008 pension contributions, as calculated by the State, will be $10 million in 2008, a 67.6% increase from 2007. In addition, the County points to a recent guidance statement from the Government Accounting Standards Board (GASB), which recommends that public employers calculate and disclose their Unfunded Actuarial Accrued Liability – *i.e.*, the future cost of providing promised post-retirement

[5] *N.J.S.A.* 40A:4-45.4, enacted in 1976, imposes an appropriations cap on local entities but a tax levy cap for counties.

health and life insurance benefits. (Exhibit E-37, section IIIB). While the County now has a "pay as you go" policy with respect to these liabilities, the rising cost of the benefits has led it to seriously examine creating a reserve for these obligations.

Finally, the County argues that its future finances could be affected by both the slowing housing market and the Highlands Act building restrictions. Roe explained that 16% of the County's total anticipated revenues derive from real estate fees paid to the County Clerk's office and, therefore, a decline in the sale or refinancing of homes could reduce those revenues (2T55). Similarly, because the Highlands Act requires very large building lots, Kirch testified that development applications have dropped off sharply after 2003 and ratables will likely not increase at the rate seen in prior years (3T64). Roe explained that ratable growth in turn influences the tax rate: as ratables go up, the tax rate declines (2T143).

Analysis of Statutory Criteria

Interest and Welfare of the Public

The County starts its analysis of the statutory criteria with a discussion of the public interest, a factor that it views as encompassing considerations of financial and labor relations stability. The linchpin of the County's position is that it is already facing future financial challenges and, therefore, an award of the PBA's proposals would seriously threaten the County's budgetary and labor relations equilibrium. On the other hand, it insists that its own proposal would maintain both the County's fiscal status and Local 151's relative standing vis-à-vis other County employees and sheriff's officers statewide.

The County terms the PBA's proposals excessive, and begins with a detailed cost analysis. It contends that the cumulative difference between the PBA's proposed 4.4% across-the-board increases and the 3% increases it has offered is $656,598 over the contract term (Employer Exhibit 37, Section V-1). When the PBA's equity adjustment for all officers is factored in, the difference climbs to $2,581,278 over a four-year term, resulting in a 2010 base salary cost for this unit that it contends is $5,282,286 higher than the 2006 figure (Employer Exhibit 37, Section IV). The County also calculates that the PBA proposal would amount to an average annual raise of 12.08% when the 4.4% increases; equity adjustments; and normal step movement are taken into account. It emphasizes that this figure includes wage increases only, not any of the longevity, leave time, or other significant economic proposals advanced by the PBA.

The County vigorously contends that increases at this level would jeopardize its fund balance and overall budget and are completely unwarranted in view of what will likely be a new 4% limit on tax levy increases. It stresses the critical importance of the CAP law, noting that the New Jersey Supreme Court has mandated its consideration in interest arbitration and the Legislature has deemed over-expenditures by local officials a fourth-degree crime.

The County also emphasizes that the increases sought by the PBA are unprecedented in the New Jersey public or private sector, noting that the New Jersey Department of Labor and Workforce Development reported a 3.1% increase in average private sector wages for 2005 and a 1.9% increase for the public sector. The County also underscores that it has sought to negotiate wage increases for other County units that are as close as possible to the CAP restraints for 2007 through 2009. It cites E-37, Section IV-5, which lists an average annual 2007 wage increase of 3.79% for seven civilian units. For 2008, the figure was 3.85%. It has also submitted the agreement for the corrections superiors, which provides for 4% annual across-the-board increases for 2007 through 2010. Drawing on these internal settlements, the County asserts that awarding the PBA increases would create disharmony among County employees, since the raises the PBA seeks far exceed the adjustments that other County employees have received.

In contrast to the deleterious effects of awarding the PBA's proposals, the County asserts that its own economic offer would further the public interest by keeping wage increases in line with CAP law limits; the increases received by other County employees; and, more generally, the increases received by workers in New Jersey's private and public sectors. It also maintains that while the PBA does not even take health care costs into account, the County's own proposal to curb these costs furthers the public interest; involves only a modest contribution increase; and has been agreed to by other units.

Finally, the County offers Employer Exhibits 17 and 18 in support of its conclusion that its offer will allow unit members to maintain their high standing vis-à-vis sheriff's offices in other counties. The exhibits includes several charts listing the 2005 through 2008 top-step base salaries of sheriff's officers in Morris and other counties, along with the total salary plus longevity received by officers with 10 and 20 years of years service. For 2006, Morris officers with 10 years service and longevity rank fifth under each measure. The exhibit also shows that, in 2007 and 2008, that ranking would rise to number four under the County's wage proposal. In a similar vein, Employer Exhibit 18 shows that Morris officers with 20 years service and longevity rank fourth in both base salary and "total salary" for 2006. According to the County, its 3% wage proposal would enable these officers to attain the number three ranking for 2007 and the number four ranking for 2008 (out of 11 counties for which 2007 and 2008 salaries were available).

Employer Exhibits 17 and 18 recognize that officers hired after 1995 do not have longevity, although they do not set forth the "total salary" ranking for these individuals. In a related vein, the County notes that parties' 1993 agreement eliminated longevity for new hires and it maintains that the PBA has offered no justification for reinstituting this costly benefit.

Comparisons with Other Employees

The County contends that comparisons with private and public sector employees generally, and employees in the same or comparable jurisdictions, weigh strongly in favor of its own proposals and against the PBA's. In terms of general public and private employment data, the County refers to the NJLWD's reported 3.1% increase in average private sector wages for 2005, as well as the reported 2.8% increase for local government workers in New Jersey.

In comparing unit members with employees in other jurisdictions who perform the same or similar services, the County vigorously argues that the PBA's proposed salary increases and equity adjustment cannot be justified in light of Employer Exhibit 17, which shows that sheriff's officers in Morris already earn more than their counterparts in most counties. The County contends that Employer Exhibits 17 and 18 also demonstrate that officers will continue to enjoy their present high ranking under its proposal. It reiterates that the PBA voluntarily agreed to eliminate longevity in 1993, but has offered no credible evidence to support reinstituting this extremely costly benefit.

The County continues its comparisons with employees performing the same or similar services by citing PERC data on interest arbitration settlements and awards. Employer Exhibit 30 shows that the average salary increase in all awards issued in 2006 was 3.98%, while the average increase in voluntary reported settlements for the same year was 4.09%. While PERC has not officially tabulated average award and settlement figures for 2007, the County has submitted awards and settlement summaries that show increases generally in the 3.5%-4.0% range (Employer Exhibits 31 and 32).

Finally, with respect to other County employees, the County emphasizes that the Park Police PBA 264 has agreed to 3% increases for 2007 and 2008 and that County civilian employees received, on average, increases of 3.79% and 3.85%, respectively.

Overall Compensation

The County maintains that Morris sheriff's officers currently enjoy a total compensation package comparable to that of their peers in most if not all New Jersey counties. It stresses that unit members have a range of benefits, including health insurance, vacation time, and holiday, sick and personal days, all of which entail significant costs, especially when combined with the employer's social security, pension, worker's compensation, and disability obligations. Employer Exhibit 20(a) illustrates that for 2007, 68.406% of each payroll dollar expended for law enforcement was attributable to fringe benefits, up from 56.16% in1997. The County stresses that it has not sought any significant concessions from Local 151 despite these costs and despite the fact that it is experiencing declining ratables, increased pension payments, rising taxes, and other economic problems.

With respect to health benefits, the County argues that its proposed increase in Local 151's minimal cost-sharing obligation is equitable to both parties; has been agreed to by the Morris County Corrections SOA; and is line with cost-sharing arrangements in surrounding municipal police departments. In urging award of the proposal, the County cites Stapleton's testimony to the effect that that between 2003 and 2007, the annual cost of HMO family coverage increased 28% from $10,271.40 to $13,185.36, while family premiums for the Medallion plan rose 34% during the same time period, from $14,393.52 to $19,356.48.

The County also argues in support of its proposal to set an 80-hour cap on the amount of compensatory time unit members can accrue, pointing out that other County employees may accumulate only one week of such time. The County notes that the proposal would authorize the Sheriff to require employees to take compensatory time off, in accordance with the federal Fair Labor Standards Act. However, the proposal would not eliminate any time already accrued. Instead, members who were over the 80-hour threshold would be prohibited from accruing more time.

Stipulations of the Parties

It is the County's position that the PBA has agreed to several of the County's proposals: item 18 (Vacation); item 19 (Sick Leave); items 21, 22, and 23 (personal leave); item 24 (bulletin boards) and item 25 (Hours of Work, Emergency Duty).

Lawful Authority of the Employer

The County notes that the lawful authority of the employer pertains to the fiscal restraints imposed under the CAP law, *N.J.S.A.* 40A:4-45.4, which prevents a county from increasing its tax levy by more than 2.5%, or the cost of living adjustment, whichever is less, subject to exceptions for expenditures that are excluded from the CAP. The County maintains that this criterion mandates rejection of the PBA's economic package. The County states that each party has advanced total economic proposals that exceed the CAP law limitations. However, it asserts that by taking the more reasonable wage position, and attempting to partially control health benefits costs, the County's proposal is the more reasonable and should be awarded.

Financial Impact of the Award on the Governing Units, Its Residents and Taxpayers

The County reiterates its strongly held view that the PBA's economic proposals are unreasonable and, if awarded, would have a negative impact on the County's finances. Relying on Employer Exhibit 37A, the County underscores that its annual tax levy increased by 3.35% in 2005; 3.63% in 2006; and 4.6% in 2007. It argues that award of the PBA's proposals would greatly intensify this trend. It cites Employer Exhibit 37, IV-7 and Roe's explanatory testimony for the proposition that, if the PBA wage increases had been implemented for all County units in 2007, the County would have had to increase the total taxes raised by 9.1% instead of 4.6% (2T75-2T76). The County also emphasizes that any increases awarded here will become a part of the unit's permanent salary base and, to the extent they exceed its offer, would exacerbate the fiscal difficulties it faces. It notes that in 2007, the County had a $3.39 million PFRS payment, which increased to $5.39 million in 2008. For PERS, the figures are $2.67 million for 2007 and $4.76 million for 2008.

The County also disputes the PBA's calculation as to the size of the CAP bank on which it can draw in preparing future budgets. While the PBA refers to a $7,269,874 bank, Roe explained that the County let $4,958,880 of that bank lapse when it adopted the 2007 budget, leaving it with a little over $3 million going into 2008 (2T78-2T79).

Cost of Living

The County maintains that the relatively low rate of inflation provides strong support for its economic proposal, which will continue this unit's historic trend of receiving increases that at least keep pace with, and sometimes exceed, cost of living increases as measured by the Consumer Price Index for the New York-Northern New Jersey-Long Island-Urban Wage Earners. Employer Exhibit 38 shows that for every year from 1999 through 2006, the annual wage increases received by this unit exceeded the corresponding CPI figure. For April 2006 to April 2007, E-38 lists a CPI increase of 2.4%. Similarly, Employer Exhibit 39, an April 2007 news release from the federal Bureau of Labor Statistics (BLS), states that the April 2007 CPI for All Urban Wage Earners was 2.6% higher than in April 2006 but adds that during the first four months of 2007, the CPI-U rose at a 4.8% seasonally adjusted annual rate.

Finally, the County argues that the 1996 Public Interest Arbitration Reform Act was designed to bring police and fire settlements more into line with inflation and public and private sector settlements. It concludes that in light of this history -- and the new 2007 CAP law -- increases in excess of the County's proposal would violate the Legislature's intent.

