

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration Between:

OCEAN COUNTY DEPARTMENT OF CORRECTIONS

-and-

Docket No. IA-2014-020

PBA LOCAL 258

Before: Susan W. Osborn, Interest Arbitrator

Appearances:

For the Employer:

Apruzzese, McDermott, Mastro & Murphy
(Robert T. Clarke, of Counsel and on the brief)
(Robert Merryman, on the brief)
(Jonathan Cohen, on the brief)

For the PBA:

Pelettieri, Rabstein & Altman, attorneys
(Frank M. Crivelli, of Counsel and on the brief)
(Donald C. Barbaty, on the brief)

Witnesses:

Julie Tarrant, County Chief Financial Officer
Keith J. Goetting, County Director of Employee Relations
Warden Theodore Hutley, County Jails
Correction Officer James Docimo, PBA Local 258 President

Also Present At the Hearing:

Correction Officer Lucian Woods - PBA Negs. Committee
Correction Officer Steven Wedding - PBA Negs. Committee
Correction Officer Joseph Rubino - PBA Negs. Committee

INTEREST ARBITRATION AWARD

BACKGROUND

On March 28, 2014, Ocean County filed a Petition for Interest Arbitration with the Public Employment Relations Commission

to initiate interest arbitration over a successor collective negotiations agreement with Police Benevolent Association Local 258. The prior agreement expired on March 31, 2013.

On August 18, 2014, I was appointed to serve as interest arbitrator by a random selection procedure pursuant to N.J.S.A. 34:13A-16(e) (1). This statutory provision requires that an award be issued within 45 days of my appointment. Both parties submitted Final Offers by September 8. The County submitted a list of unit employees who were on the County payroll during the 12-month period prior to contract expiration, together with their dates of hire, dates of retirement or separation where applicable, and their aggregate base pay paid during the 12-month period.

On September 11, I conducted an interest arbitration hearing at the County Administration Building. The County and the PBA each submitted documentary evidence and testimony.¹ Both parties submitted calculations of the financial impact of their respective economic proposals. Post-hearing briefs were filed by September 19, 2014.

FINAL OFFERS OF THE COUNTY

Economic Proposals

Duration

April 1, 2013 to March 31, 2016

¹ County exhibits will be referred to as "C- "; Local 258's exhibits will be referred to "PBA- ".

Salaries**April 1, 2013**

- Payment of longevity as provided for in Article 18 and senior officer step, where due.
- Payment of college credit as provided for in Article 19, where due.
- No advancement on the salary guide.
- No across-the-board salary increases.

April 1, 2014

- Payment of longevity as provided for in Article 18 and senior officer step, where due.
- Payment of college credit as provided for in Article 19, where due.
- Placement on the new April 1, 2014 salary guide set forth in the [attached] final salary proposal.

April 1, 2015

- Payment of longevity as provided for in Article 18 and senior officer step, where due.
- Payment of college credit as provided for in Article 19, where due.
- Placement on the April 1, 2015 salary guide set forth in the [attached] final salary proposal.

The County's proposed revisions of the salary guide attached to its final proposal seek to expand the guide from the existing 8 steps to 19 steps modify the guide beginning in 2014. Starting salary would be reduced (from \$41,839) to \$38,000 and the top step

value would remain at 91,961, with increments of \$2,998 between each step.

Article 12 - Holidays

-Add to end of Article:²

Effective April 1, 2015 Holidays enjoyed by full time officers shall be consistent with those holidays established by New Jersey State government.

Article 14 - Employee Sick Leave Liability Reduction Program

-This article shall expire after the May 15, 2013 payments, if any were made.

Article 18 - Longevity

-Effective with the issuance of the Interest Arbitration Award, this benefit shall cease for all new hires.

Article 19 - College Credit

-Effective with the issuance of the Interest Arbitration Award, this benefit shall cease for all new hires.

Non-Economic Proposals

Article 3 - Management Rights

-Change paragraph 5 to read:

To determine the methods, means, schedules and personnel by which such operations are to be conducted.

Article 7 - Overtime Compensation

² Material in brackets is proposed to be deleted; material underlined is proposed to be added.

-Paragraph A: In second sentence delete reference to 8 hours in a workday.

Article 8 - Personal Days

-Delete first sentence and replace with:

Each employee may be eligible for three (3) days of personal leave, which may be used for personal business, which cannot be conducted during the employee's shift. Personal leave days are considered 'earned' on January 1st, May 1st and September 1st of each calendar year.

-Add at end of Article,

In the event shifts are created in excess of eight (8) hours, all personal leave shall be calculated in hours.

Article 13 - Sick Leave

-Modify first sentence as follows:

Sick leave shall accumulate in hours at the rate of one and one-quarter (1-1/4) days per month in the first year of service, commencing on the 1st month or major portion thereof, from date of hire.

Article 15 - Vacation Leave

-Modify first sentence to read:

Vacation leave will be granted to each full-time employee, in hours on the following basis. . .

FINAL OFFERS OF THE PBA

Economic Proposals:

Article 4 - Salaries

By its Final Offer submitted September 2, 2014, the PBA sought:

. . . the maximum monetary amount available pursuant to N.J.S.A 34:13A-16.7(b), and the restrictions contained therein, to increase base salary items of its members. This monetary amount will be realized through the creation of a new nineteen (19) step salary guide thereby abandoning the currently existing eight (8) step salary guide; and wage and step freezes for all PBA members during various periods throughout the contract.

Pursuant to my direction, the PBA revised its Final Offer by submission of September 8 to more specifically state how the "maximum monetary amount available" should be allocated. For a four-year contract the PBA proposes as follows:

- Creation of a nineteen step salary guide
- A 2.614% increase to the top step of the salary guide in the first year of the new contract.
- Step movement for all eligible officers on April 1, 2013 and April 1, 2014; step increment to be paid effective October 1 of each year.
- Wage and step guide freeze in the third and fourth year of the new contract, except that members currently on the probationary step and step two of the current guide would receive an increment on April 1, 2015.
- Longevity and senior pay to continue pursuant to the prior contract terms.

Alternatively, for a three-year contract the PBA proposes:

- The creation of a nineteen-step salary guide.
- A 1.654% increase to the nineteenth step of the salary guide in the first year of the new contract.
- Step movement for all eligible officers on April 1, 2013 and April 1, 2014; step increment to be paid effective October 1 of each year.
- Wage and step guide freeze in the third year of the new contract.

- Longevity and senior pay to continue pursuant to the prior contract terms.

Non-Economic Proposals³

Article 3 - Management Rights

- Amend Section B as follows:

Successful completion of the Recruit Basic Training Program is a "condition of employment" for all County Correction Officers. [In the event that a new County Correction Officer is hired and does not successfully complete the Recruit Basic Training Program the first time, it is understood and agreed that he/she will be terminated from the position of County Correction Officer.] Newly hired County Correction Officers shall not work in the Ocean County Correctional Facility until they have successfully completed the Recruit Basic Training Program.

Article 4 - Salaries

- Remove the following language:

[The application of Article 4 shall be suspended, effective January 1, 2013. The suspension shall be effective until the parties reach a voluntary agreement for a successor CNA or by the terms of an interest arbitration award.]

Article 6 - Uniform Maintenance:

Any clothing, personal or County-issued, which is damaged while an employee is acting in the course of his/her employment shall be replaced by the County or the County shall reimburse the employee the cost incurred for replacing such damaged clothing. The County shall determine the value of any damaged articles on a fair wear and tear basis.

The County's obligation to replace or reimburse the

³ The PBA divided its proposals into economic and non-economic proposals by treating only the wage increases as economic. The County vigorously objected to the characterization of many of the PBA's proposals as non-economic. I will deal with each of the proposals separately.

employee, as in Section D above shall also extend to personal items such as eyeglasses, watches, and other similar belongings.

Article 7 - Overtime Compensation:

- Amend Section A as follows:

Overtime shall be compensated for at the rate of time and one half ($1\frac{1}{2}$) for each hour actually worked in overtime status. Overtime payment shall commence after completion of eight (8) hours work in a workday or forty (40) hours in a work week. Sick days, legal holidays and vacation days constitute compensable days for the computation of overtime. All other days, other than workdays, sick days, legal holidays and vacation days, will not be utilized as compensable days for the purpose of computing overtime. No County Correction Officer shall be prohibited from working overtime if he or she did not work during his or her regularly scheduled shift prior to being assigned overtime. All overtime must be authorized by the Warden or his or her designee.

- Add the following new sections:

E. "Scheduled Overtime" means overtime voluntarily agreed to and assigned on the same day on which it is worked.

F. "Non-Scheduled Overtime" or "Mandatory Overtime" means involuntarily assigned overtime made on the day on which it is to be worked.

G. All "Scheduled Overtime" shall be distributed as equally as possible amongst bargaining unit members utilizing an agreed upon "Scheduled Overtime" list based on departmental seniority. When assigning scheduled overtime, those officers working the shift prior to the scheduled overtime shall be the first officers requested to work said overtime and have the first opportunity to elect to work said overtime. Only after those officers working the prior shift have had the opportunity to elect to work scheduled overtime will officers be contacted outside of work via telephone to be offered the opportunity to work a period of scheduled overtime.

H. All "Non-Scheduled Overtime" or "Mandatory Overtime" shall be assigned based on agreed upon mandatory overtime lists. Each shift will utilize a list that is comprised of all officers working on said shift and will be based on departmental seniority. Once an Officer is assigned and works a shift of non-scheduled overtime or mandatory overtime, he or she will be removed from his or her place at the top of the mandatory overtime list and placed at the bottom of the list and shall not be reassigned mandatory overtime until such time that his or her name rotates and reappears at the top of the list.

I. Officers shall be permitted to split or "share" periods of scheduled overtime and non-scheduled overtime with increments no smaller than a one (1) hour period being worked.

J. No Officer shall be assigned non-scheduled overtime or mandatory overtime for the shift following his or her last shift worked prior to their regularly scheduled days off, a scheduled vacation day, a scheduled sick day and/or scheduled personal day.

K. No officer shall be required to work more than eight (8) hours of overtime following the completion of said officer working eight (8) hours at his or her regular rate of pay.

L. No officer shall be required to work more than (8) eight hours of overtime during a single (24) twenty four hour period.

M. No female officer shall be assigned mandatory overtime if there is not a female officer scheduled to work the following shift.