Continuity and Stability of Employment

The County writes that *N.J.S.A.* 34:13A-16g(8) requires the arbitrator to consider such factors as the employer's overall salary structure, the general unemployment rate in the geographic area, the turnover among the employees in question, and the history of layoffs or other reductions in force in the negotiations unit. The County believes these considerations all point toward award of its offer. Specifically, it notes that Grace Kelly, the County's Director of Personnel, testified that she has never had difficulty hiring new Sheriff's Officers during her tenure, observing that initial Department of Personnel civil service lists for the position have typically included at least 25-50 people, with the County having the ability to request additional names (3T86).

In an effort to rebut the PBA's contention that the unit has experienced high turnover, Kelly and her assistant also compiled Employer Exhibit 53, a list of 23 sheriff's officers who left the County between 2003 through 2007, along with the stated reason for their departure. Ten of the officers retired; one relocated to Florida; and another resigned for personal reasons. The remaining 11 officers obtained employment in municipal police departments.

The County points out that Kelly conducted exit interviews with all 23 officers and, of those who left for police departments, most stated that they wanted to do "road work" – i.e., a different type of law enforcement than performed by the sheriff's office (Employer Exhibit 23; 3T91). Only one mentioned salary as a grounds for resignation and another stated that although "he liked what he did", the lack of a canine unit created a severe burden on the unit.

Statutory Restrictions Imposed on the Employer

The County does not have a separate section addressing this ninth statutory criterion, which explicitly requires considered of the CAP law enacted in 2007. However, in its discussion of the financial impact and lawful authority criteria, the County argues that this new CAP law also militates in favor of its offer and against that of the PBA.

LOCAL 151'S POSITION

The PBA's argues that the evidence and statutory criteria point overwhelmingly toward an award that favors the PBA and rejects the County's harsh position. It stresses the vital importance of its proposed equity adjustment and urges that an overview of the record demonstrates that it has advanced the more reasonable economic package.

Department Overview

Like the County, the PBA prefaces its discussion of the statutory criteria with an overview of what it considers the salient background facts. Chief among these is the wide range of functions that this CALEA-certified department performs, which were described earlier in this award. The PBA underscores the vital law enforcement role played by the unit and it rejects the County's emphasis, during cross-examination, on the fact that unit members do not generally work nights and weekends. It contends that this circumstance does not negate the importance of unit members' work or distinguish sheriff's officers from their counterparts in other County law enforcement units. Local 151 adds that unit members are often on call nights, weekends, and holidays.

Local 151 also writes that while sheriff's officers do not conduct the patrols that are a core element of municipal police work, they have expertise that police officers may lack. Thus, Local 151 President Mark Chiarolanza maintained that the County's bomb squad is "phenomenal" and one of only 1100 such units in the country. To his knowledge, no municipal department in the County has either a bomb squad or a certified tactical unit, another of the department's resources. Officer Daniello similarly elaborated on the relationship between the sheriff's office and municipal police departments, explaining that when one of the County's special teams is called in by a local police department, members of the sheriff's department assume command of the scene.

Financial Overview

The PBA writes that its expert financial witness, Dr. Ralph Caprio, eloquently testified to the fiscal and financial health of the County, its residents and its government. The PBA highlights the following elements from Caprio's report and testimony:

- Between 2004 and 2007, the Sheriff's Department has represented a "virtually unchanged" percentage (4.64% to 5.08%) of the County's total annual appropriations of approximately $280 million
- Over the four budget years between 2004 and 2007, total County appropriations increased by only 11.19%
- From 2004 to 2006, Morris County's average municipal tax bill declined from the fourth highest to the sixth highest in the State. The rate of tax increase during most of this same period was 13th out of 21 counties
- When the average municipal tax bill is analyzed in the context of property values, the effective tax rate in Morris is at or near historically low rates. The average residential tax bill in Morris County was $6,861 in 2004; $7,301 in 2005; and $7,897 in 2006.

- County tax rate history shows a marked and consistent decline for the entire period from 1993 through 2005
- Morris County ranks 20th out of 21 counties in the percentage of the total tax burden generated for county government purposes
- Morris County ranks fifth in the State in average adjusted residential property value. County ratables have shown a consistent and dramatic increase from 1994 through 2005.
- The value of construction activity as measured in permits issued during 2005 and 2006 was the third highest in the State.[6]

The PBA also underscores Caprio's testimony to the effect that: (1) the County does not appear to face a CAP challenge (T164) and (2) it has the ability to provide a competitive wage settlement without any undue impact on the community (T213).

Comparability Overview

Local 151 contends that the essence of this dispute is a key fact that cannot be overstated: the top-step sergeants who supervise these sheriff's officers are paid 23% or $16,938 more than top-step officers without longevity -- and 14% more than the 19 officers who do receive that benefit. Local 151 proposes its equity adjustment in part to lessen this discrepancy, which it maintains is out of sync with rate differentials in other law enforcement departments. Chiarolanza testified

[6] These bullet points reflect many of the charts in Caprio's power point presentation, Union Exhibit 11.

that the State PBA advised him that the average differential between patrol officer and sergeant is 10% statewide and 8% in Morris County (T47).

The PBA continues, however, that the equity adjustment is also crucial if unit members are to achieve "an average position among Morris County law enforcement in the benchmark top base salary compensation figure." In this vein, Union Exhibit, Book II, Exhibits 13 and 14, list the "maximum base salary plus longevity" for "Morris County Police Departments" – a group comprised of 20 municipal police departments and four County law enforcement units. The average salary for 2006 is $79,955.90 compared with the 2006 top salary for this unit of $73,279. For 2007, the Morris County average is $84,366.

In concluding its overview, the PBA strongly disputes that the County's position is supported by an internal pattern of settlement with other County units. It argues that this point is illustrated by an analysis of ten County contracts that cover some or all of the 2007 through 2009/2010 time period . The PBA maintains that these contracts evidence a range of salary increases, many higher than those the County has proposed for this unit.

Thus, it cites the Morris Council No. 6A (Morris View Nursing Home, Supervisors Unit) and District 1199J (Morris View Nursing Home) contracts, both of which included 4% increases for 2005 through 2007 and a 3.75% increase for 2008. It notes that the CWA (Morris View Nursing Home), agreement covering nurses, pharmacists and similar titles, negotiated a 4.1% increase for 2006, and 4% increases for 2007 and 2008. Similarly, Teamsters Local 469, representing various Park Commission superintendent and assistant superintendent titles, negotiated 3.75% increases for 2006 through 2008, plus an increase (from \$400 to \$600) in the annual incentive for employees who exceed performance standards.

The PBA adds that Morris Council No. 6A, New Jersey Civil Service Association (Supervisor's Unit) IFPTE received a 3.75% increase in 2007 (and 4% increases in 2004 through 2006). And with respect to law enforcement units, the PBA observes that PBA Local 203, Department of Weights and Measures, received increases of approximately 8% for 2005 through 2007, while the Corrections Superiors negotiated 4% raises for 2007 through 2010.

The PBA acknowledges that some units agreed to increases in the 3% range or lower for 2007 and 2008. For example, the Sheriff's Department Civilian Employees Association received 3% across-the-board increases for 2005 through 2007, along with 4% raises for employees who were "off guide." Further, CWA, Local 1040 (Office of Temporary Assistance), agreed that on-guide employees would move up one step for each year of the 2006-2008 contract, and receive increases of ½% for 2006 and 2% for 2007. Employees who were off-guide received 2% increases each year.

Finally, the PBA underscores that while the Park Police, PBA 264 agreed to 3% increases for 2007 and 2008, those numbers are deceptive because the salary scale was re-worked in 2005 and in 2004 the top step was increased by 6.15%. It urges that the Park Police Superiors (Lieutenants) contract shows a similar pattern: very high increases in the early years of the contract, followed by increases below 3% in 2007 and 2008.

Interest and Welfare of the Public

The PBA recognizes that an award must give due weight to the interests of the taxpaying public but, citing *Middlesex Cty.*, P.E.R.C. No. 98-46, 23 NJPER 595 (¶28293 1997), it adds that the public interest does not automatically equate with the employer's offer. Indeed, it underscores that PERC has approved an arbitrator's view that the public interest is a broad criterion that encompasses considerations of both fiscal responsibility and the compensation package required to maintain a "high productivity and high morale" department.

Within this framework, the PBA argues that this interest arbitration is different from most because of the demonstrated need for an equity adjustment, as shown by what it terms as "the decreasing morale and exodus of police officers to either retirement or other police departments." The PBA concludes that a dramatic change in compensation and benefits is necessary to make this unit more competitive with the municipal officers whom they support and serve.

nearly all of it supporting wage increases closer to the PBA's than the County's. In particular, it highlights the September 2006 NJLWD wage report which shows a 3.1% increase in average private sector wages for 2005, with a 3.8% increase in Morris County. It also maintains that wage increases are outpacing the CPI and that these officers reside in an area which has one of the highest standards of living in the entire country. In that context, Caprio's presentation included a table listing police and sheriff's officers 2006 salaries, by percentile, for various New Jersey regions. Caprio noted that while the County has very high income levels, the top step $73,279 salary for this unit was below the 75th percentile salary of $75,400 for the Morris/Essex region (Union Exhibit 12, p. 20).

Overall Compensation

The PBA asserts that, for the reasons discussed under the comparability criterion, the substandard salary structure for this unit renders its overall compensation deficient and warrants award of its wage proposal. While the PBA believes that most of its contractual benefits are comparable to those of similarly situated employees, it identifies longevity as a notable exception.

In urging reinstitution of the longevity benefit, the PBA recognizes that there is a current trend of reducing longevity compensation for newer employees, just as it and the County did in 1993. However, it maintains that given the low wages for this unit, restoration of longevity is essential and will go a long way toward eliminating a significant inequality that has an adverse effect on the morale of the officers.

The PBA concludes that the overall compensation factor supports its own economic package and militates against the County's draconian demands for a limited contract term and additional insurance concessions that are without foundation. In that vein, during the PBA's cross-examination of Roe, the County Treasurer acknowledged that while health costs have risen generally, the County has thus far taken a "strong stance" with its insurance carrier and secured increased that were below national trends. Thus, the County's overall health care costs increased about 1.7% from 2005 to 2006 and decreased 1% from 2006 to 2007 (2T144-2T145).

Stipulations of the Parties

The PBA identifies only one stipulation: its on-the-record agreement to the County's proposal to permit officers to accumulate vacation time for 18 instead of 12 months (T56-T57).

Lawful Authority of the Employer

The PBA recognizes that this criterion requires the arbitrator to consider the effect of the 1976 CAP law, *N.J.S.A.* 40A:4-45.1a, but maintains that the factor is irrelevant to this proceeding. It contends that Dr. Caprio compellingly testified that the County has the lawful authority to implement either party's offer, stressing that the County has not and cannot demonstrate that the CAP law presents an impediment to award of the PBA's proposal. It adds that the County has consistently budgeted well within its CAP and that the PBA's proposal would not adversely affect that pattern.

The Financial Impact of the Award

The PBA emphasizes, as it did at the outset of its brief, that the County's key indicators of fiscal performance are uniformly positive, underscoring that the County has been able to live within its CAP limitations without difficulty while maintaining a politically attractive taxing and spending pattern. It contends that the financial documents in the record, and Dr. Caprio's report and testimony, make it abundantly clear that the PBA's proposals can be readily accommodated without unduly burdening its taxpayers or reducing services. In particular, it states that the County has not demonstrated why the arbitrator should award yet another insurance change in the employer's favor.

The PBA also contends that Dr. Caprio has definitively shown that award of the PBA's offer instead of the County's would have only a minor affect on the average residential taxpayer. Union Exhibit 12 illustrates Caprio's conclusion that the cumulative difference between 3% and 4.4% raises, plus the cumulative cost of the equity adjustment, would result, on average, in an additional $2.50 per year per average residential unit (T159-T167). [7] The PBA concludes that this analysis "speaks volumes" and that the cost would be even less under its revised equity adjustment, which could be spread over more than one year and would pertain only to top-step officers.

Cost of Living

As a backdrop to its discussion of this criterion, the PBA writes that the cost of living has traditionally been considered an integral part of interest arbitration but cannot be considered in a vacuum. Instead, it believes that any analysis must reflect that employers have generally resisted automatic salary adjustment clauses; denied increases tied to the cost of living during periods of rampant inflation; and pointed to declines in consumer price indices in an effort to justify meager wage proposals. The PBA notes that both parties have proposed salary increases that are either at or modestly more than, the rate of inflation, with PBA documents showing that the CPI for all urban consumers rose at a seasonally adjusted rate of 4.8% during the first four months of 2007. The PBA maintains that this unit has for many years received increases in excess of the cost of living, and it espouses continuation of this pattern, especially since it contends that there is a trend toward higher inflation in the immediate future.

[7] Caprio's analysis was based on the fact that out of every million dollars raised by the County, roughly 77.75% comes from residential tax units, of which there are approximately 147,958. He thus took the cumulative difference between the two wage officers, divided that by the number of residential line items, and came up with an annual and monthly average impact. He separately calculated the residential impact of the equity adjustment and added that to the above figure. The calculation assumes for the purpose of analysis that all units are valued equally. In practice, the owner of a $4 million home would pay much more than the owner of a $150,000 residence.

The Continuity and Stability of Employment

From the PBA's perspective, the "continuity and stability of employment" criterion expresses the Legislature's sense that an arbitrator should consider both parties' offers on an overall basis, and then make an effort to determine which would better enhance the employment relationship. Viewed through this lens, the PBA argues that its wage, equity adjustment and longevity proposals will provide the County with the added and needed ability to hire and retain sheriff's officers. By contrast, it maintains that the County's proposal for a limited contract term, low salary increases, and additional insurance givebacks are not supported by the evidence and would lead inexorably to low department morale.

Statutory Restrictions Imposed on the Employer

The PBA maintains that this is yet another criterion on which the County has failed to introduce any persuasive evidence in support of its position. It urges that this criterion is basically irrelevant to the proceeding, because nothing in the record even remotely suggests that an award in favor of the PBA will affect the limitations imposed on the County by *N.J.S.A.* 40A:4-45.44, the 2007 CAP levy legislation.

DISCUSSION AND ANALYSIS

My consideration of the parties' proposals is governed by *N.J.S.A.* 34:13A-16g and pertinent Court and PERC decisions. I must indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor.

In addition, I note that *N.J.S.A.* 34:13A-16g(8) requires consideration of those factors ordinarily or traditionally considered in the determination of wages, benefits, and employment conditions. Accordingly, I have been guided by the decision-making principles that are typically used in deciding interest arbitration disputes. One such principle is that the party proposing a change in an employment condition bears the burden of justifying such change. I have applied that principle to all the proposals in this proceeding.

Similarly, while I have evaluated the merits of each individual proposal, my award reflects the precept that an arbitrator must consider the totality of changes to be made to the existing agreement, as well as the cost and impact of the overall economic package. *N.J.S.A.* 34:13A-16d(2) itself incorporates this latter concept by requiring that the arbitrator separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the nine criteria in *N.J.S.A.* 34:13A-16g.

The County and the PBA have each proposed a number of modifications to the predecessor contract but their presentations at the hearing and in their briefs focused almost exclusively on salary increases, longevity, health benefits, and equity adjustments. Accordingly, I devote the bulk of my analysis to those items.

In arriving at an award, I conclude that all of the statutory factors are relevant, but that not all are entitled to equal weight. My weighing and balancing of the nine factors, particularly those pertaining to the public interest, financial impact, and comparisons with other employees, leads me to award a total economic package that is more than proposed by the County but less than sought by the PBA. I believe the award will maintain the unit's relative ranking among other sheriff's officers while preserving the County's AAA rating; its ability to budget within applicable CAP laws; and its capacity to regenerate surplus and maintain a substantial fund balance. My decision-making has been informed by these factual conclusions and judgments:

- There is no internal settlement pattern among other County units with respect to either salary or health benefits.

- The County's governmental policy decisions to employ conservative budgetary practices and maintain a substantial fund balance are entitled to deference. In addition, while the County is currently in a strong financial position it, like most public employers in New Jersey, is facing future budgetary pressures.

- The most appropriate measure for assessing the competitiveness of this unit's maximum salary is comparisons with sheriff's officers in other counties, not municipal police officers in Morris County. This unit has extraordinary law enforcement skills and achievements but there are profound differences in the statutory responsibilities of municipal and sheriff's officers; the jurisdiction and funding sources of their employers; and their day-to-day responsibilities. As such, municipal police salaries do not provide the best benchmark for what this unit should be paid.

Within this framework, the terms of my award are as follows:

1. Term of Agreement

The term of the agreement shall be from January 1, 2007 through December 31, 2010.

2. Salary increases

4% across-the-board salary increase effective January 1, 2007.
4% across-the-board salary increase effective January 1, 2008.
4% across-the-board salary increase effective January 1, 2009.
4% across-the-board salary increase effective January 1, 2010.

Each salary increase is retroactive to its effective date.

3. Health Benefits Premium Contribution

Effective January 1, 2010, the dollar amount premium contributions for the Medallion, Wraparound, and HMO shall be increased by 10%, resulting in the following bi-weekly payroll deductions.

	Medallion	Wraparound	HMO
Family	$50.82	$28.36	$22.53
Parent/Child	$36.08	$20.03	$14.97
Single	$19.20	$10.73	$ 8.21

4. Prescription Co-Pays

Effective January 1, 2009, the prescription co-pays shall be $5.00 for generic; $10.00 for name brand; and $15.00 for formulary prescriptions. Effective January 1, 2009, two co-pays for a three month supply by mail order.

5. Article XI, Hospital and Medical – Surgical Insurance, Section 1, page 19

Effective January 1, 2009, HMO Blue - $10.00 co-pay for office visits and $15.00 co-pay for specialist. Increase eye glass lens reimbursement to $100.00

6. Article XI, Hospital and Medical – Surgical Insurance, Section 1, page 19

Medallion – Effective January 1, 2009, increase co-pay to $20.00, increase deductibles to $300/$600. Add $100.00 eye glass lens reimbursement

7. Article VIII, Vacation, Section 3, page 12

Amend the language as follows:

Any vacation or portion thereof which is not taken or granted because of the pressure of work may be taken during the next calendar year. No employee shall have an accumulation on December 31st of any given year which exceeds the hours entitled to during the previous 18 months of employment. There will be no exceptions or extensions granted to this policy.

Cost of Award

A necessary prelude to the analysis mandated by *N.J.S.A.* 34:13A-16g is a costing out of the award.

For 2006, the total base compensation for this unit was $3,944,901. Assuming no resignations, retirements, or new hires, the cost of the annual salary increases under the employer's offer, the PBA's proposal, and the award are listed below. These figures do not include the cost of increments but do take into account the PBA's proposed 2007 equity adjustment of $6,441 for each of the 33 officers at the top step of the guide (Union Exhibit 12, page 2).

	County	PBA	Award
2007	$118,347	$395,481	$157,796
2008	$121,897	$190,977	$164,108
2009	$125,554	$199,380	$170,672

2010	$129,321[8]	$208,153	$177,499

Consistent with the union's proposal, the PBA figure for 2007 is calculated by adding the total cost of the equity adjustment ($212,553) to the 2006 base and then applying the 4.4% increase to that figure, to arrive at the 2007 cost. For 2008, 2009, and 2010, the employer and PBA figures assume that the total base salary for the preceding year was enhanced by the percentage amount proposed by that party; the same method was used to calculate the cost of the award. The total cost of the four annual 4% increases is $670,075: $174,956 more than under the employer's proposal and $323,916 less than the $993,991 in annual increases and equity adjustments proposed by the PBA.[9] As discussed in the following analysis, I conclude that the total net annual economic changes for each year of the agreement are reasonable under the criteria listed in *N.J.S.A.* 34:13A-16g.

The across-the-board wage increases are the largest component of the economic package and, like the proposals to reinstitute longevity and implement an equity adjustment, they relate directly to base salary. Therefore, in setting forth the rationale for the award, I will analyze the evidence on each statutory factor and describe how it relates both to my decision to award 4% annual increases and my determinations not to grant the longevity and equity proposals. With this statutory and evidentiary analysis as a foundation, I will then address the County's health

[8] The County has proposed a contract through 2009 only. This figure represents the cost of 3% increases if extended to 2010.
[9] Neither party calculated the cost of the PBA's longevity proposal. I discuss its cost impact in general terms *infra*.

benefits proposals. Finally, I consider the various proposals pertaining to uniform allowance, personal leave, vacation, and other issues.

SALARY INCREASES, EQUITY ADJUSTMENT, LONGEVITY

Interest and Welfare of the Public

The public interest and welfare, *N.J.S.A.* 34:13A-16g(1), is a broad criterion that encompasses considerations of fiscal responsibility and the compensation package required to attract and retain a high-productivity and high-morale law enforcement department. It also implicates the interest in labor relations stability, including the importance of considering any internal settlement pattern among the employer's other units. In addition, *N.J.S.A.* 34:13A-16g(1) explicitly requires consideration of the CAP Law, *N.J.S.A.* 40A:4-45.1a *et seq*., and there is a strong overlap between the public interest and the financial impact and comparability factors. The New Jersey Supreme Court has underscored the central importance of the public interest, and I have given this multi-faceted criterion substantial weight in determining salary increases and ruling on the parties' other proposals.

As an initial matter, the public interest is pertinent to the issue of contract term, and it favors the award of a four-year contract from January 1, 2007 through December 31, 2010. A contract ending in 2009, which the County has proposed, would result in the parties resuming negotiations shortly after this award is issued. This is undesirable: the parties need labor relations stability; a break from negotiations; and an opportunity to concentrate on their shared pubic safety mission.

Turning to fiscal and compensation issues, County residents have a strong public interest in being served by highly-skilled and experienced sheriff's officers who can efficiently perform their statutorily-mandated functions while also offering specialized support to municipal police departments and other law enforcement agencies. The unit's compensation and benefits must be sufficient to enable the County to continue to recruit and retain well-qualified personnel but, at the same time, there is a compelling public interest in having these services delivered at reasonable cost, so as to minimize tax increases and other financial pressures.

The County is extremely fortunate to have the sheriff's department that it does. The department's CALEA certification attests to unit members' superlative skills, as does the extensive, undisputed testimony concerning many unit members' participation in rescue teams; bomb squads; marine patrols; and other special assignments. As is appropriate, Morris County sheriff's officers are generally well-paid compared to their counterparts statewide, but their compensation package has not impaired the County's ability to maintain a triple AAA rating; contain tax increases; and generate substantial surpluses year after year. This set of circumstances will be continued by an award that establishes a four-year term and directs annual 4% increases -- but does not at this time include equity adjustments or new longevity benefits.

In harmonizing compensation needs and fiscal concerns in this case, a threshold inquiry is whether the public interest requires special salary adjustments to remedy excessive turnover in the unit; narrow the differential between unit members and their supervisors; or simply to raise salaries that are out of sync with the relevant marketplace. The answer to these queries is "no", thus militating against award of the PBA's equity and longevity proposals.