N. As provided in Section A, overtime shall be compensated for at the rate of time and one-half (1 1/2) for each hour actually worked in an overtime status. Such compensation may be in the form of cash payment or compensatory time, at the sole discretion of the officer. Officers may take compensatory time off upon approval by the Warden or his or her designee. The decision to grant a comp time request shall be based upon whether minimum staffing levels are met but may not be unreasonably denied. Officers may accrue a maximum of forty (40) hours of renewable compensatory time per

calendar year. Any compensatory time not used by November 15 of the year in which it is earned shall be paid to the officer at his or her current rate of pay, within thirty (30) days thereafter.

Article 12 - Holidays:

- Add the following provisions:

B. In the event any officer covered by this Agreement is required by the County to perform duties on any of the holidays enumerated above or on Easter Sunday, whether scheduled or for call-in situations, he/she shall be compensated as set forth in Section A above or receive an alternate day off in lieu of each such holiday in which duties were performed at his/her option.

C. Officers shall be permitted to request time off for days that fall on designated holidays. If the Warden receives more requests off than the overall department's schedule permits. Requested time off will be awarded based on a departmental seniority list comprised of all rank and file officers employed by the County. If an officer is awarded time off for a day that falls on a designated holiday, he or she will be removed from his or her place at the top of the departmental seniority list and placed at the bottom of the list. Once rotated from the top of the list to the bottom of the list said officer shall not be permitted to take additional time off on a day that falls on a designated holiday until such time that his or her name rotates and reappears at the top of the list

Article 17 - Attendance at Association Meetings:

- Amend the Article as follows:

A. It is intended that no more than two (2) [delegates] Association members may attend Policemen's Benevolent Association meetings during their normal working shift. [and further, there shall not be more than two (2) days of such meetings in any given month. If possible, Association meetings should be scheduled for those delegates during their off-duty periods.]

B. The PBA President or his/her designee shall be

granted [five (5)] twenty (20) additional days per contract year to conduct Union Business.

C. Each April 1, the PBA shall accrue a time bank of eighty (80) hours for use for professional development each year. This accrual of the time bank shall be in addition to the time granted in Sections A and B above. The purpose of the time bank is to allow PBA Officers paid time off to attend professional conferences and seminars related to Corrections and/or labor relations or to conduct other PBA business as deemed necessary by the President.

D. Leave taken by representatives of the PBA to represent Association members at: (i) hearings or appearances before an Administrative Law Judge at the Office of Administrative Law; (ii) arbitration hearings, conferences or appearances; (iii) proceedings at the New Jersey Public Employment Relations Commission; (iv) appearances at alternative dispute resolution proceedings, hearings or conferences; (v) pre-arbitration conferences held in accordance with contract grievances; and (vi) Laudermill hearings and County level disciplinary hearings shall not be "chargeable" union leave that will count against the time allotted in Sections A. B, and C above.

E. The County agrees that during working hours, on its premises and without loss of pay, properly designated and mutually agreed upon PBA representatives shall be allowed to:

1. Represent employees or assist counsel in representing employees in the bargaining unit at grievance proceedings or County disciplinary hearings.
2. Represent employees at investigative interviews conducted by the Internal Affairs Division or the Warden's designee. These activities must be performed by the PBA President or member of the PBA Executive Board.
3. Submit PBA notices for posting.
4. Attend negotiating meetings or contract negotiation sessions with the County if designated as a member of the negotiating team to a maximum of five (5) members. Provided,

however, that where the representative, upon completion of the representational activities set forth in Section E(1), (2) or (3) above, could return to work with at least one (1) hour remaining on his/her scheduled shift, such representative must return to work and complete the remainder of his or her scheduled work shift. The determination as to whether the representative could return to work with at least one (1) hour remaining on his/her scheduled shift shall take into account reasonable travel time from the location of the representational activity back to the representative's work location.

F. Leave pursuant to this Article shall be submitted in writing to the Warden forty-eight (48) hours in advance, when possible, to be reviewed for contractual compliance. Timely requests will not be unreasonably denied. Leave will only be granted individuals authorized by the PBA President.

G. Three (3) members of the PBA Executive Board as designated by the PBA President shall work the day shift from 7:00 a.m. to 3:00 p.m. Monday through Friday, weekends off. These Executive Board members shall not be required to bid for the day shift Monday through Friday, weekends off but will automatically be given an assigned regular post on the day shift Monday through Friday, weekends off. These three (3) designated positions awarded to the PBA Executive Board members shall not be counted against those posts normally allotted during the day shift that carry weekends off.

H. The County will provide office space, a desk, chairs and a filing cabinet for the exclusive use of the PBA. In addition, the County shall install the proper equipment for telephone and internet service for the exclusive use of the PBA. The PBA shall pay all the costs of installation and monthly fees for the telephone and internet.

Article 26 - Negotiation of a Successor Agreement:

- Amend the Article as follows:

A. The parties shall commence negotiations for a

successor contract no later than November 3, 2016.

B. Employees of the County who may be designated by the PBA to participate in collective negotiations meetings called for the purpose of the negotiation of a collective negotiations agreement will be excused from their work assignments, without loss of pay.

C. During contract negotiation sessions, the authorized representatives of the PBA consisting of not more than five (5) representatives shall be excused from normal duties for the amount of time reasonably required for the scheduled negotiations meeting and shall receive their regular compensation for time spent when such negotiations interfere with their work schedule. It is agreed that such representatives shall be released from work two (2) hours prior to the scheduled negotiations session in order to confer and prepare with counsel. Further, it is agreed to release one (1) PBA representative from one (1) tour of duty, with pay, when representative is regularly assigned to the night shift and is scheduled to a regular tour of duty on the night immediately preceding a scheduled negotiation session.

Article 31 - On-Call and Extradition Assignments:

- Amend the Article as follows:

A. Two officers will be assigned to "on-call" duty status at all times. Any Corrections Officers that are current with firearms qualifications are eligible to be assigned to on-call duty status. On-call duty will be assigned based on seniority from an on-call seniority list. Those officers eligible and interested in being assigned to on-call duty shall sign up for the same by making the Warden or his designee aware of their interest via email during the last two weeks of December. Thereafter, starting on the first day of the calendar year, on-call duty assignments shall be assigned on a rotating basis based on the officer's position on the on-call seniority list. After an officer is assigned a week of on-call duty he or she will be rotated to the bottom of the list and the next officer on the list will be assigned a week of on-call duty status. This procedure will continue until the fifty two (52) week calendar is assigned. [when assigned by the Warden] Those Officers assigned to an

on-call duty status shall be compensated in the amount of Two Hundred and [Twenty-Five] Forty dollars [\$225.00] \$240.00 per week for each week so assigned. The rate for on call duty compensation shall increase annually by fifteen dollars (\$15.00) per year effective the first day of the year. [Effective November 1, 2012, on-call pay shall be increased to Two Hundred and Forty Dollars (\$240.00) per week for each week assigned].

Article 32 - Weather Emergencies:

- Replace the entire Article with the following:

If the County Offices and/or County Courthouse close due to inclement weather, or the Governor declares a state of emergency for the entire State or a portion of the State that includes Ocean County due to inclement weather, any member of this bargaining unit required to work by the Employer shall receive an extra personal day as additional compensation for each full eight (8) hour shift worked.

Article 33 - Duration:

- Amend the Article as follows:

The duration of this Agreement shall be from April 1, 2013 through March 31, 2017 and its terms shall remain in full force and effect until a successor agreement is negotiated.

New Article: Facial Hair

All Officers will have the option of growing facial hair if they so desire. The facial hair will be no longer than one-half inch and in compliance with the departmental hair regulations. Thus, all facial hair shall be maintained in a neat and clean manner and possess no unnatural colors.

New Article: Out of Title Work

A. Employees shall be assigned work appropriate to and within their job classification. The assignment of out-of-title work on a regular and continuing basis, exclusive of stand-in for limited periods of vacation,

sick leave or other leaves, shall be avoided. Instances of such out-of-title work identified by the PBA and formally brought to the attention of the County shall be corrected immediately or by phasing out such assignments at the earliest possible time which shall in any case be no later than three (3) months from the time of notification by the PBA. Any dispute as to whether the work is within the job classification of employee(s) involved may be resolved through the grievance procedure.

B. Each employee shall be furnished a copy of the job specification for the position in which he or she is employed upon request.

C. No post presently filled by a full-time employee covered by this Agreement shall be covered by any Correction Supervisor, officer assigned to the Internal Affairs Division, non-correction officer, part-time employee, civilian employee or other personnel.

New Article: Reassignment & Layoff and Recall

A. If an officer is reassigned from his or her bidden post for reasons of hardship or emergency, said reassignment shall not last longer than ninety (90) calendar days.

B. When necessary to lay off employees covered by this Agreement. The PBA shall be notified once such a decision is made. Furthermore, should a layoff occur, the conditions outlined below and the established protections administered by the Civil Service Commission shall be observed.

1. Employees covered by this Agreement shall not be laid off before any emergency appointments, temporary appointments or extra personnel serving in any position normally occupied by a Correction Officer. Employees that are provisional appointees awaiting appointment to permanent positions or employees serving in working test periods within the classification affected shall be laid off prior to any employees covered by this Agreement. Non-permanent employees will be given minimum notice

of at least two (2) weeks of any reduction in force.

New Article: Health and Safety

A. The County shall continue to make reasonable provisions for the safety and health of its employees during the hours of their employment and will continue to provide appropriate safety devices for their protection and to provide a reasonably safe and healthful place of employment.

B. When transporting inmates to an outside health facility for treatment or when an inmate is admitted to an outside healthcare facility. For health and safety, a minimum of two (2) officers will be assigned to perform said task.

C. The County agrees to provide officers with two consecutive days off for each seven day work week. Officers shall be permitted to continue the practice of exchanging days off with one another without restriction so long as the practice does not create overtime. The County agrees to provide each employee covered by this Agreement with a forty (40) minute paid meal break and two (2) fifteen minute health and comfort breaks during the course of an eight (8) hour work shift. One (1) health and comfort break will be provided in the first four (4) hours of the work shift, and one (1) health and comfort break will be provided in the second four (4) hours of the work shift. During said meal break and health and comfort breaks. Any employee covered by this Agreement is subject to immediate and unannounced recall to duty to assist in unexpected emergency situations.

D. In an effort to promote the health and safety of those employees covered by this Agreement. Officers assigned to security posts shall report to work fifteen (15) minutes prior to the start of their regularly assigned tour of duty. This time is to be utilized by the incoming and outgoing officers to exchange information that occurred during the outgoing officer's shift. If the outgoing officer is to report to a new post following his or her regularly assigned shift, the officer that he or she is to replace shall remain in place for fifteen (15) minutes following his or her tour of duty to ensure the exchange of information.