Aside from retirements and resignations for personal reasons (12 officers), 11 officers resigned over a four-and-a-half -year period – January 2003 through July 2007 -- in order to work for municipal police departments. Out of a force of 69 officers, the departure of two to three officers per year is not problematic and does not indicate a *per se* deficiency in the unit's compensation structure. Further, it is not certain that the PBA's proposed enhancements would prevent similar departures. Only one of the officers mentioned salary as the basis for moving to a municipal police department; with the others simply advising that they were leaving and often stating a preference for "road work" (Employer Exhibit 53; 3T89-3T91)

A similar analysis pertains to the differential between the top-step sergeant and the top-step sheriff's officer. The PBA claims that the $16,938 or 23% gap between the maximum sheriff's officer and sergeant salaries is excessive, citing Daniello's testimony to the effect that, in conversations with the State PBA, he was informed that the average differential between officers and sergeants was 10% statewide and 8% in Morris County.

Preliminarily, it is not clear whether this figure pertains to all law enforcement personnel or just sheriff's officers. In any case, however, the mere circumstance that the sergeant-officer differential might be greater than in other departments is not sufficient to satisfy the PBA's burden of showing that it should be altered. The pertinent inquiry is whether the differential has undermined morale; impaired department operations; or impeded the ability to recruit or retain sheriff's officers. None of these concerns is present here.

As noted, the department does not have a turnover problem and Stapleton testified without contradiction that there have always been an ample number of candidates for sheriff's officer vacancies. There was no testimony that the officer-sergeant differential has impaired the functioning of this superb department and Employer Exhibit 25 shows very similar officer-sergeant differentials among the Park Police, Corrections and Sheriff's officer units for 2003 through 2006. Thus, among County law enforcement groups, the differential for this unit is not unusual. In this posture, the PBA has not shown that the differential renders the unit's compensation package inadequate. Indeed, the sergeant's salary guide could be viewed as a career ladder opportunity for unit members, since sergeants are promoted from within.

Finally, as will be addressed in the ensuing comparability discussion, the unit's compensation is not deficient because it is below that of municipal police officers in Morris County. Unit members' salaries are best compared with those of other sheriff's officers and, as of 2006, the "total salary" of a Morris County top-step officer with ten years service (and without longevity) ranked sixth statewide, only $702 less than the fifth highest jurisdiction. Thus, within the universe of sheriff's officers, unit members were well paid under the predecessor contract.

Nevertheless, I can appreciate the union's conviction that these officers' skills, and the County's affluence, merit their being moved into the uppermost compensation tier of sheriff's officers' statewide. However, absent a demonstrated problem with turnover or morale, this is not the fiscal environment in which to make far-reaching compensation adjustments, even if I were to find that they were otherwise warranted. While the County is most likely in a better financial position than most public employers in the State, it is by no means immune from fiscal pressures, including: greatly increased pension contributions that begin to go "inside the CAP" in 2009; potentially escalating health care costs and declining County clerk revenues; and unfunded liabilities for future post-retirement benefits.

The PBA's equity adjustment would add $212,553 to the base salary for this unit for 2007, an amount that would become a permanent part of the salary base.

The proposal to reinstitute longevity for all employees would be even more substantial. As it now stands, employees hired prior to 1995 have a longevity benefit that starts at 1% of base salary for the third through eighth year of service; increases to 9% after 16 years; and includes intermediate benefit levels of 3%, 5%; and 7%. Approximately 19 officers now receive longevity but if the benefit were extended to another 50 officers, the costs would be dramatic and would be compounded with every future increase in base salary.

Turning to across-the-board salary increases, both the fiscal and compensation components of the public interest considerations point to increases in the 4% range. These increases should ensure that the unit's compensation package remains competitive since, as set forth in more detail in my comparability discussion, the adjustments should allow the unit to maintain its relative standing compared to other sheriff's officers statewide. By contrast, the County's offer of 3% increases would likely diminish the unit's relative standing, since comparability data shows that across-the-board increases for most law enforcement employees, including sheriff's officers, have clustered in the 4% range.

In addition, I am not persuaded of the County's position that internal settlements support 3% increases. For example, the County and the Corrections

Superiors agreed to 4% annual increases for the 2007-2010 contract term and Employer Exhibit 37, Section IV-5, indicates that the average increase received by seven civilian units was 3.79% for 2007 and 3.85% for 2008. While the County emphasizes that the PBA 264 Park Police contract includes 3% increases for 2007 and 2008, those increases must be placed in the context of a 2003-2008 agreement that includes an average annual increase of 5.63%.

Four percent increases can also be accommodated within the County's budgetary framework. The County is extraordinarily well-managed and has generated annual surpluses of over $42 million during 2003 through 2006. In each of those years it has appropriated a portion of that surplus for the succeeding year's budget, while still retaining a fund balance of over $20 million. The County itself stresses that its fund balance policy has enabled it to weather past financial downturns without excessive tax increases, and I am satisfied that the award will not disturb this pattern, even in the face of the fiscal pressures that the County has identified. As I elaborate further in my financial impact analysis, the award exceeds the County's offer by annual amounts ranging from $39,449 in 2007 to $48,178 in 2010 -- figures that must be placed in the context of the County's total annual appropriations for 2007 of over $284 million. In this posture, I am satisfied that the award will not have a negative financial impact on the County, its residents, or its taxpayers.

Turning to the tax levy cap referenced in *N.J.S.A.* 34:13A-16g(1), *N.J.S.A.* 40A:4-45.1a *et seq*. limits the amount by which a county may increase its tax levy over the levy for the preceding year to lesser of 2.5% or a federally-prepared cost of living adjustment (COLA). As explained in the lawful authority section of this opinion, my award for 2007 will not cause the Township to exceed the limits imposed by *N.J.S.A.* 34:13A-16g(1). Further, there is no evidence that the award will cause the cap to be exceeded in 2008 through 2010.

Comparisons

N.J.S.A. 34:13A-16g(2) is a multi-pronged factor that calls for a comparison of the wages, hours, and working conditions of the employees involved in the proceeding with employees "performing similar services" and "employees generally" in (1) private employment in general; (2) public employment in general; and (3) public employment in the same or similar comparable jurisdictions. I have given this criterion substantial weight, since a reasonable determination of a salary dispute depends on an understanding of the opportunities, salaries, and working conditions that pertain in police and non-police employment.

The record includes a wealth of comparability data on most of the above-noted categories of employees. Some of this comparability information focuses on the percentage increases received by different employee groups and some of it details the actual salaries for a range of employees. Each party elevates one piece of comparability evidence above most others, and cites it as justification for its own wage proposal.

Thus, the PBA urges that its salary, equity, and longevity proposals are warranted when this unit's maximum salary is compared with that of police officers in Morris County. For its part, the County argues that its proposed increases are consistent with its history of pattern bargaining, and it places special emphasis on its 2003-2008 agreement with PBA Local 264, together with its offer to the corrections officers' rank-and-file unit.

I am not persuaded by either party's argument. Instead, I have carefully reviewed and given weight to most of the comparability data, particularly the percentage increases received by the County's civilian and law enforcement employees and the salaries of other New Jersey sheriff's officers. In determining salary increases, this award's primary focus is to enable this unit's salaries to remain competitive with those of other sheriff's officers, to the extent permitted by the County's fiscal circumstances. My economic package of 4% salary increases, which is offset by some increases in health premium contributions and co-pays, should achieve this objective and is consistent with the overwhelming weight of the comparability evidence.

In applying the comparability criterion to a determination of 2007-2010 increases, a threshold inquiry is the adequacy – or not – of the unit's existing salary structure. If the salary structure compares favorably with that of similarly situated employees, then across-the-board increases similar to those received by other employment groups will likely ensure that the unit's compensation package remains competitive. If there are deficiencies in the existing package, then higher than average increases or other adjustments might warrant consideration.

The 2006 maximum base salary for this unit is $73,279 and, because only 19 of 69 officers receive additional longevity payments (Employer Exhibit 51), that is the best benchmark for comparisons with other employees. In terms of internal comparisons with other County law enforcement groups, the salary corresponds exactly to that for the park police and corrections officers. It is of course lower than the 2006 maximum salaries for superior officer groups, but it compares well with that for most blue and white collar County workers. Only department directors, some division heads, and the top categories of professional jobs (graduate nurse; senior systems analyst) receive higher compensation. Moreover, civilian professional jobs have a 12-step salary schedule as opposed to the nine-step guide for this unit.

As I have discussed, the best external comparison is with other sheriff's officers, who have with the same statutory mandate as this unit, some of whom may also undertake additional assignments. *See* Employer Exhibit 71 *Somerset Cty. Sheriff's Office and FOP Lodge 39*, Docket No. IA-2005-083 at p. 7 (union argued that sheriff's officer was a multi-faceted and full service law enforcement agency). For a Morris County officer with 10 years of service but without longevity, his 2006 "total salary" of $73,279 compares with the "total salary" received by similarly situated officers in five other departments as follows. The figures for other counties reflect "total salary" for an officer with ten years service, including longevity if applicable, as reflected in County exhibits.

Bergen	$91,177
Passaic	$82,751
Ocean	$79,341
Union	$76,592
Mercer	$73,981
Morris	**$73,279**

The remaining ten departments for which 2006 information was available had lower total salaries. *See* Employer Exhibit 17. In addition, the Morris County $73,279 salary figure was well above the average total salary (for the 16 counties) of $68,358. *See* Employer Exhibit 17. For 2005, when information was available for 19 of 21 counties, the maximum salary for a Morris County officer without longevity was $70,470, the seventh highest among the 19 counties and well above the $64,283 average salary.

Of course, a Morris County officer with longevity fares better against his counterparts. In 2005 and 2006, an officer with 20 years service and the maximum longevity stipend ranked 4th in total salary, behind only the 20-year veterans in

Bergen, Passaic and Ocean. Similarly, an officer with 11 or 12 years of service in 2005 and 2006 would have the fifth highest salary statewide for both years.[10]

The unit's salaries do appear somewhat low if compared with those of Morris County police departments, a group comprised of 19 municipal police departments and the four rank-and-file County law enforcement units. The average 2006 salary for this group is $79,955, and would be somewhat higher if the County units were excluded. I reiterate, however, that the salaries of municipal police officers in the County should not serve as the primary benchmark for setting the dollar amount compensation for this unit. While sheriff's officers and police officers each perform critical law enforcement functions, the core duty of police departments, as Chiarolanza and Daniello testified, is municipal patrol, (T83-T84; T121), a task that sheriff's officers do not undertake. Simply stated, the jobs are fundamentally different, and while sheriff's officers and municipal officers may interact at some crime scenes, that is not a sufficient basis to assume that they should have salary parity with one another. In addition, it is difficult to compare the budgets, revenues, tax burden and range of responsibilities of municipal employers with those of the County, a different type of governmental unit. For this reason as well, sheriff's officer to sheriff's officer comparisons are the most relevant when evaluating this unit's salary structure.

[10] The 2003-2006 contract includes a 3% longevity benefit for employees with between 8 and 12 years of service, but since employees hired after January 1, 1995 do not receive the benefit at all, only an employee with 11 years of service as of 2005 would be eligible for the second tier longevity benefit of $2198.

In sum, comparability considerations do not call into question the adequacy of the existing salary structure or suggest the need for extraordinary salary adjustments. As such, PBA's proposed equity adjustment for top-step officers is not essential from a comparability perspective.

Nor is the reinstitution of longevity for all officers. Within the County, the corrections and park police units also eliminated longevity for officers hired after January 1, 1991 and January 1, 1993, respectively. And while most other County sheriff's officers have this benefit, the pertinent framework for analysis is total salary – base salary plus any longevity benefit. As stated, this unit's base salary compares well with the total salary figures of other departments. It is also noteworthy that 27 unit members receive a $1500 detective's stipend that is added to pensionable base salary (Employer's Exhibit 57; Employer Exhibit 7, pages 40-41; T137). Based on a review of other sheriff's officers contracts in the record, it appears that only two other jurisdictions (Hudson and Passaic), offer this benefit.

In view of the foregoing, I turn to a consideration of what across-the-board increases are appropriate in order to maintain both a competitive compensation package and the unit's relative standing vis-à-vis other sheriff's officers. I first review the negotiations picture with respect to the County's other units.

Ten of those units, including most other law enforcement groups, had contracts that expired on December 31, 2006 (Employer Exhibit 55). Among these, the Corrections Superiors is the only group that has reached an agreement for a successor contract, and the salary increases contained therein – 4% for 2007 through 2010 – parallel those in this award and are above those in the County's 3% offer.

Agreements covering ten other County units expire on either December 31, 2008 or December 31, 2007 and thus offer some guidance with respect to increases for the first two years of the award. I have carefully reviewed these contracts, consistent with the well established principle that, in appropriate cases, adherence to an internal settlement pattern fosters later relations stability and encourages future settlements. *Union Cty.*, P.E.R.C. No. 2003-33, 28 *NJPER* 459(¶33169 2002) and *Union Cty.*, P.E.R.C. No.2003-87, 29 *NJPER* 250 (¶75 2003). I am also mindful of PERC's direction that an arbitrator should specify the reasons for adhering or not adhering to a pattern, and should consider the impact of deviating from any pattern on the continuity and stability of employment. *Ibid.* However, these principles do not come into play here because two central points emerge from a review of the pertinent contracts: first, there is no pattern of increases for 2007 or 2008 and second, the County has agreed to adjustments well above 3% for several units, both civilian and law enforcement. Several of the civilian contracts include increases in the 3.75%-4% range for 2007-2008, as follows:

Unit	Term	Salary Increases
Morris Council No. 6A (Morris View Supervisors)	2005-2008	4% --2005 through 2007 3.75% -- 2008
District 1199J (Morris View)	2005-2008	4% -- 2005 through 2007 3.75% -- 2008
CWA (Morris View)	2006-2008	4.1% -- 2006, 4% --2007 & 4% -- 2008
Teamsters Local 469 (Morris Park Commission)	2006-2008	3.75% -- 2006 through 2008
Morris Council No. 6A (Supervisors' Unit), IFPTE	2004-2007	4% -- 2004 through 2006 2007 -- 3.75% plus ½% increase in 6/2007 and 7/2007 for employees with satisfactory evaluation & 1 year's service

Other contracts pertaining to 2007 through 2008 include increases outside the 3.75% to 4% range. Thus, Sheriff's Officer Civilians received 3% increases for 2005 through 2007 (4% for those off-guide) and CWA 1040 (Office of Temporary Assistance), agreed that on-guide employees would move up one step for each year of the 2006 -2008 contract, and receive increases of ½% for 2006 and 2% for 2007. Employees who were off-guide received 2% increases each year.

For law enforcement units, the 2005-2007 contract between the County and PBA Local 203, representing weights and measures employees includes annual 8%

increases.[11] The PBA 264 Park Police contract that the County highlights includes 3% increases for 2007 and 2008 – but must be placed in the context of much higher increases for earlier years including increases in the maximum salary of 10.37% for 2003; 6.15% for 2004; 5.79% for 2005; and 5.5% for 2006. The Park Police Superiors (Lieutenants) similarly received increases of 3.13% and 2.31%, respectively, for 2007 and 2008. Again, however, the top step increases for earlier contract years were 7.4% for 2004; 6.89% for 2005; and 6.57% for 2006. Based on the foregoing, I conclude there is no internal settlement pattern of 3% increases for 2007 and 2008, with most of the internal evidence suggesting increases approaching 4% for those years.

I turn next to the percentage increases by law enforcement employees in the County and across the State. Preliminarily, although the maximum salaries of municipal police are not the best yardstick for setting sheriff's officer salaries, the percentage increases received by municipal police and other employees are relevant to assessing the degree to which a pre-existing salary should be enhanced.

Most of the data on law enforcement increases is consistent with 4% annual increases. Thus, PERC data on interest arbitration awards issued and settlements reached during 2007 shows almost all increases for 2007 through 2010 clustering

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[11] PERC has recently confirmed that weights and measures employees have statutory arrest authority with respect to a certain class of violations and, therefore, are law enforcement employees who must be severed from a civilian negotiations unit. *See Burlington Cty.*, P.E.R.C. No. 2009-10 (September 25, 2008).

between 3.75% and 4%. (One four-year contract with an average annual increase of 3.375% had a 2.5% raise for 2007). For awards issued and settlements reached in 2006 (all of which extend into 2007 or 2008),[12] the average annual awarded increased was 3.98% and the average annual increase in voluntary settlements was 4.09%. Union Exhibit, Book I, tab 11, shows an average 2007 increases of 3.94% for nine sheriff's departments. Union Exhibit Book II, tab 9, indicates an average 2007 increase of 4.66% for 19 municipal police departments in Morris County, plus the Morris County police.

While the foregoing data relates to public safety personnel, the NJLWD report distributed by PERC pursuant to *N.J.S.A.* 34:13A-16.6 casts a wider net. This statutorily mandated document includes information on changes in average public sector and private sector wages in New Jersey, and is compiled from a database comprised of virtually all New Jersey employers. With respect to public workers in general, the September 2006 report showed a 1.9% increase, for 2005, in average public sector wages, a composite figure derived from a 2.6% increase for federal workers in New Jersey; a 2.8% adjustment for local government employees, and -0.7% decrease for State workers. The 2007 report shows a 3.4% increase in average public sector wages in 2006, including a 2.1% increase for State employees; a 6.6% increase for federal workers; and a 3.3% change for local

[12] See Employer Exhibits 33 and 34.

government employees. Finally, the 2008 report indicates that the average public sector wage in New Jersey increased 4.1% in 2007, including a 5.2% increase for federal employees; 5% for State workers; and a 3.5% adjustment for local government employees.[13]

In terms of private employees, the reports show increases in average private sector wages of 3.1% for 2005, 4.6% for 2006; and 4.3% for 2007. For Morris County, the changes in average private sector wages were 3.8% for 2005, 4.6% for 2006 an 3.7% for 2007.

As is evident from the foregoing review, the bulk of the comparability evidence on across-the-board increases supports an award in the 4% range. Thus, the awarded increases are identical to those received by the Corrections Superiors and very close to the settlements cited by the County in Employer Exhibit 37, which indicates that the average increase received by seven County civilian units from 2006 to 2007 was 3.79%, while from 2007 to 2008 the figure was 3.85%.

While the NLWD data on increases for State and local workers for 2005 and 2006 would suggest increases measurably lower than 4%, I have given this information little weight because it does not extend into the contract term covered by the award and the increases received by State and local employees seem to have

[13] I have taken arbitral notice of the 2007 and 2008 reports which were not available at the time of the hearing. The reports are publicly available on PERC's website; the private sector components of the reports are statutorily mandated; and N.J.S.A. 34:13A-16.6 states that the report is intended for use in public sector wage negotiations. Since both parties submitted the 2006 document, it is appropriate to consider the more recent versions as well.

been affected by fiscal pressures on State and local governments that were not present to the same degree in Morris County. The most recent NJLWD document shows that changes in average public and private sector wages for 2007 were close to 4%.

Finally, the awarded increases should ensure that Morris County sheriff's officers continue to have an above-average salary compared to sheriff's officers statewide. This goal is appropriate in view of the unit's achievements; Morris County's status as a relatively high-cost area; and the fact that the awarded 2009 and 2010 increases are offset somewhat by the award of some of the employer's health insurance proposals.

The 2007 and 2008 rankings under the award for a top step officer without longevity will be as follows. The figures for other counties reflect "total salary" for an officer with ten years service, including longevity if applicable, as reflected in County exhibits.

	2007	2008
Bergen	$94,804	$98,576
Ocean	$82,523	$85,840
Union	$79,656	$83,639
Mercer	$77,087	$80,325
Camden	$76,762	Not available
Morris	**$76,210**	**$79,258**

Of course, as in 2006, those Morris officers who receive longevity will retain their higher relative ranking with respect to sheriff's officers in other counties.

By 2010, the maximum base salary for Morris County sheriff's officers will be $85,725 but, because the record does not include the 2009 or 2010 salaries for most other sheriff's departments, it is not possible to state the unit's ranking for those years. However, given that PERC settlements and awards have reflected a very narrow range of law enforcement increases, with virtually all falling in the 3.5% to 4%, it is unlikely that Local 151 will lose ground compared to other sheriff's officers.

Finally, this comparability analysis calls for some additional comments about the PBA's desire for more extensive compensation adjustments in view of Morris County's affluence, unit members' skills, and the department's CALEA certification.

As an initial point, this unit is not automatically entitled to rank second or third in compensation simply because, for example, the County's per capita income might enjoy that standing. There is a range of reasonable compensation for any employee group, and over years of negotiations, the County and the PBA have agreed on a compensation structure that places most officers at or slightly above the top third of sheriff's officers statewide (and higher for officers who receive longevity). There may be arguments for adjusting this structure at some point in the future, given the unit's achievements, the rather significant disparity between sheriff's officer and sergeant salaries, and the fact that unit members' health contributions appear more substantial than those required of their counterparts in most other counties. However, given the economic environment described in the public interest and fiscal impact discussions, this is not the time for additional adjustments that are not essential to maintaining the competitiveness of the unit's compensation package.

Overall Compensation

The overall compensation criterion, *N.J.S.A.*34:13A-16g(3), requires the arbitrator to consider all the economic benefits received by the employees involved in the proceeding, including direct wages, vacations, holidays, excused leaves, insurance, pensions and medical benefits. It thus directs a focus on all employee benefits, not just the items that are at issue in the proceeding.

Viewed from this perspective, unit members enjoy a comprehensive compensation and benefit package that includes vacation, sick leave, personal days, membership in the PFRS retirement system, and comprehensive health, prescription, and dental coverage. The PBA acknowledges that the unit's overall compensation generally compares favorably with that of similarly situated employees, but maintains that longevity is a notable exception.

I agree that most police officers in the County, and most sheriff's officers statewide, have a longevity benefit. However, that circumstance alone does not warrant reinstituting a benefit that was previously eliminated for officers hired after 1995. Longevity is one of the components of total salary and, as set forth in my comparability discussion, this unit's total salary compares well with the total salary of other sheriff's officer units. Thus, the unit's overall compensation is not deficient simply because of the absence of a longevity benefit for all members. Moreover, without more information on why longevity was eliminated for officers hired after 1995, or insight into what the PBA may have received in exchange, I am reluctant to undo the outcome of previous negotiations.

Based on the foregoing, I find that the unit's existing overall compensation is very good and favors a moderate economic package that includes salary increases in the average range.

Stipulations

N.J.S.A. 34:13A-16g(4) requires the arbitrators to consider the stipulations of the parties. During the hearing, the PBA agreed to the County's proposal to amend Article VIII, Section 3, page 12 to provide that employees may accumulate vacation time for 18 months, as opposed to 12 months. In addition, language authorizing supervisors to grant exceptions will be replaced with a provision stating "[t]here will be no exceptions or extensions granted to this policy." While the County believes that it and the PBA reached agreement on several other proposals, the PBA disagrees. In this posture, only the stipulation on accumulation of vacation time will be included in the award.