E. The County agrees to provide adequate and regularly maintained sanitary facilities for employee use. Each employee will maintain acceptable standards of personal hygiene and cleanliness in accordance with the requirements of his/her job.

F. An employee must report incidents of unsafe or unhealthful conditions to his/her supervisor immediately. Corrective action shall be initiated at the earliest time practicable to bring such conditions within established safety guidelines providing the necessary resources to do so.

G. Employees shall not be required to work under conditions of work which are determined to present an imminent hazard to safety or health. An employee whose work is temporarily eliminated as a result of the foregoing, may be assigned on an interim basis to other work which the employee is deemed to be qualified to perform.

H. The County and the PBA shall establish a joint Safety and Health Committee consisting of three (3) members appointed by each party. Regular quarterly meetings will be scheduled as required to discuss safety, health problems and/or hazards and to make recommendations concerning implementing improvements or modification of conditions. The PBA shall supply an agenda when requesting a meeting. All committee meetings shall take place during working hours that encompass the day shift and employees shall suffer no loss of pay as a result of attendance at such meetings.

STIPULATIONS

The parties stipulated to the following facts:

1. Unit employees have not been paid step increases on the salary guide since the prior contract expired March 30, 2013.
2. Unit employees have received increases in longevity payments and senior pay as they have reached benchmarks in service, and

increases to college credit payments, since the prior contract expiration.

3. Employees are currently in "Tier 4" of health care contributions pursuant to Chapter 78.

4. Unit employees work a 40-hour work week. For employees in the security division, there are three non-rotating shifts: 7 a.m. to 3 p.m., 3 p.m. to 11 p.m., and 11 p.m. to 7 a.m. A small group of corrections officers in specialized units work 11 a.m. to 7 p.m.

PRIOR AGREEMENTS BETWEEN PARTIES

Shift Assignment Agreement ("Three-Year Rule")

During a negotiation session on June 18, 2014, the PBA and the Warden signed a side-bar agreement providing for a method of shift selection for the Corrections Department. The agreement provides,

[Except for certain specifically enumerated units of the Jail], officers would bid from one master schedule of all shifts and regular days off. The bidding would include officers in the Security Division, the Classifications Unit, Booking Desk, Video Court, Maintenance Unit and Front Lobby as they currently exist. Shift bidding shall be by seniority for all available shifts on this schedule.

The agreement further provides,

In order to be eligible to post select, an officer must have three or more years with the Department by January 1st of the respective bid year. This agreement between PBA Local #258 and the Warden shall only be in effect for the 2015 and 2016 schedule years. It shall be non-binding thereafter and be open for discussion during the next collective bargaining process between the County and PBA.

Vacant roster assignments will be posted for a two-week period and filled with the most senior Officer who bids for that assignment. The shift, days off and assignments will remain without change. (PBA-14-26)

In addition, the agreement provides that future officers selected for the specialized units shall have a minimum of three years with the Department and shall be allowed to shift bid by seniority within their respective units. This side-bar agreement contains no reference to it being contingent upon full settlement of the successor negotiations agreement, or the withdrawal of other negotiations demands by either party.

DEMOGRAPHICS

Ocean County is located along the Jersey Shore. Its County seat is Toms River, which, like the County itself, has been one of the fastest growing areas of the State since the 1990's. The County is located fifty miles east of Pennsylvania, 70 miles south of New York City, and 25 miles north of Atlantic City, making it a prime destination for residents of these cities during the summer. Ocean County consists of thirty-three municipalities. (C-6; C-23)

The County is part of the New York metropolitan area, and is home to many tourist attractions especially the beachfront communities of Seaside Heights, Long Beach Island, and Point Pleasant Beach. The County is also a gateway to New Jersey's Pine Barrens, one of the largest protected pieces of land on the East Coast. (C-6)

Ocean County is governed by a Board of Chosen Freeholders consisting of five members elected at large by the County voters in partisan elections and serving staggered three-year terms. Its freeholders have both administrative and policy making powers.

(C-6)

Ocean County is an area of 629 square miles with estimated persons per square mile of 923. The County's estimated 2012 population was 580,470. From 2000 through 2012, the County gained 69,554 in population resulting from the County being the top destination in the state for migration, especially among the elderly and retired population.

The County's housing units totaled 279,564, with a homeownership rate for 2012 of 81.7%. The number of households is 223,599 with 2.56 persons per household. Per capita income in 2012 is \$29,788; median household income is \$59,312; and the number of persons below the poverty level is 11.0%.

Ocean County's largest industries -- educational and health services -- employs an average of 34,267 employees or 28.0% of total County employment. By sector, the average annual wage in Ocean County lagged the State in every category, i.e. manufacturing, construction, transportation/trade/utilities, information, financial activities, professional/business services, education/health services, leisure/hospitality, and other services. Although workers in the County's information sector had the highest annual average

wage of \$63,424, this was \$29,694 lower for workers in the same industry statewide that had an average annual wage of \$93,118. Manufacturing workers in the County received the second highest annual average wage of \$50,622. Workers in the leisure and hospitality sector had the lowest average annual wage of \$17,760 due to the part-time and seasonal nature of many of the jobs. (C-7)

The County's 2013 annual average unemployment rate is 8.5% with a five-year high (2010) rate of 10.2% and a five year low (2008) of 8.5%. Its 2013 average number of unemployment insurance claimants is 5,359. (C-7)

In 2012, residential building permits totaled 1,125, ranking sixth among New Jersey counties. Of the previous total, single-family residential home permits is 937, ranking first among New Jersey counties. (C-7)

The County's Chief Financial Officer Julie Tarrant testified that in more recent budgets the County has had to address staffing levels through attrition in certain departments. The following reduction in County positions occurred from 2010 through 2013: (Tr-62; C-86)

2010 - 65
2011 - 62
2012 - 72
2013 - <u>9</u>
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Tarrant further testified that in 2011, the County added about 44 positions to Corrections in anticipation of the opening of the new

jail facility. In addition, the County will probably hire another 20 officers in support of County's third jail facility currently being renovated.

Organization of the Corrections Department:

The County Corrections Department operates three jail facilities, the oldest of which is closed for renovation and due to reopen in 2015. In the Justice complex inmates are housed on the fourth floor which has a capacity for 320 inmates. The County's newest jail facility has a capacity of 475 inmates, including a 40-bed unit, a 32-bed unit, and a 64-bed unit on the ground floor. In addition, it has a 12-bed medical unit, 2 "rubber rooms", 32-bed medical step-down unit, and a 20-bed mental health unit. On the third floor, there is capacity for 176 male inmates and 96 female inmates. In addition, when renovations are completed on the old jail, it will accommodate 108 inmates. (T-320)

The County Corrections Department consists of 213 sworn personnel, of which 170 are rank and file correction officers represented by Local 258 (T-319-320; T-343). 27 additional correction officers have been hired and are currently in the Training Academy. They will be assigned to one of the County's Jails upon completion of their academy training.

STATUTORY CRITERIA

N.J.S.A. 34:13A-16.7(b) provides:

An Arbitrator shall not render any award pursuant to section 3 of P.L. 1977, c.85 which, on an annual basis, increases base salary items by more than 2.0 percent of the aggregate amount expended by the public employer on base salary items for the members of the affected employee organization in the twelve months immediately preceding the expiration of the collective negotiation agreement subject to arbitration; provided, however, the parties may agree, or the arbitrator may decide, to distribute the aggregate money value of the award over the term of the collective negotiation agreement in unequal annual percentages. An award of an arbitrator shall not include base salary items and non-salary economic issues which were not included in the prior collective negotiations agreement.

The statute also provides a definition as to what subjects are included in "base salary" at 16.7(a):

"Base salary" means the salary provided pursuant to a salary guide or table and any amount provided pursuant to a salary increment, including any amount provided for longevity or length of service. It also shall include any other item agreed to by the parties, or any other item that was included in the base salary as understood by the parties in the prior contract. Base salary shall not include non-salary economic issues, pension and health and medical insurance costs.

It should be noted, pursuant to the above language, that the 2% cap is not tied directly to contract terms but rather to the aggregate amount expended by the employer on base salary items for unit members in the twelve months immediately preceding the expiration of the collective negotiation agreement subject to arbitration.

In addition, I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (9) that I

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

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

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

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

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

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

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

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq).

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

(7) The cost of living.

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

(9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

The Arbitrator's award must address all nine statutory criteria, identify the criteria found to be relevant, analyze all of the evidence pertaining to the relevant criteria, and explain why any remaining criteria were deemed irrelevant. Borough of Hillsdale and PBA, 137 N.J. 88 (1994). Any economic offers that

are clearly unreasonable in light of the statutory criteria must be rejected.

In arriving at the terms of this award, I conclude that all of the statutory factors are relevant, but not all are entitled to equal weight. It is widely acknowledged that in most interest arbitration proceedings, no single factor can be determinative when fashioning the terms of an award. This observation is present here as judgments are required as to which criteria are more significant and as to how the relevant evidence is to be weighed.

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. One such consideration is that the party proposing a change in an employment condition bears the burden of justifying the proposed change. Another consideration is that any decision to award or deny any individual issue in dispute, especially those having economic impact, will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. I am also required by statute to determine the total net annual economic cost of the terms required by the Award.

In this matter, the interests and welfare of the public must be given the most weight. It is a criterion that embraces

many other factors and recognizes the interrelationships among all of the statutory criteria. Among those factors that interrelate and require the greatest scrutiny in this proceeding are the evidence on internal comparability and comparability to other jurisdictions [N.J.S.A. 34:13A-16g(2)(c)]; the financial impact of an award on the governing body and taxpayers [N.J.S.A. 34:13A-16g(6)] the County's statutory budget limitations [N.J.S.A. 34:13A-16g(5) and N.J.S.A. 34:13A-16g(9)]; the impact upon continuity and stability of the bargaining unit, including employee morale and turnover; and the cost of living.

DISCUSSION

CONTRACT DURATION:

The County proposes a three-year contract covering the period April 1, 2013 through March 31, 2016. The PBA seeks a four-year contract extending through March 31, 2017. The County argues that awarding a four-year collective negotiations agreement would wreak havoc within its identical pattern of settlement regarding duration. The PBA maintains that a four-year agreement would permit it to better attain its goals of creating parity among its unit members in terms of salary increases.