Lawful Authority of the Employer; Statutory Restrictions on the Employer

*N.J.S.A. 34:13A-16*g(1) and (5) mandate consideration of the lawful authority of the employer, including the limitations on a county's tax levy imposed by *N.J.S.A.* 40A:4-45.1a *et seq.*, commonly know as the CAP law. *N.J.S.A.* 34:13A-16(g)(9), similarly directs an analysis of the statutory restrictions imposed on the employer, including specifically the new tax levy cap enacted in 2007. *See L.* 2007 *c.* 62, codified at *N.J.S.A.* 40A:4-45.44 through 45.47. Both of these laws were designed to help control the costs of local government and limit increases in the local property tax. Counties must abide by whichever calculation results in the lower levy increase. *See Local Finance Notice No. 2008-3 (February 11, 2008) (Department of Community Affairs, Division of Local Government Services).* I discuss each CAP in turn and conclude that the award will not cause the County to breach the restrictions that they impose. I turn to the most recently enacted statute first.

N.J.S.A. 40A:4-45.44 through 45.47 limits the annual increase in a local entity's tax levy to 4%, with certain expenditures excluded from the cap. Among these are debt service; increases to replace lost State aid; and health insurance cost increases over 4% but below the State Health Benefits Program index. In 2007 and 2008, increases in both PFRS and PERS employer pension contributions are also excluded. *See Local Finance Notice No. 2008-3.* PFRS contributions go inside the CAP in 2009 and PERS contributions do so in 2010. *Ibid.*

For local units with calendar year budgeting, *N.J.S.A.* 40A:4-45.44 first went into effect in 2008. Because the hearing in this matter was held prior to 2008, the budget documents in the record do not include calculations for this tax levy cap. However, since I have awarded 4% salary increases, which are partially offset by the increased premium contributions in 2010, the awarded salary increases are not inconsistent with the 4% tax levy cap.

N.J.S.A. 40A:4-45.4, enacted in 1976 contains a different formula. It limits the amount by which a County can increase its total tax levy over that from the previous year to the lesser of 2.5% or a federally-prepared cost of living adjustment (COLA). Certain items are excluded from the CAP limits including, among other items: revenue generated by applying the preceding year's tax rate to the apportionment valuation of new construction or improvements; capital expenditures; debt service; and expenditures mandated by statute or court order. In addition, a County may "bank" the difference between the actual tax levy in a given year and the amount that would have been authorized by statute. Any "cap bank balance" provides taxation authority that may be used in the ensuing two years.

The COLA percentage for 2007 and 2008 was 2.5% and that is the percentage for 2009 as well. *See Local Finance Notice No. 2008-11 (June 26, 2008).* A 2.5% COLA was also in effect for years 2004 through 2006, as indicated in the County budgets submitted by the PBA. Those budgets also show that, for 2004 through 2007, the County's actual tax levy was well below the "total allowable county tax."

Within this statutory and budgetary framework, the County has been able for many years to generate a substantial fund balance, a portion of which has been appropriated in the ensuing year's budget, thereby reducing the amount required to be raised by taxes. In 2007, the County used 51.5% of its 2006 surplus in the 2007 budget, leaving it with a fund balance of over $21 million or 7.39% of the budget, a figure described by Roe as "the amount we keep."

For 2007, my award will result in an additional expenditure of $39,449 beyond that in the County's offer. Even if these monies are not available in, for example, reserves for salary increases, this additional expenditure will not cause the County to exceed its lawful authority under *N.J.S.A.* 40A:4-45.4, given the $21 million fund balance that was generated by the 2007 tax levy. In addition, the County was approximately $6 million below its tax levy CAP for 2007.

The cap calculations for 2008 through 2010 are not in the record. However, the Township has a consistent pattern keeping its total tax levy well within its tax levy CAP; regenerating surplus; and maintaining, for 2003 through 2006, a fund balance of over $20 million. In this context, it is extremely unlikely that salary increases that will cost the Township between $42,000 and $48,000 more per year than it expected to spend under its own offer will cause the County to exceed its lawful authority.

Financial Impact of the Award

N.J.S.A. 34:13A-16g(6) requires an arbitrator to consider the financial impact of an award on the governing unit, its residents and taxpayers. As such, the factor has a strong overlap with the fiscal component of the public interest and with *N.J.S.A.* 34:13A-16g(5) and *N.J.S.A.* 34:13A-16g(9), which mandate a consideration of the legal limits of a County's taxation authority. However, the financial impact criterion directs a broader inquiry than 16g(5) and (9) since the legal ability to raise a certain amount by taxation does not automatically signify that such a levy would be reasonable in view of a municipality's ratable base, existing tax levels, and the income of its residents.

I have given *N.J.S.A.* 34:13A-16g(6) substantial weight both in denying the PBA's equity and longevity proposals and in arriving at salary increases that are more than proposed by the County but somewhat less than sought by the PBA. I conclude that my award will not have an adverse financial impact on the Township or its residents and taxpayers.

The parties have submitted a plethora of financial, budgetary and demographic evidence and these documents, spanning the past several years, reflect the County's significant fiscal strength and its excellent long-term financial management. The record includes numerous positive financial markers, perhaps the foremost of which is the County's demonstrated ability, over a several-year period, to use and regenerate approximately the same amount of surplus each year, thereby enabling it to maintain a substantial reserve that can be drawn upon in periods of financial downturn. Indeed, Roe stated that between 2000 and 2006, the surplus increased as a percentage of the total current fund budget (2T141-2T142).

Other financial indicia are also positive. The County's total debt is low and does not approach its statutory limit of 2% of the County's three-year average equalized valuation, *N.J.S.A.* 40A:2-6. *See* Union Exhibit Book IV, Section 3, pages A17-A18. It has high residential property values and high per capita and household income. Further, County ratables increased substantially between 1996 and 2005 – from approximately $40 to approximately $80 billion (Union Exhibit 11, p. 6). As a result, while the annual tax levy increased over this time period, the tax rate declined every year between 1994 and 2007 (Union Exhibit 11, page 11; 2T138).

The County's excellent management has also enabled it to respond well to fiscal pressures. While most employers have experienced significant increases in health care costs in recent years, the County was able to negotiate with its insurer, with the result that its health care costs rose 1.7% between 2005 and 2006 and decreased 1% between 2006 and 2007.[14] Similarly, while Roe testified that all public employers were surprised by the size of the phased-in, reinstituted employer pension contributions, the County has thus far been able to absorb those amounts without apparent distress. Indeed, the tax rate decreased from 2006 to 2007 – the same period in which PFRS and PERS contributions increased by approximately $1.4 million and $695,000, respectively (2T114).

Nevertheless, I emphasize that the County's fiscal strength does not entitle the PBA to a larger economic package than would otherwise be justified under the statutory criteria. Further, while the budgets, audit reports, and other financial documents in the record show a County on extremely solid financial footing, that is necessarily a retrospective view. The picture going forward may not be as positive. Pension contributions increased in 2008 and will go "inside the cap" in 2009 (for PFRS) and 2010 (for PERS). In addition, health insurance costs continue to escalate in New Jersey and nationwide, and the County persuasively argues that

[14] Exhibit 59 shows that the County's 2006 premiums were virtually the same (for all plans) as its 2005 rates. Between 2006 and 2007, the family coverage for all three plans increased by about 4%. The 1% decrease in total costs was presumably attributable to employees choosing less expensive plans, a reduction in the number of County employees, or a combination thereof.

its success in holding down increases in 2006 and 2007 will not likely continue indefinitely. A slow housing market -- in the form of declining sales numbers and median price -- could directly affect County revenue, since transactional fees from the County Clerk's office account for a significant portion of total anticipated revenue. Over the long-term, the Highlands Act development restrictions may affect future ratable growth, with Kirch plausibly predicting that while ratables will likely continue to increase, they may not do so at the same rate as in the past (3T64). Post-retirement employment benefits are receiving increasing attention from accounting boards, and the County is in the process of evaluating whether it should move from "pay-as-you-go" financing of these benefits to a system of advance funding. Finally, the County could face a partial loss of federal Medicaid funding for its Morris View nursing home.

These potential pressures militate against an award that includes costly special adjustments in addition to across-the board-salary increases. As set forth in the comparability section of this award, the PBA equity and longevity proposals are not required to maintain a reasonably competitive salary structure and this is not the time to award a $212,553 equity adjustment that will permanently increase the base salary for the unit. Nor would it be fiscally prudent to expand the existing longevity benefit, a proposal that would enhance the annual base salaries of the approximately 46 officers hired between 1995 and 2005 by anywhere from 1% to

9%. These longevity costs would increase each year as more recent hires attained the three-year mark and the officers acquired more years of service.

On the other hand, I believe that 4% annual across-the-board wage increases represent a reasonable determination of the parties' salary dispute in light of the overall economic and budgetary picture. This is especially so since the increases are offset somewhat by the premium contributions and co-pays that I have also awarded. My award will cost $174,956 more over the contract term than would 3% adjustments over the same time period, or between $39,449 and $48,000 per year more than the County's offer. These figures must be considered in the context of a 2007 County budget of over $284 million. Moreover, while it is not my role to direct how the County should fund the award, *see County of Essex,* P.E.R.C. No. 2005-52, 31 *NJPER* 86 (¶ 41 2005), citing *New Jersey State PBA, Local 29 v. Irvington,* 80 *N.J.* 271, 293 (1970), I am satisfied that this differential can be accommodated within the County's overall budgetary framework without impairing its AAA bond rating, its conservative budgetary practices or its ability to maintain a significant fund balance.

Preliminarily, the County voluntarily agreed to 4% increases for the Corrections Superiors for 2007 through 2010 and, for several civilian units, negotiated adjustments in the 4% range for 2007 and 2008. Those settlements are a useful measure of the County's own view of the increases that its budget can accommodate. Further, while the County's policy decision to maintain a substantial fund balances is laudable and entitled to deference, there is no evidence that an award of 4% salary increases would undermine this objective or meaningfully diminish a fund balance in the $20 million range – assuming that it had to be drawn upon to fund the award in any given year. *Compare Essex* (because settlements and awards do not always coincide with adopted budgets, the planning process for salary increases includes budgeting for reserves and contingencies within the current operating fund). The County itself argues that the purpose of the fund balance is to provide a cushion in periods of uncertainty or financial downturn.

Further, County budgets for the last four years show that, in addition to the current operating fund, it has other funds and accounts that, consistent with accepted budget practices, could be used either as a direct source of funds for salary increases or as a resource for non-salary expenses. In particular, the County has substantial amounts in demand deposits, savings accounts and certificates of deposit but, unlike many governmental entities, it does not anticipate the interest income from these investments in its annual budget (Union Exhibit 13, sheet 4; Union Exhibit Book V, Tabs 1 through 3, sheet 4; Union Exhibit Book VII, Tab 2, p. 27). *Compare Robert Benecke, Municipal Finance Administration in New*

Jersey, V-3 (July 2004) (many entities depend on investment income to support their budgets).

For the foregoing reasons, I conclude that the award will not have an adverse impact on the County as a governmental entity. Nor is there evidence that it will adversely affect residents or taxpayers. The County's arguments as to the tax impact of an award above its own offer drew on the cost of awarding the PBA's salary and equity proposals – and granting other units an equivalent compensation package (Employer Exhibit 37, Section IV-4). My award does not approach this magnitude. Further, the County has cited no planned or existing programs or services that would be jeopardized by an award that exceeds its own offer by the amount at issue here.

Cost of Living

N.J.S.A. 34:13A-16g(7) mandates consideration of the cost of living, which is typically measured by the Consumer Price Index (CPI) published by the federal Bureau of Labor Statistics. A salary analysis should take into account whether a unit's prior increases have allowed it to keep pace with inflation and should also attempt to gauge whether proposed increases would likely result in the unit maintaining, decreasing or increasing its real income, a necessarily inexact exercise where a contract extends into the future.