I award a three-year contract. Ordinarily, a longer contract stabilizes the relationship between the parties for a longer period and provides a measure of predictability to the County's

budgeting process. Here, however, even a three-year agreement would not necessitate the parties returning to the negotiations table until the spring of 2016. On the other hand, the County has finalized collective agreements with most of its seven law enforcement bargaining units. After this award, only the Sheriff's superior officers' contract remains open. All of the contracts with the County's law enforcement groups expire in March 2016. If I award a four-year agreement, negotiations for a successor contract with the corrections officers will lag behind negotiations with all other groups by one year. It is likely that this one year delay would again leave the corrections officers group saddled with a pattern of settlement going into their next negotiations round. I believe it is in the best interest of all parties, as well as the public, to have all groups negotiating with the employer simultaneously. This creates a level playing field, where no group or the Employer is advantaged or disadvantaged by previously achieved settlements in other units. Therefore, I award a three-year contract.

SALARY AND STEP GUIDES:

As noted above, the statutory "hard cap" pursuant to Chapter 105 P.L. 2010 applies in this matter and limits the award to no more than 2% increase over the total base pay paid to unit employees during the 12-month period prior to contract expiration. Here, the County provided a list of all unit employees together

with their base pay paid, longevity paid, and college incentive pay for the period April 1, 2012 through March 31, 2013. The aggregate base pay paid is \$12,105,965 and therefore, the 2% cap limitation is \$242,119 for each year of the contract. Thus, for a three-year contract, the maximum possible increase to base pay is \$726,357. The PBA stipulated to the accuracy of the County's list and the computations as detailed above.

For a three-year agreement the County proposes to limit increases to base pay (contract salary + increments only) to no more than 1.5% increase in each year of the contract. The County strenuously argues that all of its settlements to date have been for 1.5% of base and that no settlement has exceeded this pattern. More particularly, it especially emphasizes that a recent settlement with the County's sheriff's officers, with whom correction officers have always maintained salary guide parity, signed a Memorandum of Agreement which limited increases in base pay to 1.5%, including increment payments. Moreover, the County points to its recent settlement with the corrections superior officers which also limited increases to 1.5%, although it must be noted that superior officers do not have an increment guide.

The County proposes therefore, the following: for the first year of the agreement the County proposes a wage and guide freeze; for the second year, it proposes to expand the step guide to 19 steps with increments of even dollar values and to transition

employees to the new guide effective April 1, 2014; for the third year, the County proposes the payment of increments only. The County offers no across-the-board increases for any unit members for the life of the contract. Finally, the County's Final Offer includes increases in longevity pay when due, and continued senior pay and college incentive pay for all current employees.

In its three-year wage proposal⁴, the PBA also proposed the creation of a 19-step salary guide with increments of even dollar value. Further, it proposed a 1.654% (\$2,400) increase to the top step of the salary guide in the first year of the new contract. The PBA asks that all employees be placed on the new salary guide effective October 1, 2013 and then receive the next increment payment on October 1, 2014. For the third year of the agreement, the PBA proposes a wage and guide freeze.

The County calculates that its wage proposal would cost the County \$512,785 over the life of a three-year contract. This equates to 4.49% increase over the total contract base of \$11,422,603. The PBA proposes to spend all available funds under the maximum allowable 2% cap and it calculated the cost of its three-year proposal at \$726,357.

County's Arguments

⁴ The PBA also submitted a wage proposal for a four-year agreement. Since a four-year contract is not being awarded, the terms of this proposal have not been considered.

The County argues that its economic offer was constructed to follow the overwhelming pattern of settlement with the 18 out of 21 collective bargaining units where new contracts have been reached, to maintain the long history of identical parity in salary guides with the Sheriff's Officers, and continue the consistency in language between the correction officers and correction superiors.

The County asserts that an identical pattern of settlement was achieved with all of its settled contracts currently in place having an identical pattern of salary increases of 1.5% of base each year, or 4.5% over the three-year term. These settlements included all six of the eight law enforcement units, with the two remaining units in interest arbitration. The County points out that, pursuant to the Union's cost analysis of its own proposal, the increases sought by the PBA (including increments and an increase for the top step) would amount to increases on base of:

April 1, 2014 - 1.62%
April 1, 2015 - 2.42%
April 1, 2016 - 1.29%

Thus, the County notes that the Union's three-year proposed increase of 5.3% would far exceed the three-year increase of 4.5% which was negotiated with every other bargaining unit in the County.

The County argues that if the County-wide pattern of settlement is deviated from for the correction officers, employee morale among other groups would suffer and whipsawing would result in the next round of negotiations among all of its law enforcement units.

Further, the County argues that the County's correction officers and sheriff's officers have a long history of having identical salary guides. The County argues that guide parity between the two groups should be continued. Therefore, the County maintains, I should award no increase to the top step of the corrections guide as the Sheriff's officers agreed to a freeze at the top step for three years.

The County explained that it reached a parameter of 1.5% on base salary to include increment costs but not to include the costs of longevity, senior officer pay or increases to college credit pay. The County states that when adding these three additional items to the 1.5% increase to base, it would bring the total costs close to or even slightly over the 2% interest arbitration cap. Moreover, the County states that it focused on the increase to base because that percentage could be equally applied to all bargaining units throughout the County.

PBA Arguments

The PBA asserts that its three-year wage proposal would achieve certain goals for P.B.A. #258. All members will receive

some sort of increase to their base salary, to include those members at the top step of the salary guide. In addition, all of the members will receive a comparable increase to their base salary, thereby ensuring no certain "class" of members would receive a windfall or being slighted. In short, parity will be achieved among the membership.

The PBA contends that with regard to the claimed "pattern of settlement" the County alleges must be followed, the only "pattern" is one of inconsistency.

With regard to the County's arguments that parity should be maintained between the correction officers and the sheriff's officers, the PBA points out that it is not possible to award the Sheriff's settlement for this bargaining unit as the cost to do so would exceed the 2% allowable cap. In the Sheriff's officers' unit, the guide was adjusted with additional steps effective April 1, 2013 and employees received increments in each year of the three-year contract. However, the correction officers unit has a far higher total cost of increment payments making it impossible to replicate the sheriff's officers' settlement.

The PBA's three-year proposal includes an increase of \$1521 to the top step effective in 2013. While acknowledging that Sheriff's officers agreed to freeze the top step, the PBA points out that the 2013-2016 contract for the Prosecutor's detectives and investigators unit did include across-the-board increases to

all steps of the guide while freezing step movement. It contends that depriving correction officers at the top step of any salary increase at all simply because the sheriff's officers agreed to a freeze would be unfair.

In addition, the PBA argues that cost out of the County's claimed 1.5% settlement pattern is flawed because it tracks increases in base pay costs only and does not account for increases to longevity pay, senior officer pay or college incentive pay. The PBA asserts that under the County's proposal, approximately \$111,000 in available monies would be left at the bargaining table. The PBA contends that it is entitled to be awarded the full allotment of monies available under the 2% arbitration cap, especially because officers' have suffered increases in pension contributions and significant health benefit contributions, reducing their take home pay.

Further, the PBA avers that a review of the County's financial documents and budgetary information establishes Ocean County is in sound financial condition. The County clearly has the ability to regenerate surplus, continues to have excess budget appropriations, and maintains budget flexibility despite the recent recession, Hurricane Sandy, and somewhat troubling economic times. All of these factors are indicators of the County's sound financial condition and weigh in favor of awarding the PBA's salary proposals.

In conjunction with the parties' salary proposals, I find the following relevant facts:

Budget Overview:

County CFO Tarrant testified that in September it solicits budget requests from each County department as to its appropriations needs for salaries, wages and operating costs. Tarrant stated that the revenue portion of the budget is determined by her department and the budget process is restrictive in that the County cannot increase anticipated requirements more than what the County received in the previous budget year, without special consideration from the State of New Jersey. The chart below shows a summary comparison of 2013 and 2014 revenues, including use of surplus:

Comparative Revenue Changes by Category			
Category	2014	2013	Difference
Surplus	16,000,000 ⁵	16,500,000	(500,000)
Anticipated:			
Local Revenues	11,415,589	14,242,946	(2,827,357)
State Aid	3,509,410	4,533,405	(1,023,995)
State Assumption of Costs of Social & Welfare Services	1,745,927	1,397,405	348,522
Special Items of General Revenue with Prior Written Consent of Dir of Local Government Services: State & Federal Revenues Offset with Appropriations	42,769,493	37,955,069	4,814,424
Special Items of General Revenue with Prior Written Consent of Dir of Local Government Services: Other Special Items	50,548,400	47,221,009	3,327,391
Amount to be Raised by Taxation	310,430,295	296,797,759	13,632,536
Totals:	436,419,114	418,647,593	17,771,521

⁵ The surplus used in the County's budget accounts for 36.7% of the total 2014 budget revenue.

Revenues:

The following chart depicts a summary of the County's revenues from 2008 through 2013:

Summary of Revenues						
Year	Amt. Raised Through Taxation	Surplus Balance	Surplus Anticipated	Misc. Revenue	Grants	Total Revenue
2008	276,305,117	46,591,591	25,000,000	47,764,207	9,870,499	358,939,823
2009	278,876,987	34,392,761	25,300,000	43,604,589	9,899,316	357,680,892
2010	287,002,464	33,931,147	17,700,000	35,593,099	7,669,686	347,965,249
2011	293,278,750	34,403,042	17,200,000	34,039,233	8,178,370	352,696,353
2012	300,026,643	34,073,042	17,000,000	29,667,582	7,495,131	354,189,356
2013	296,797,759	35,603,731	16,500,000	64,893,285	7,997,669	386,188,713

In preparation of the County's 2015 budget, Tarrant stated that the County is starting with a \$9.2 million deficit. The County does not anticipate that it will receive sufficient funding to completely recover the deficit. More specifically, the County has learned that a reduction in grant funding would only be sufficient to cover about half of the deficit.

Ocean County surplus is used as a source of revenue in a succeeding year budget. Tarrant testified that she is always concerned about the County's surplus and where it may be appropriated in each year of the budget (T-65). The policy of the County's Board of Freeholders is not to use more than 50% of its surplus in any given budget; therefore, when surplus declines, so does the amount available for use in the succeeding budget (T-66).

Tarrant added that the biggest part of the County's revenue is the amount raised by taxation. Other major contributors to the

County's revenue include the amounts that it can raise from investments and fees from various departments such as the County clerk filing fees, and surpluses from the previous year. Taxation revenues account for approximately 77% of the County's budget and are driven the County's ratable base (T-48).

Tarrant explained that the total revenue in 2013 actually increased due to a special emergency order to assist with the clean-up as a result of Hurricane Sandy. The County also decided to help its towns recover by passing its \$110 million special emergency fund which the County is required to pay off over the next five years or \$22 million per year. (T-52,53) The \$110 million was comprised of \$15 million to be used for damaged properties and to cover salaries that it incurred due to the storm, along with any repairs besides clean-up that the County needs to move forward (T-57,58). She further added that \$95 million of the \$110 million was strictly for debris pick-up for all the municipalities. The County fronted the money to 17 of its municipalities; however, Tarrant acknowledged that the County expects reimbursement from the municipalities and from FEMA to cover most of the \$110 million. (T-71)

Tarrant testified that payments for the \$110 million started in 2013 through taxation (T-52,53). The County CFO stated that a portion of the revenues to be received are budgeted for commencing with the 2015 budget and each year thereafter as required.

Tarrant stated that one major reason for the County's decline in surplus balance in recent years has been the steep decline in the rate of interest on its investments. In 2007 the County received a little over \$13 million but in 2014 the County expects no more than \$250,000 in interest. (T-54)

The increase in other miscellaneous revenue of \$29 million in 2012 to \$64.8 million in 2013 was a result of FEMA reimbursements to offset the County's funds expended due to the storm. The County also received a grant for essential services in the amounts of \$7.2 million and an additional \$5 million Community Disaster Loan from the federal government. (T-55) In determining the amount of loans the State will grant, the State applies a formula whereby it takes 75% of the total \$12.5 million in loans resulting in \$9.2 million granted to the County (T-57). Furthermore, Tarrant stated that re-evaluation of the loan occurs after three years and at that time the County will determine the required payment to the federal government. The County has ten years to repay the money.

Interest Income:

The following chart reflects the County's interest income history for the years 2008 through 2013: (C-84)

Ocean County Interest Income			
Year	Interest Income	Difference (-)	%
2008	9,053,346	(4,255,163)	(31.97)
2009	5,764,810	(3,288,536)	(36.32)

2010	964,068	(4,800,742)	(83.28)
2011	1,088,049	123,981	12.86
2012	362,203	(725,846)	(66.71)
2013	281,028	(81,175)	(22.41)

The above chart shows a four-year decrease in interest income received from 2010 through 2013 in the amount of \$683,039 or 70.85% overall. (C-84)

Miscellaneous Revenues Not Anticipated (MRNA) :

The County's miscellaneous revenue (exclusive of federal and state aid) in the amount of \$67,219,326 accounts for 15.4% of total anticipated revenues (\$436,419,114) in its 2014 budget. Total miscellaneous revenues for 2014 are budgeted at \$109,988,819 and \$105,349,834 for the 2013 County budget.

Federal and State Aid:

Federal and state aid in the amount of \$42,769,493 account for 9.80% of total revenues in the County's 2014 budget. In 2013, the County anticipated \$37,955,069 in aid for a decrease of \$4,814,424 from 2014.

State Aid is anticipated at \$3,509,410 in the 2014 budget; a decrease of \$1,023,995 from the 2013 budgeted amount of \$4,533,405. The County realized \$4,551,578 of State Aid in 2013.

Below is a summary of Ocean County's 2014 and 2013 Adopted Budgets Anticipated General Revenues: (PBA 14-56)

Ocean County General Revenues			
	2014	2013	Difference
Surplus Anticipated	16,000,000	16,500,000	-500,000
Miscellaneous Revenues	109,988,819	105,349,834	4,638,985
Amount to be Raised by Taxation	310,430,295	296,797,759	13,632,536
Total General Revenues	436,419,114	418,647,593	17,771,521

Valuation/Tax Rate:

The following chart reflects the County's valuation, tax rate, amount received along with its surplus balance⁶, surplus anticipated, other miscellaneous revenue and grants. (C-78, C-82; PBA 14-35)

Ocean County Taxation Revenue				
Year	Valuation	# of Tax Appeals	Tax Rate	Amt. Raised
2008	108,897,663,942	4,151	0.254	276,305,117
2009	109,906,985,727	14,195	0.254	278,876,987
2010	106,595,527,585	7,710	0.207	287,002,464
2011	104,334,745,378	8,698	0.281	293,278,750
2012	100,121,886,595	14,429	0.302	300,026,643
2013	91,163,070,530	9,372	0.328	296,797,759

The County's ratable base went from \$100 million to \$91 million in 2013. The ratable base is relatively unstable due to several contributing factors such as a loss of \$3 million due to natural reductions in valuation of property, and a loss of over \$6 million related strictly to Hurricane Sandy. Tarrant stated that the decline in the base affects the County in that it is now unable to raise the same amount in taxation as was raised in previous years. (T-50) In addition, the major drop in valuation

⁶ The 2013 surplus is unaudited.

lowers the amount to be raised in taxation and thus causes the County to raise tax rates. (T-51) Tarrant testified that between 2012 and 2013, the County's taxpayer rate increased by two and half cents per \$100 of assessed value. However, Tarrant noted that as municipalities re-evaluate properties back to pre-Superstorm Sandy levels, this will lead to increased tax revenues for the County. (T-51,52) Moreover, Tarrant stated that tax appeals could negatively affect the County's tax revenues. (T-70)

The County's valuation is estimated at \$90,883,900,526 for 2014 with an accompanying tax rate of .341 cents per \$100 of equalized property value. Tarrant testified that in 2014 the County experienced 5,667 appeals and that the result of the appeals impacts the County's ratable base (T-78). Tarrant stated that new construction, not only related to Superstorm Sandy, but any new construction affects its ratable base (T-79). As of July 2014, the County estimates 1,669 permits for new construction with no projection for when this construction would go on the tax rolls (T-80).

Spending Cap - 2014 COLA/Tax Levy Cap:

Pursuant to DCA's Local Finance Notice LFN 2013-23, the COLA for 2014 budgets is calculated at one-half percent (.5%).

The County has prepared the budget in accordance with the mandatory 2007 State laws for "Property Tax Levy Cap", which is reflected in the 2014 budget, Sheets 3c and 3d. In calculating

the spending cap for its 2014 budget, the County utilized a total of \$7,247,428 of the County's 2012 and 2013 Cap Banking resulting in the allowable County purpose tax, after all exceptions, in the amount of \$310,430,295. The County's calculation of the tax levy cap resulted in a maximum allowable amount to be raised by taxation, after all exclusions, in the amount of \$311,360,754. The County was limited to the lower of the two or \$310,430,295. (PBA 14-56)

The chart below depicts the County's tax levy for the years 2008 through 2014: (C-83)

Ocean County Tax Levy History			
Year	Tax levy	Increase/ Decrease	Increase/ Decrease
2008	276,305,117	12,744,788	4.84
2009	278,876,987	2,571,870	0.93
2010	287,002,464	8,125,477	2.91
2011	293,278,750	6,276,286	2.19
2012	300,026,643	6,747,893	2.30
2013	296,797,759	(3,228,884)	(1.08)
2014	310,430,295	13,632,536	4.59

Over the past ten years the County's tax levy increased by \$71,205,396 (\$310,430,295 - \$239,224,899) or 29.77% (T-59).

Appropriations:

The following chart depicts the County's General Appropriations for budget years 2014 and 2013: (PBA 14-56)

Ocean County General Appropriations			
	2014	2013	Difference
Total Operations Including Contingent	319,737,362	310,369,326	9,368,036
Total Capital Improvements	16,186,839	10,538,283	5,648,556
Total County Debt Service	48,895,763	48,649,067	246,696
Total Deferred Charges and Statutory Expenditures	51,599,150	49,090,917	2,508,233
Total General Appropriations	436,419,114	418,647,593	17,771,521

Net Debt:

Ocean County budgeted its debt service in the amount of \$48,895,763 for its 2014 budget; an increase of \$246,696 from its 2013 debt service budget. (PBA 14-56)

Fixed Costs:

The following chart depicts Ocean County's required payments to the State of New Jersey for both the Public Employment Retirement System (PERS) and the Police and Fire Retirement System (PFRS) from 2008 through 2014: (C-77; C-87)

Ocean County Pension Costs ⁷					
Year	PERS	% Change	PFRS	% Change	Total
2008	5,858,423		5,405,683		11,264,106
2009	6,387,513	9.03%	5,722,601	5.86%	12,110,114
2010	7,354,522	15.14%	6,827,010	19.30%	14,181,532
2011	9,745,916	32.52%	8,050,148	17.92%	17,796,064
2012	9,707,880	-0.39%	6,998,787	-13.06%	16,706,667
2013	9,327,627	-3.92%	7,662,946	9.49%	16,990,573
2014	9,953,062	6.71%	7,536,550	-1.65%	17,489,612

CFO Tarrant testified that depending upon the completion of

⁷ The County's pension costs are after employee contributions.

the County's old jail it anticipates hiring additional staff that will increase its health benefits, FICA, and other costs (T-67). In addition, Tarrant stated that the County does not learn what its pension payment liability will be until December of each budget year.

Further, since 2011, the County's medical costs have increased yearly (T-68). More specifically, the County budgeted \$40,867,681 for 2014. This amount was derived by subtracting the estimated employee contribution to be collected of \$3,483,228 from the calculated cost of \$44,350,909. In 2013, the County budgeted \$40,653,825 for its group insurance plan; \$39,848,454 was paid or charged while \$805,371 was reserved. (PBA 14-56)

Fund Balance:

The chart depicted below shows the County's fund balance history for the years 2008 through 2013: (C-85)

Ocean County Fund Balance			
Year	Balance	Difference (-)	%
2008	46,591,590	(2,483,279)	(5.06)
2009	34,392,761	(12,198,829)	(26.18)
2010	33,931,147	(461,614)	(1.34)
2011	34,403,042	471,895	1.39
2012	34,073,042	(330,000)	(0.96)
2013	35,603,731	1,530,689	4.49

The County experienced a four-year (2010-2013) increase in fund balance of \$1,672,584 or 4.93%. (C-85)

The budget year 2013 the County used \$16,500,000 of its

surplus as revenue; in 2014, the County's use of surplus as revenue dropped to \$16,000,000. In 2014, this reduced its fund balance as follows: (PBA 14-56)

Ocean County 2014 Surplus	
Fund Balance as of January 1	35,603,731 ⁸
Surplus Utilized in the Budget	(16,000,000)
Remaining Fund balance	19,603,731

County Corrections Department:

The County's Corrections budget for 2014 represents 6.27% of its total "operating" appropriations.