The County and the PBA have both submitted an April 2007 BLS news release which reports that the CPI for All Urban Consumers increased 2.6% between April 2006 and April 2007 and, for the first four months of 2007, rose at a seasonally adjusted annual rate of 4.8% due to larger increases in the food and energy components of the index. The County's Exhibit 38, a chart it prepared from BLS reports, shows a CPI increase for New York-Northern New Jersey-Long Island (Urban Wage Earners and Clerical Workers) of 3.4% for 2005, 3.1% for 2006, and 2.4% for the first four months of 2007. Exhibit 38 also shows that, from 1999 through 2006, increases in the unit's maximum base salary exceeded the CPI by anywhere from 0.4% to 1.9%, thus enabling officers at maximum salary to enjoy some increase in real income and thus an improved standard of living. Finally, County Exhibit 37, Section IV-8, lists Social Security cost of living adjustments of 4.1% for 2005 and 3.3% for 2006.

I have carefully considered the foregoing data and given it some weight in setting salary increases. From a historical perspective, the County's Exhibit 38 shows that from 1999 through 2006, the unit's maximum salary has more than kept pace with inflation. For 2007, the 4% increases that I have awarded should enable the maximum salary to increase at about the rate of inflation. It is possible that that circumstance may not pertain for 2008 through 2010, but the potential for CPI increases in excess of 4% does not in and of itself warrant higher salary adjustments. The 4% increases are appropriate in light of the several other factors I have discussed. Moreover, just as salary adjustments were not strictly tied to the CPI during years of relatively low increases in the index, upward adjustments are not automatically warranted because of the possibility of an uptick in inflation.

Continuity and Stability of Employment

N.J.S.A. 34:13A-16g(8) directs a consideration of the continuity and stability of employment, including seniority rights and other factors ordinarily and traditionally considered in determining wages and employment conditions in public and private sector negotiations. It incorporates two concepts that have been discussed throughout this award. The first is the desirability of providing for a competitive compensation package that will prevent excessive turnover, thus maintaining "continuity and stability in employment." The second is the concept of the "relative standing" of a negotiations unit with respect to similarly situated units. Absent strong justification arbitrators are generally reluctant to significantly change a unit's relative standing, reasoning that interest arbitration is an extension of the negotiations process and is not ordinarily intended to revamp a compensation structure established over many years of negotiations.

Both of these components of *N.J.S.A.* 34:13A-16g(8) weigh in favor of 4% salary increases but against the PBA's longevity and equity proposals. As discussed in the public interest and comparability sections of this analysis, 4%

increases should ensure that this unit continues to have an above-average salary compared to sheriff's officers statewide, but will not move the unit into the highest compensation tier for sheriff's officers. As adverted to in the public interest and comparability portions of this award, I have carefully considered the PBA's position that unit members should enjoy a higher salary given their skills, the County's fiscal strength, and its northern New Jersey location. However, there has been no demonstrated turnover problem and the existing compensation structure is reasonably competitive. Further, as noted throughout, this is not the best economic environment in which to award above-average increases or special salary adjustments.

OTHER ECONOMIC & NON-ECONOMIC PROPOSALS

The foregoing discussion of the statutory factors informs my consideration of the other unresolved issues. I begin with an analysis of the County's economic and non-economic proposals, starting with its suggested modifications to contractual health benefits provisions.

Health Benefits

The County sets forth several proposals concerning deductibles, prescription co-pays, and premium contributions for both active employees and individuals retiring after January 1, 2009. The gravamen of its argument in favor of these changes is that they have been agreed to by other units; would impose a minimal burden on employees; and would further the public interest by defraying the County's own substantial health care expenses. The PBA denies that there is any justification for what it characterizes as "yet another" health care concession. On balance, I conclude that the public interest, financial impact, and comparability factors support some additional contributions and co-pays by active employees, but not the full range of changes that the County seeks.

It is first instructive to examine the County's overall health benefits system from two perspectives: that in place on January 1, 2006, when virtually all negotiations units were parties to unexpired contracts; and the situation from January 1, 2007 to the present, when many law enforcement units are in negotiations.

As of January 1, 2006, it appears that most law enforcement groups had the same premium contribution schedule that was included in Local 151's 2003-2006 agreement. However, other health benefits provisions were not uniform among the units: PBA 264, PBA 298, PBA 151, and the Park Police Superiors each had its own contractual cut-off date, after which new hires were ineligible to participate in the Medallion plan. By contrast, the Corrections and Sheriffs Superiors had no such clause. In addition, the PBA 264 and Park Police Superiors contracts for 2003 through 2008, perhaps because they were executed later than the others, include the $10 office visit co-pay for HMO members and the $15 co-pay for formulary drugs that the County seeks in this proceeding.

The 2005-2007 contract for PBA 203, weights and measures employees was also distinct. It did not have a dollar-amount premium contribution schedule but included a 3% payroll deduction for the HMO and wraparound plans – as did most civilian units. It does not appear that the Medallion plan was an option for any unit member and the prescription co-pay schedule of $10/$20/$35 is higher than proposed for Local 151 in this proceeding.

The Park Police Superiors and PBA 264 have contracts extending through 2008 and they each include the contribution schedules, for 2007 and 2008, that the County proposes for Local 151. The Corrections Superiors now have a 2007-2010 contract that includes the $300/$600 Medallion deductibles, HMO co-pays, prescription co-pays, and retiree health benefit provisions that the County proposes. The contract does not include the County's proposed premium contribution schedule but it does contain a formula similar to the alternative that the employer has in the past offered to various units: a contribution equal to the lesser of 1% of base salary or 6% of the applicable health insurance premium.

With respect to civilian units, the provisions pertaining on January 1, 2006 were also somewhat diverse. As Stapleton testified, most of the contracts established a premium contribution of 3% of the total premium cost for the HMO and wraparound plans, and 5% for the Medallion plan (if applicable to the particular unit). One exception to this basic framework is the CWA's (Morris View Nursing Home) 2006-2008 Memorandum of Agreement, which includes dollar amount premium contributions for 2007 and 2008 for the HMO and wraparound plans. These contributions are substantially less than the schedules included in the Park Police Superiors, Corrections Superiors, and PBA 264 agreements for those years.

The civilian agreements also include a range of provisions concerning the Medallion plan. Thus, some of the contracts include a cut-off date, after which new hires are ineligible to participate, while others do not refer to the Medallion option at all (Teamsters 469; CWA (Morris View Nursing Home). With respect to prescription co-pays, all the civilian contracts in the record include the $5/$10/$15 schedule. On the other hand, it is only the 2006-2008 Memorandum of Agreement for CWA 1040 that explicitly includes the proposed Medallion $300/$600 deductibles and $20 office visit co-pay, although Stapleton testified that all civilian units with contracts expiring in 2007 and 2008 (plus PBA 203) had agreed to these provisions (3T117-3T118). Finally, for civilian employees, there is no dividing line between past and current negotiations cycles. All contracts expired on December 31, 2007 or will do so on December 31, 2008, and the record includes no agreements from the next round of negotiations.

Two salient points emerge from the foregoing review. First, while the various contractual health benefits provisions governing County employees share numerous common elements, they are not identical. Instead, there are variations among and between civilian and law enforcement units, indicating that the parties have at times adjusted premium contributions, co-pays, and eligibility for the Medallion plan based on the individualized circumstances pertaining to a given negotiations unit. I will take that approach here.

Second, there is no strong internal settlement pattern that includes the health benefits changes that the County is proposing for this unit for 2007-2010. If there were, I would accord substantial weight to the pattern and would be reluctant to deviate from it. As it is, I have carefully reviewed the County's proposals, but without any presumption that they should be awarded. *Cf. Union Cty.*, P.E.R.C. No. 2003-87.

I turn first to the County's proposal to raise unit members' premium contributions by 20% for each of the three years of its proposed 2007-2009 contract term. I find that increases of this magnitude are not warranted in light of the unit's existing contribution levels and those that pertain to the County's civilian employees, sheriff's officers in other counties, and Morris County municipal officers.

Under the contribution rates now in effect under Local 151's 2003-2006 agreement, unit members with the Medallion plan and family coverage pay $1,201 annually, or 6.4% of the 2006 premium of $18,612 and 6.2% of the 2007 premium of $19,356.48. With respect to the HMO and wraparound plans, sheriff's officers with HMO family coverage now pay $532 or approximately 4.2% of the 2006 premium and 4% of the 2007 premium. Officers with wraparound family coverage pay $670.28 annually or 3.9% of the 2006 premium and 3.8% of the 2007 premium. Of course, these contributions are greater than the 5% and 3% contributions set forth in most of the civilian contracts.[15]

Under the County's proposal, by 2009 unit members would be paying, for family coverage, $2,075.85 for the Medallion plan; $1,158.04 for the Wraparound plan; and $920.14 for HMO Blue. Contributions for other coverage types would increase by 20% as well. Certainly, the current civilian contribution levels do not provide support for these adjustments: sheriff's officers already pay more than the County's civilian employees.

Similarly, unit members also contribute more to their health insurance coverage than do sheriff's officers in most other counties. The record includes

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[15] Indeed, the differential appears to be greater than one would assume from a review of the various contract articles. For example a 5% premium contribution to the Medallion plan would be $930.60 for 2006 (and $968 for 2007). See Employer Exhibit 59. However, according to Employer Exhibit 58, civilian units in 2006 actually paid a maximum of $658.44 for Medallion family coverage or approximately 3.54% of the 2006 premium. Similarly, 3% of the 2006 HMO family premium was $380 but Employer Exhibit 58 lists civilian units as paying $250.84. Civilians with family coverage under the wraparound plan paid $365.74, while the 3% figure would have been $519.63. The record does not disclose the 2007 contributions for civilian units.

contracts or memoranda of agreement for 17 other sheriff's officer units. As is evident from the following chart, this unit now pays more than the substantial majority of units, many of whom continue to have full employer-paid coverage for employees and dependents.

County	Contract Term	Health Benefits Provisions
Atlantic	2006-2009	No premium contributions
Bergen	2006 – 2010	No premium contributions
Burlington	2000-2002	Self-funded, non-contributory medical, optical, & prescription plan
Camden	2003 – 2007	Premium contributions of maximum of 20% of premium cost or 5% of base salary, but employer assumes full cost after 6, 9, or 12 years of service depending on date of hire
Cumberland	2003-2006	No premium contribution but in-network co-insurance modified from 100% to 90% up to $2,000 out of pocket maximum
Essex	2002-2005	20% co-pay for dependent health coverage for employees hired after 1993; co-pay capped at 1993 rate
Gloucester	2002-2008	Premium contribution required to the extent that selected coverage exceeds the premium for the indemnity or Amerihealth plan, whichever is higher
Hudson	2003-2007	No premium contributions
Hunterdon	2001-2005	Premium contribution of .0075 of officer's salary not to exceed $240 per year
Mercer	2005-2008	$24.00 bi-weekly premium for Parent/child or family medical, dental

		and prescription coverage; $19 for single coverage
Middlesex	2000-2004	Premium contribution for new hires of 24% to 75% of premium cost depending on salary; subject to ceilings of from $400 to $1,750 annually based on salary
Ocean	2002-2006	No premium contributions
Passaic	2003-2006	No premium contributions
Salem	2004-2005	No premium contributions
Somerset	2005-2007	No premium contributions
Union	2005-2008	Employees choosing PPO or traditional plan pay difference between that plan and Direct Access POS; Effective 9/1/2006, additional $15 per month for non-single coverage[16]
Warren	2002-2004	No premium contributions but reopener clause to take effect after Employee Health Care Group is formed

In reviewing this list, it appears that only Middlesex County officers hired after the execution date for the 2000-2004 contract have premium contribution levels as high (and sometimes higher) than those that now apply to Local 151. While it is possible that some of the expired contracts may have been modified to include higher premium contributions, the record does not include evidence to that effect. Accordingly, comparisons with other sheriff's officers weigh against

[16] This information is derived from a Memorandum of Agreement and it does not indicate the contributions under the predecessor contract.

awarding the employer's premium contribution proposal. This is especially so given the objective of maintaining this unit's relative standing vis-à-vis other sheriff's officers. That standing would tend to deteriorate if existing contributions were increased by the amount that the County proposes.