Department of Corrections			
	2014	Paid or Charged 2013	Difference
Salaries & Wages	21,752,296	21,365,525	386,771
Other Expenses	478,320	427,414	50,906
Healthcare Services & Other Expenses	3,737,448	3,423,928	313,520
LE Crime Prevention & Other Expenses	100,000	30,000	70,000
Food & Other Expenses	1,305,000	1,200,000	105,000
Total	27,373,064	26,446,867	926,197

The County budgeted \$116,736,817 for its total salaries and wages in 2014. The Correction's Office salaries and wages represent 23.4% of the County's total salaries and wages. (PBA 14-56) In 2013, the County modified its original anticipated salaries and wages appropriation to \$116,057,835; of that amount

⁸ The January 1, 2014 fund balance is unaudited.

\$113,349,024 was paid or charged and \$2,708,811 was placed in reserve. (PBA 14-56)

EXISTING WAGES, BENEFITS AND WORKING CONDITIONS (G2) :

Unit members are currently paid from either of two salary guides in the current contract:

(Applicable to Correction Officers hired before November 1, 2012)			
Step	# Ees	4/1/2012	Increment
Probation	14	41,839	5,189
1	0	47,028	4,953
2	43	51,981	6,248
3	3	58,229	6,409
4	6	64,638	6,406
5	16	71,044	6,327
6	15	77,371	7,211
7	7	84,582	7,379
8	32	91,961	1,500
Senior Officer	24	93,461	

In 2012, the parties negotiated a second tier salary guide for officers hired after November 1, 2012, as follows:

(Applicable to Correction Officers hired on or after November 1, 2012)		
Step	4/1/2012	Increment
1	38,000	4,905
2	42,905	4,905
3	47,810	4,905
4	52,715	4,905
5	57,620	4,905
6	62,525	4,905
7	67,430	4,905
8	72,335	4,905
9	77,240	4,905
10	82,145	4,905

11	87,050	4,911
12	91,961	

The record shows that 27 employees were hired in the Spring of 2014, at the entry level step of \$38,000 on the second tier guide.

In addition to the regular salary guide, in 2012, the parties negotiated a provision into the contract for "senior pay" of an additional \$1500 for employees with more than 15 years of service in the unit. 32 officers are currently at top step on the salary guide, and an additional 24 officers are at the senior pay step.

In addition to regular base pay, unit members have a longevity program as a reward for long service with the County. The contract provides for a two-tier longevity program as follows:

Longevity	
Years	% of Base Salary
7	3.0%
12	4.6%
17	5.7%
22	6.5%
27	7.3%
32	8.0%

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

Years	% of Base Salary
Completion of 15	2.0% of base rate
Completion of 20	4.0% of base rate
Completion of 25	6.0% of base rate

There are currently 63 employees getting some form of longevity -- ranging from \$2,537 to \$6,822 annually. Longevity pay is

included with an officer's regular paycheck and therefore, is part of base pay for overtime and pension credit calculations.

Officers are also eligible by contract for educational incentive pay for attaining college degrees. There are currently 34 officers receiving some amount of education incentive pay. Officers attaining an associate's degree receive \$500 annually; those holding a bachelor's degree receive \$800 annually; and for a master's degree, \$1,000 annually. This stipend is added to base pay and therefore is apparently part of the base pay on which overtime and pension credits are calculated.

Pursuant to contract, officers are paid overtime at a rate of time and one half for time worked in excess of 40 hours per week. So far in 2014, members of this bargaining unit have worked 41,966 hours of overtime. On an annualized basis this is projected to be 60,618 hours of overtime in 2014 (PBA-9). Overtime falls into one of two categories: Mandatory overtime and Scheduled overtime. Mandatory overtime occurs when the officer from one shift is "held over" for an additional, contiguous shift when that shift is understaffed due to sick leave call outs. Mandatory overtime is currently significant as staffing levels are not at full strength. For the first 18 pay periods in 2014, there were 1,998 occasions where officers were held over for mandatory overtime for a total mandatory hours worked of 9,727. On an annualized basis, that would amount to 2,886 mandatory overtime assignments and total

mandatory hours of 14,050. PBA President Docimo testified that most mandatory overtime occurs for the evening or overnight shifts.

"Scheduled overtime" is assigned by seniority on a voluntary basis. Officers are permitted to "split" or share overtime shifts which occurs when one employee is assigned the overtime and recruits a co-worker to share part of his overtime assignment. This might occur for an overtime duty either before or after the officer's regular shift. Overtime is compensated by cash payment at the rate of time and one half. There is currently no provision for officers to receive compensatory time.

Officers also currently enjoy 14 paid holidays annually. If the officer is off duty on the holiday, he is paid his regular pay for the day. If he is scheduled to work on the holiday, he received his regular pay plus time and one-half overtime for working. If he works an additional shift or part of a shift on the holiday, he is paid double time for the additional shift.

Unit employees work a 40-hour work week. For employees in the security division, there are three non-rotating shifts: 7 .m. to 3 p.m., 3 p.m. to 11 p.m., and 11 p.m. to 7 a.m. A small group of corrections officers in specialized units work 11 a.m. to 7 p.m.

Correction officers enjoy the usual array of leave time benefits: 15 sick leave days a year, which are credited to the

employees at the beginning of the calendar year; three personal days annually, which are not limited by purpose in their use; and vacation time depending upon length of service as follows:

0-4 years' service	12 days
4-11 years' service	15 days
11-19 years' service	20 days
20 years' service	25 days

Vacation time is selected by seniority.

Correction officers are provided health benefits through the New Jersey State Health Benefits program and supplemented by the State Prescription Drug Program. Officers also receive vision care and a dental plan. For employees hired before 2012, health benefits continue into retirement for the retiring employee and his/her spouse.

Officers contribute to the cost of health benefits pursuant to Chapter 78, P.L. 2011, and are in the fourth tier of contribution rates. Employee contributions are based upon salary rates and the coverage selected. The amount of the contributions currently range between 7% and 29% of the premium costs for family coverage, and between 12% and 35% of the premium costs for employee-only coverage.

Officers also have a sick leave cash-out program that enables them to "cash in" some of their unused sick leave at the end of the year. Any remaining unused sick leave balance may be cashed

in upon retirement for one-half the value of the sick days, up to a maximum of \$15,000.

Internal Comparables:

The County workforce is organized into 21 separate collective negotiations units. Eight of the bargaining units consist of law enforcement personnel. In addition to the correction officers' unit herein, the units are corrections superior officers, sheriff's officers, sheriff's superiors, Prosecutor's detectives, Prosecutor's sergeants, Prosecutor's superior officers (lieutenants and captains), and a small unit of weights and measures employees. The County has settled contracts with all of its law enforcement units except Sheriff's superiors and this unit, for 2013 through 2016. In addition, the County has finalized negotiations with four of its civilian units for 2013-2015, and two more have contracts that run 2012-2014. It is in negotiations with the remaining seven civilian units for successor contracts for 2014 and beyond.

It must be noted that all of the successor contracts which have been completed, except three of the civilian groups, will simultaneously expire at the end of 2016. Further, according to the summary prepared by Goetting (C-88), all of the settlements were for 1.5% increase to base in each year of the new contracts.

Of particular note is the settlement with corrections superior officers and that with the Sheriff's officers. The

Correction superior officers settled for 1.5% across-the-board increases in each year of the contract. However, there is no increment plan in the superiors' contract. In the sheriff's officers group, the parties agreed to a 1.5% increase in each year of the contract, with no increase to the top step of the guide. Thus, the 1.5% was solely used to fund the increments. In addition, the parties agreed in the sheriff's officers group to allow the arbitrator to construct a revised salary guide that fit within the parameters of the agreed upon settlement. This awarded guide, referred to in the record as "the Gifford guide", expanded the salary guide to 18 steps with increments of even amounts.

I observe that from 1994 on, the County's correction officers and its sheriff's officers have enjoyed parity in their salary guides - the same minimum and maximum pay and identical step values.

Also of note is that the County proposed to reduce the number of holidays for all bargaining units in this round of negotiations. All units, except sheriff's officers, have either flat-out agreed to the reduction in holidays or agreed to language that permits the reduction once all bargaining units have agreed to it. The two units which have not agreed to revised language are the two units in interest arbitration, including this unit.

Further, the County points out that all settled units have agreed to eliminate longevity for new hires, effective upon contract settlement.

Thus, the County points to the pattern of settlements -- including the pattern on salary increases and the pattern on concessions - as a pattern which dictates the same result here. It maintains that this settlement pattern virtually dictates the conclusion that this bargaining unit should do no better.

As was confirmed by the County Director of Employee Relations, Keith Goetting, PBA Local 258 is one of only County three bargaining units that have increment costs in its contract. Employees in the other eighteen units receive straight percentage or lump sum increases added to their base salary without any increments. For 2011, seven of the bargaining units that settled their contracts with the County agreed to wage increases of one and one half (1.5%) percent. (C-39) For 2012, ten of the County bargaining units settled their contract with the County agreed to wage increases of 1.5%. For 2013, eighteen of the County's bargaining units agreed to wage increases of 1.5%. For 2014, twelve of the county's bargaining units have agreed to 1.5% wage increases. For 2015, nine of the County's bargaining units have agreed to wage increases of 1.5%. (C-39)

External Comparables:

The Statute also requires me to consider comparable salaries and benefits in other, similar jurisdictions. The PBA has provided contracts for every County corrections department in New Jersey. Some of these contracts contain no updated salary information since 2010 and therefore, I deem them to be not particularly relevant for comparison purposes. The contracts with more recent salary data show a top step pay as follows:

NJ County Correction Departments - Top Step Salary				
County	2012	2013	2014	2015
Atlantic*	66,463			
Bergen*	106,385			
Burlington		65,364	67,338	
Camden		83,256		
Cape May		78,372		
Cumberland	60,500	65,525		
Gloucester	78,494	86,053	87,559	89,091
Hudson		86,446		
Mercer	84,832	86,529	88,260	
Middlesex **		80,368		
Morris *	85,726			
Ocean **		91,961		
Salem	63,606	68,120	69,139	
Sussex			82,078	
Union		89,581		
Warren	71,617	73,049		
Average =		81,988⁹		
* 2010 salary				

** Does not include senior pay after 15 years.

⁹ In calculating the average top pay rate for 2013, I have included data from three counties where no successor agreement has been reached since 2010, as well as salary data for 2012 where no updated salary rates have apparently been agreed upon. Thus, these officers' current salaries have been included in the average even though some of them have not been subject to re-negotiation for some time.

It must be noted that Ocean County's correction officers are nearly \$10,000 above the average top salary for correction officers Statewide and are second highest in the State below Bergen's rate of \$106,385.

Private Sector Wage Survey:

I give almost no weight to the component of comparability with the private sector, other than to observe the private sector wage increases.

Moreover, there is no particular occupation, public or private, that is an equitable comparison to corrections officers. The officers are unique in a variety of ways, including the potential to be called upon to respond to their assigned mission areas, conducting searches, and related duties as assigned, along with the stress and dangers of the job. Moreover, they are regularly required to work evenings, nights, weekends and holidays. Unlike the private sector, they do not compete in a global economy, which tends to depress wages.

According to the New Jersey Department of Labor and Workforce Development Private Sector Wage Survey Bulletin issued September 21, 2014, total private sector wages increased between 2012 and 2013 by 1.6%. Local government wages increased during the same period by .9%, while all wages (public and private sector) increased an average of

1.4%. The same report reveals that in Ocean County, private sector wages increased an average of 2.1%.

Consumer Price Index (CPI):

The CPI for the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA ("Northern NJ"); and the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD ("Southern NJ") are relevant for purposes of this award. A summary of the CPI data for these regions reveals that in February of 2014, the CPI for all Urban Consumers (CPI-U) (not seasonally adjusted) in the southern New Jersey area increased by approximately 1.0% annually for all items and 1.5% for all items less food and energy; and approximately 1.3% and 1.4% respectively for northern New Jersey areas as of March 2014.

The PBA avers that if its wage proposals are not awarded, its members, and particularly those members at the top step of the salary guide, will not maintain its current standard of living and its purchasing power will be significantly reduced.

The County states that the CPI remains at about 1.5% per year (C-45). The County argues that its proposed wage increase is therefore on par with the rate of inflation.

PERC Settlement Rates:

The average annual salary increase for all interest arbitration awards from January 1, 2012 to December 31, 2012 is 1.98%; from January 1, 2013 to December 31, 2013 is 1.89%; and from January 1, 2014 to June 30, 2014 is 1.94%. (PBA 14-84)

The average annual salary increase for reported voluntary interest arbitration settlements from January 1, 2012 to December 31, 2012 is 1.82% and from January 1, 2013 to December 31, 2013 is 1.96%. From January 1, 2014 to June 30, 2014, the average increase in voluntary settlements is 1.36%. (PBA 14-84)

Continuity and Stability of Employment:

This statutory factor is a measure of employee turnover within the bargaining unit. Stability among the workforce is important, particularly in a potentially dangerous environment such as a correctional facility because officers need to know that there are sufficient, experienced co-workers to "watch their back" in the event of a situation. Moreover, an employer needs to be able to attract and retain qualified experienced individuals. In the absence of a competitive compensation package, high turnover will result which in turn causes the employer to waste resources training new employees. Thus, this is an issue that is both of concern to the members of the unit and to the public.

Here, of the 160 correction officers employed as of the March 31, 2013 end of the contract, three officers retired and six officers were promoted to sergeant, and three resigned. In the prior twelve-month period, nine officers retired, eight officers were promoted to sergeant, one officer died, and two resigned. (J-2; J-3) The resignation of five correction officers out of 160 is a turnover rate of 3%, which I consider to be minimal turnover.

The retirements are simply a natural consequence of employee length of service. While the employer has recently hired 27 new officers, this was due to an expansion of the jail capacity. Therefore, I conclude that salaries among unit employees are sufficient so as not to negatively impact continuity and stability of employment.

DISCUSSION

The factor of internal comparability, based upon existing PERC and court precedent, is a factor that is not only specifically addressed in the statutory criteria [N.J.S.A. 34:13A-16g(2)(c)], but also has been found to fall within the criteria of the "interests and welfare of the public" and the "continuity and stability of employment." The Public Employment Relations Commission has recognized the importance of considering internal comparability in its controlling case law on interest arbitration. "Pattern is an important labor relations concept that is relied upon by both labor and management ... deviation from a settlement pattern can affect the continuity and stability of employment by discouraging future settlements and undermining employee morale in other units." County of Union, P.E.R.C. No. 2003-33, 28 NJPER 459, 461 (¶33169, 2002). An internal pattern is relevant to the "comparability" criterion, N.J.S.A. 34:13A-16g(2)(c); N.J.A.C. 19:16-5.14(c)(5), and to the "continuity and stability of employment" criterion,

N.J.S.A. 34:13A-16g(8). I.d., 28 NJPER at 461. An interest arbitration award that does not give due weight to an internal pattern is subject to reversal and remand. County of Union, P.E.R.C. No. 2003-87, 29 NJPER 250,253 (¶75, 2003).

Further, an internal pattern of settlement properly focuses on the terms of economic improvement offered in a given round of negotiations. See, Somerset County Sheriff's Office v. FOP Lodge #39, Docket No. A-1899-06T3, 34 NJPER 8 (App. Div. 2008).

Here, the record establishes that there is a County-wide pattern with virtually every unit, including six of the eight law enforcement units (except the two which are not yet settled), having agreed to a salary package of 1.5% increases on base pay. While sheriff's officers accepted step movement with no increase to step values, the Prosecutor's detectives agreed to across-the-board increases but froze step movement for the life of the contract. Those without increment costs - notably, correction superior officers and Prosecutor's superiors - obtained the 1.5% each year as a straight increase to base pay. These deviations in the methodology of applying the 1.5% increase to unit pay do not change the fact that all units agreed to stay within the County's 1.5% parameters. Therefore, I find that there simply no special considerations here which would justify deviation from the well-established, County-wide pattern of 1.5% increase to the unit in each year of the contract. Pursuant to PERC caselaw, I find that

maintaining the consistent pattern is in the interest of the public and improves the morale of County employees generally as no County employee group will be made to feel that the corrections group obtained a better deal than the County pattern. Accordingly, intend to conform the salary adjustments in this contract to the County pattern of 1.5% annual increases.

Next is the issue of how to apply the 1.5% to this unit. The County's proposal would effectively freeze salaries for a full two-year period in that the last increase to salaries of correction officers occurred on April 1, 2012. Some of these employees, notably the 14 employees hired in the Spring of 2012, have been at a starting salary of just over \$41,000. I Keeping these employees at low pay for a two-year period appears to be unjustified and negatively affects employee morale. Moreover, the County's proposal would effectively create a wage freeze on the 56 employees who are at top pay for a four-year period. This also appears to be unfair and unjustified, particularly in light of the multiple concessions in benefits that the County asks that I award.

Clearly it is not possible under the 2% hard cap to pay employees their increments when due in each year of the contract. Under the salary guides from the 2010-2013 contract, the cost of increments ranged from \$4,953 to \$7,379 with 104 employees eligible for a step advancement in 2013. Without significant

revisions to the salary guide, correction officers would have little hope of ever having increments paid on a regular basis. It is for this reason that the parties agreed to expand the salary guide to nineteen steps with increments of even dollar value between each step. Under the revised salary guide, increment costs are just under \$3,000 per employee, per step. This will improve the likelihood that fewer freezes to the salary guide will be necessary. The parties recognize that it is a fairer plan for all employees to receive some periodic increment rather than all employees to be frozen on step.

I award the following revisions to the salary guide and increases:

2013: All employees will be placed on the revised salary guide as follows:

Old Step	New Step	Old Guide	New Guide 4/1/2013	Incr	3/31/13 # EES	Guide Conversion Cost	Total Conversion Cost
	1	38,000	38,000	2,998			
	2		40,998	2,998			
Probation	3	41,839	43,996	2,998	14	2,157	30,198
	4		46,994	2,997			
1	5	47,028	49,991	2,998			
2	6	51,981	52,989	2,998	43	1,008	43,344
	7		55,987	2,998			
3	8	58,229	58,985	2,998	3	756	2,268
	9		61,983	2,998			
	10		64,981	2,997			
4	11	64,638	67,978	2,998	6	3,340	20,040
	12		70,976	2,998			
5	13	71,044	73,974	2,998	16	2,930	46,880

	14		76,972	2,998				
6	15	77,371	79,970	2,998	15	2,599	38,985	
	16		82,968	2,997	-			
7	17	84,582	85,965	2,998	7	1,383	9,681	
	18		88,963	2,998				
8	19	91,961	91,961	1,500	32			
Sr. Off	Sr. Off	93,461	93,461		24			

All employees will move horizontally on the guide; that is, for example, employees on the old step 7 will move to new step 17, and so forth. Employees at step 8 will move to new step 19 and their salary rate will remain at \$91,961. In order to provide employees with a relatively even retroactive payment of their conversion money, I award the following effective dates for retroactive payments: Employees in former steps 3 and step 7 will receive their conversion money payments retroactive to April 1, 2013; all other employees will receive their conversion money payments retroactive to October 1, 2013. Therefore, no employee will receive less than \$750 or more than \$1,600 in retroactive payment for 2013. The cost of converting all employees from the old salary guide to the new salary guide, including the flow-through costs into 2014, will be \$191,396. Longevity payments and senior pay increases will be paid to all current employees as they reach benchmarks of service. College incentive pay will also continue.

2014: Effective April 1, 2014, all employees will advance one step on the new salary guide. The dollar values of the new 19-step salary guide will remain unchanged. The cost of this

increment payment in 2014 is \$311,763. Longevity payments and senior pay increases will be paid to all current employees as they reach benchmarks of service. College incentive pay will also continue.

2015: In 2015, all employees will be frozen at their then current step of the new salary guide and no increments will be paid in that year. Effective January 1, 2016, the value of step 19 on the salary guide will increase by \$1,200. The cost to the County of this salary increase in the third year of the contract will be \$16,800. Longevity payments and senior pay increases will be paid to all current employees as they reach benchmarks of service. College incentive pay will also continue.

As previously found, I am constrained to follow the internal pattern of settlement set by the County in negotiations with its other bargaining units. This settlement pattern dictates that increases to base pay (not including senior pay, longevity increases, and college incentive pay) must be maintained at 1.5% annually or 4.5% total increase over the life of the three-year agreement. As the chart below depicts, I have accomplished that goal.