Further, while the PBA 264 Park Police unit does have the contribution levels, for 2007 and 2008, that the County seeks, those provisions were negotiated, not in the context of a County-wide health benefits package, but as part of a settlement in which the unit's salary scale was re-structured; employees received substantial increases in 2003 through 2006; and officers were brought up to the salary level of the corrections and sheriff's officers. The same appears to be true of Park Police Superiors (Lieutenants) who also received substantial increases in 2003 through 2006. By contrast, I have limited compensation adjustments for this unit to across-the-board increases that are in the "average" range when compared to the adjustments received by most other County units, other law enforcement employees statewide, and public and private sector workers in New Jersey. In this posture, the health insurance changes that were negotiated for the Park Police units are not appropriate for Local 151.

With respect to the Corrections Superiors, they are now subject to contributions of either 1% of salary or 6% of premium cost – a framework that the County has not suggested for this unit, although it is noteworthy that for 2006 and

2007, Local 151 members with Medallion coverage paid more than 6% of that premium. In any case, the Corrections Superiors contract does not provide support for awarding the County's premium changes for Local 151: it is only one highly-paid unit; the contribution provisions are not part of a County pattern; and this one settlement does not alter the need to balance fiscal concerns with the importance of maintaining this unit's overall compensation.

Finally, Employer Exhibit 26, cited by the County, does not weigh in favor of its contribution proposal. This exhibit compares the premium contribution provisions in the County's law enforcement agreements with those in 32 contracts, mostly pertaining to police units in 23 Morris County municipalities. However, even if municipal police officers were the employees most comparable to Local 151 members, the exhibit does not support contribution increases at the level that the County proposes.

Exhibit 26 shows that only 14 of the 32 municipal agreements appear to require at least some unit members to pay a portion of the premium for major medical and hospitalization coverage. Further, of the six units that have fixed annual dollar amount contributions, four of those assessments are lower than the payments required under Local 151's 2003-2006 contract. Officers in the remaining units are variously obligated to contribute: 10% of the premium cost of dependent coverage; 20% of the cost of non-single coverage (for new hires); 50%

of the annual premium increase in "dental and prescription medical coverage"; and, finally, the difference between employer-designated coverage and a more expensive plan. These various formulas may result in significant contributions for some employees but, overall, Exhibit 26 does not show that most municipal officers in Morris County have premium contribution levels at the level that the County seeks. In any case, as set forth in my comparability discussion, these municipal officers are not the best gauge for evaluating what salaries and benefits are appropriate for this unit.

In light of all of the foregoing, I believe that a 10% increase in existing premium contributions is appropriate in the final year of the agreement, 2010. The County has demonstrated that, since the 1990s, it has been successful in securing some health benefits changes in each round of negotiations, and it is likely that this will occur with both civilian and law enforcement units in ensuing negotiations. Further, health insurance costs will likely increase by 2010 and it is inadvisable to hold existing contributions at the same level for the span of a four-year term. Finally, the contribution increases will help offset the cost of the 4% increases to the County in the agreement's final year, a desirable result in light of the fiscal pressures that the County faces.

I also award the prescription co-pays; HMO co-pays; and Medallion deductibles and co-pays that the County seeks, beginning in 2009. Virtually all civilian units, as well as the Park Police and Corrections Superiors, have agreed to the HMO and prescription co-pays and that circumstance weighs strongly in favor of awarding them. *Union Cty.* Similarly, while most contracts do not refer to the Medallion deductibles and co-pays at all, Stapleton testified that virtually all units with contracts expiring in 2007 and 2008 had agreed to them (3T117-3T118). The co-pays and deductibles are also within the range of those included in other sheriff's officer contracts and those set forth in Employer Exhibit 26.

The County's proposals are also reasonable in scope. Stapleton stated that the County is the only HMO Blue participant statewide that does not have office visit co-pays and the Medallion deductibles have not been changed since 1988.

Turning to retiree health benefits, I award the County's prescription drug co-pay proposal and that portion of the HMO Blue proposal establishing, for employees who retire after January 1, 2009, co-pays of $10 for office visits and $15 for specialists. These changes parallel those that will be in effect for active unit members. I decline to award the proposals -- $50 co-pay for emergency room visits and a $500 deductible for the wraparound plan – that have not been proposed for active employees. The County has not explained why this discrepancy is warranted.

I also decline to award the proposal that would limit employer-paid retiree coverage to the retiree only but allow the retiree to continue eligible dependent coverage at his or her own expense. These provisions would pertain to employees who are hired after January 1, 2009 and thus will not take effect until well into the future. The changes have thus far been implemented for the Corrections Superiors only and many law enforcement and civilian groups continue to have a contractual guarantee for employer-paid retiree and dependent coverage. Further, at the time of the hearing, the County was in the process of completing an actuarial study on the cost of, and possible funding methods for, future retiree health benefits (2T46). In this posture, the County has not met its burden of showing why the retiree benefit changes need to be awarded now. The County can pursue these modifications in future negotiations, when they can be considered in light of the completed actuarial study.

In addition to its salary, health benefits, and vacation proposals, the County proposes to change existing contract provisions to specify that: military leave will be governed by the County's general policy; a physician's certificate may be requested for absences of less than five days; and an officer working as an acting sergeant shall be paid at the first step of the sergeant's scale. The County also seeks modifications that would bar PBA bulletin boards from being in public view and require that all postings be reviewed and initialed by the PBA president or vice president. In addition, the County seeks to delete the reference to "leave without pay" in a clause requiring 30 days advance notice for such. Finally, it proposes to amend the Emergency Duty clause to state that the guarantee of four hours "call out" time does apply when an employee who has not yet started a work shift is diverted to another work location.

In its brief, the County urges award of the compensatory time proposal, pointing out that other County employees may accumulate only one week of such time. While the County's brief does not address the other noted proposals, Undersheriff John Dempsey testified as to the rationale underlying several of them. For example, he stated that the acting sergeant change was necessary given that there is now a sergeant's salary schedule, whereas there was only one sergeant's pay rate when the current provision was negotiated. Dempsey also observed that the County's military policy is more liberal than the statute on the same subject and therefore, the County proposes to amend Article XVI to state that the policy will be followed. Dempsey further explained that the reference to unpaid leaves is unnecessary because this unit has only paid leave. Finally, Dempsey stated that the emergency duty proposal was triggered by a few incidents and therefore "needs to be addressed."

On balance, I conclude that, without a fuller discussion of the rationale for the proposals, and the difficulties caused by the existing contract clauses, the County has not met its burden of justifying the above-noted changes.

PBA'S ECONOMIC AND NON-ECONOMIC PROPOSALS

In addition to its salary, equity adjustment and longevity proposals, the PBA's final offer contains a number of proposed contract modifications that would, among other things: allow certain employees to annually "cash out" some of their sick days; increase payments for unused sick leave upon retirement; and memorialize an alleged past practice permitting the accrual of 480 hours of compensatory time, together with the option of receiving payment for compensatory days. The PBA also seeks to increase the number of bereavement and personal days; raise the uniform allowance to $1,600 by the end of the contract term; modify the seniority article; and include new provisions on call-out duty, call-back pay, and payment for attendance at certain scheduled meetings or other events. Finally, the PBA proposes new provisions requiring the County to continue its Section 457 deferred compensation plan and institute a self-insured disability plan for unit members injured on the job.

For the most part, these proposals were not addressed in detail in this proceeding, although the union's interest in seeking enhanced benefits is self-evident. In addition, some PBA exhibits appear designed to support certain of its proposals for additional benefits. For example, Union Exhibit Book I, Tab 49 shows that while retiring unit members are entitled to a maximum payment of $10,000 for unused sick leave, the average for 17 sheriff's departments is

$13,529.41. Similarly, the three personal days to which officers are entitled is below the average (for 21 sheriff's departments) of 4.4, although that figure reflects outliers -- including one department with 10 days and another with 7. On the other hand, unit members have an above-average number of holidays; the average number of bereavement days, and a $1200 uniform allowance that is well above the $654.05 average for sheriff's departments (Union Exhibit Book I, Tabs 45, 46, 47 and 51), but somewhat less than the $1,355 allowance for sheriff's superiors (Employer Exhibit 10, p. 27).

Within this framework, I find that the PBA has not met its burden of justifying its compensatory time, uniform, personal and bereavement day, terminal leave, and sick leave cash-out proposals. Taken together, the noted exhibits indicate that the unit's overall compensation is good, with above average benefits in one area balancing out below average benefits in another. Further, these PBA proposals would all have a cost impact and, given the fiscal concerns outlined in the financial impact and public interest discussions, I have chosen to allocate economic improvements to across-the-board salary increases.

With respect to the PBA's seniority, deferred compensation, disability plan, and call back/call-out duty proposals, the union has not explained the circumstances that triggered the proposals or what problems they are designed to address. I therefore deny these proposals as well.

AWARD

1. Term of Agreement

The term of the agreement shall be from January 1, 2007 through December 31, 2010.

2. Salary increases

4% across-the-board salary increase effective January 1, 2007.
4% across-the-board salary increase effective January 1, 2008.
4% across-the-board salary increase effective January 1, 2009.
4% across-the-board salary increase effective January 1, 2010.

Each salary increase is retroactive to its effective date.

3. Health Benefits Premium Contribution

Effective January 1, 2010, the dollar amount premium contributions for the Medallion, Wraparound, and HMO shall be increased by 10%, resulting in the following bi-weekly payroll deductions.

	Medallion	Wraparound	HMO
Family	$50.82	$28.36	$22.53
Parent/Child	$36.08	$20.03	$14.97
Single	$19.20	$10.73	$ 8.21

4. Prescription Co-Pays

Effective January 1, 2009, the prescription co-pays shall be $5.00 for generic; $10.00 for name brand; and $15.00 for formulary prescriptions. Effective January 1, 2009, two co-pays for a three month supply by mail order.

5. Article XI, Hospital and Medical – Surgical Insurance, Section 1, page 19

Effective January 1, 2009, HMO Blue - $10.00 co-pay for office visits and $15.00 co-pay for specialist. Increase eye glass lens reimbursement to $100.00

6. Article XI, Hospital and Medical – Surgical Insurance, Section 1, page 19

   Medallion – Effective January 1, 2009, increase co-pay to $20.00, increase deductibles to $300/$600. Add $100.00 eye glass lens reimbursement

7. Article VIII, Vacation, Section 3, page 12

   Amend the language as follows:

   Any vacation or portion thereof which is not taken or granted because of the pressure of work may be taken during the next calendar year. No employee shall have an accumulation on December 31st of any given year which exceeds the hours entitled to during the previous 18 months of employment. There will be no exceptions or extensions granted to this policy.

8. All proposals of the Township and PBA not awarded herein are denied and dismissed. All provisions of the existing collective negotiations agreement shall be carried forward except for those provisions modified by the terms of this Award.

Dated: October 17, 2008
Princeton, N.J.

Timothy A. Hundley

Timothy A. Hundley
Arbitrator

State of New Jersey }
County of Mercer }ss:

On this 17th day of October 2008, before me personally came and appeared Timothy A. Hundley 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.

Virginia G Hundley

Virginia G. Hundley
Notary Public of New Jersey
My Commission Expires 6/22/2010