3/31/13 Total Base	11,422,603	
1st year increases	<u>191,396</u>	1.68%
	11,613,999	
2nd year increases	<u>311,763</u>	2.68%
	11,925,762	
3rd year increases	<u>16,800</u>	0.14%
	11,942,762	4.50%

In crafting this award, I have specifically considered the statutory factors of internal comparability, external comparability, the cost of living, and continuity and stability of employment. I have also considered the relationship between salary increases and other concessions and benefits being awarded herein. I have not duplicated the settlement agreed to by the sheriff's officers wherein top pay was frozen for the life of the contract because I believe that freezing employees' salaries for an entire three-year period would not give any recognition to the cost of living factor, would be unfair, and would negatively impact the morale of the officers. In addition, I have also considered that this bargaining unit, unlike sheriff's officers, will suffer a reduction in the number of holidays effective in 2016. On the other hand, I have limited the top step increase to \$1,200 - about 1.3% of base and delayed it until the third year of the contract in consideration for the fact that these officers are among the highest paid correction officers in the State. Moreover, given the slightly increased top pay, it is improbable that unit continuity will suffer as employee turnover has not been a problem for this group.

I recognize that members of this bargaining unit, like all New Jersey public employees, are suffering with diminished take-home pay as they are now contributing to health insurance premiums and their pension contributions have increased, both as a result

of Chapter 78. However, I do not believe it was the intent of the legislature in enacting that statute that the costs of these employee contributions would ultimately be passed back to the employer in the form of pay increases.

Therefore, I believe this award strikes a fair balance between the needs of the County to maintain the pattern of settlement for the contract period in question against the needs of the bargaining unit to obtain a fair contract. Accordingly, this award is in the public interest.

The cost of the award is summarized below:

COST OF THE AWARD

Cost of Increments, Longevity, and Senior Pay Increases				
	4/1/13 - 3/31/14	4/1/14 - 3/31/15	4/1/15 - 3/31/16	Total Cost
Conversion Pay	191,396	0	0	191,396
Increments	0	311,763		311,763
Longevity Increases *	22,099	31,445	43,953	97,497
Sr. Pay	3,000	0	9,000	12,000
Increase to Top Step **	0	0	16,800	16,800
	216,495	343,208	69,753	629,456

* Estimated

** Effective 1/1/16.

LONGEVITY & COLLEGE INCENTIVE PAY:

The County has proposed to maintain the current longevity benefit for officers hired before the date of the Arbitrator's award, but to eliminate the benefits for officers hired thereafter. As successor contracts with the County's other units have been settled, each has agreed to eliminate longevity for new

hires. Sheriff's officers eliminated longevity for new hires effective February 1, 2014 while corrections superiors did so effective May 1, 2014. Prosecutor's sergeants unit and Prosecutor's superior officers unit each eliminated longevity for new hires in April, 2014. The Prosecutor's detectives did not eliminate longevity but created a reduced longevity plan for new hires effective April 1, 2012. Longevity has also been eliminated in the County's civilian units.

The County asserts that even if its proposal to eliminate longevity for new hires is granted, a significant number of new correction officers recently hired will be eligible for longevity benefits that no other County employee will ever receive. The County urges that this should be taken into consideration.

The County also argues that, consistent with its settlement with correction's superior, college incentive pay should be eliminated for newly hired correction officers. As the impact of the tax levy cap constrains the County's budget, a need to control future costs becomes more important. This is especially true in a bargaining unit that is significantly growing.

The PBA argues the elimination of longevity and college degree pay for new hires going forward will dissuade prospective employees from seeking employment with the Ocean County Department of Corrections. Longevity represents a crucial component of correction officers' overall compensation package as the amounts

ultimately provided are substantial. The PBA maintains that eliminating such a benefit for new hires would eviscerate the competitive compensation package currently offered to new employees along with creating disparity within the bargaining unit.

The PBA makes the same argument with regard to the elimination of college degree pay. In addition, the PBA asserts that providing an educational incentive attracts more highly-educated candidates to the Corrections Department, thereby increasing the effectiveness of the Department as a whole. To eliminate this benefit would have the opposite effect, namely the attraction of lesser-qualified candidates and the overall detraction of operational effectiveness.

With regard to the proposed elimination of longevity for new hires, I am inclined to award this proposal. First, the record establishes that nearly all of the County's bargaining units with settled contracts have eliminated longevity. There is no sidestepping the fact that a pattern has been established for this concession. As noted above, the Commission and the courts have endorsed the principle that arbitrators are bound to follow an internal pattern of settlement unless there is a significant justification to deviate from it. Deviation from an employer-wide pattern, without sufficient justification, leads to frustration and negatively impacts employee morale among the other County

employees who conceded the benefit. Therefore, I will eliminate longevity for new hires effective today.

The record reflects that 27 new officers have been recently hired. Pursuant to the terms of the expired contract, these new hires are only eligible for the reduced longevity benefit as set forth in the contract's "tier 2" longevity guide. Accordingly, I award the following changes to the Longevity Article:

Tier 2 of the longevity guide will apply to correction officers hired after November 1, 2012 but before October 6, 2014. Correction officers hired after October 6, 2014 will be ineligible for longevity benefits.

As to the County's proposal to eliminate College incentive pay, the County has not demonstrated that it has a pervasive settlement pattern eliminating this benefit. It appears that only the corrections superior officers' group agreed to eliminate this benefit. The Sheriff's officers contract continues to include this benefit as do the three law enforcement units in Prosecutor's office. In fact, those units also have a college tuition reimbursement plan.

I believe this benefit is worthwhile to maintain - it encourages officers to obtain advanced education and an educated workforce is almost always a benefit to the Department and to the public. More specifically, an officer with a degree in criminal justice or psychology, for example, brings a greater understanding of human behavior and the criminal mind than one just out of high school.

Moreover, the elimination of the college incentive plan for new hires may result in the "dumbing down" of the workforce in the long run. Further, at an annual stipend of \$500 for an associate degree and \$800 for a bachelor's degree, the cost to the taxpayers of providing this incentive is comparatively slight.

While it could be argued that maintaining this benefit for the rank and file while at the same time eliminating it for superiors would act as a disincentive for officers to seek promotion, I believe that that risk is very slight given the significant pay increase an officer would receive upon promotion to sergeant. The County's proposal to eliminate college incentive pay for new hires is denied.

FUTURE INCREMENTS

The PBA asks to eliminate the contract language in Article 4 that suspends the automatic payment of increments after contract expiration. In other words, the PBA seeks to have increments paid to unit employees who are eligible to move up a step on the salary guide after the contract expires and before a new contract is agreed upon.

The PBA asserts that this has been a chief complaint by its members and that permitting officers to move up a step on the salary guide would improve employee morale. It points out that the newest members of its unit started with the County two years

ago and have not moved beyond the \$38,000 starting salary since their hire.

The County argues against rescinding this provision. For one, it points out that both the Sheriff's officers and the Prosecutor's detectives units have continued this language in successor agreements. Further, it argues that if this language is not maintained in the contract, the County could be forced to pay increments in excess of the two percent interest arbitration cap upon the expiration of the new contract. These increment payments may not be possible to recover, or may severely interfere with the parties ability to reach a successor agreement.

Had the County paid increments upon expiration of the last agreement in 2013, the cost of such payments would have been \$302,000, which would have more than consumed all of the available 2% under the arbitration cap for that year.

In a recent decision by PERC in Atlantic County, P.E.R.C. No. 2014-40, 40 NJPER 285 (¶ 109 2014), (appeal pending), the Commission held that employers are no longer required to pay increments after a contract expiration as a matter of law.¹⁰ PERC explained,

In the evolution of public sector labor negotiations in New Jersey, a post expiration requirement that employers continue to pay and fund a prior increment system creates myriad instabilities in the negotiations

¹⁰ An employer can still be contractually liable for the increment payment if the contract still so requires it.

process. . . It is in both sides' interest to have the ability to negotiate over adjustments in the incremental steps to be contained in a successor agreement and the dollars to be attributed to those newly negotiated steps, in light of the total dollars available.

Moreover, in Bridgewater Township, P.E.R.C. No. 2015-11, NJPER ____ (¶ ____ 2014), the Commission recently found that the payment of increments beyond the contract expiration date is not a negotiable term and condition of employment. Further, interest arbitrators have previously discontinued the automatic increment payments and such awards were approved by PERC. See, Warren County and FOP Lodge 171, P.E.R.C. No. 2014-23, 40 NJPER 225 (¶ 86 2013) (Appeal Dismissed).

At the expiration of the 2013-2016 contract, this bargaining unit will be again subject to the 2.0% cap on arbitration awards pursuant to recent amendments to the PERC statute. Under the provisions of this statute, an interest arbitrator is limited to awarding a maximum of 2.0% increases in base salary which is inclusive of base pay, increments, and longevity increases. In April, 2016, it is again likely that the increment load will exceed the available cap should the parties require interest arbitration to settle the next contract. In short, payment of increments in April 2016 might well mean that there is no money left available under the 2.0% cap for any employee increases beyond increments. Alternatively, officers might be required to repay increment amounts that have already been paid out.

Maintaining the existing language is in the interest of the public, in the interest of the County and in the interest of the correction officers' bargaining unit as a whole in that it will broaden the possibilities for bargaining a successor agreement without the handicap of increment costs already incurred.

For the reasons set forth above and based upon the Commission's current caselaw, I decline to eliminate the current language in the contract which provides for the suspension of increment payments once the contract expires.

Article 3: Management Rights

The PBA proposes to amend Section B by deleting the language requiring the termination of any recruit who does not successfully complete the Recruit Basic Training Program.

Instead, the PBA proposes to add the following:

Newly hired County Correction Officers shall not work in the Ocean County Correctional Facility until they have successfully completed the Recruit Basic Training Program.

PBA President Docimo explained that often recruits are assigned to perform correction officer duties even before they receive basic training. For example, of the class of 27 recruits hired earlier this year, 7 worked in the County Jail for a few weeks before being sent to the academy. The PBA opines that, without adequate training, these recruits are a danger to themselves, the other correction officers, and the inmates. While the PBA acknowledged

that they provided some relief from mandatory overtime, it nevertheless considers them a liability to PBA members and the County.

The County opposes this proposal. First, the County contends that removing the contract language guaranteeing the County's right to terminate any recruit who does not successfully pass basic training the first time might require the County to send the recruit for a second round of training. Second, the County argues that it should continue to have the management right to determine employee qualifications.

I find that that the determination about employee qualifications, where not set by statute or State regulation, is a prerogative of management. Including the language the Union requests into the contract would eliminate management's right to decide how to best hire, train and assign its personnel. Therefore, this proposal cannot be granted.

The County seeks to amend Section 5 to read:

To determine the methods, means, schedules and personnel by which such operations are to be conducted.

The County contends that it is considering possible changes to the work schedule in the Corrections Department. It asserts that this proposal is necessary to permit it to determine which work schedule will best meet its operational needs.

The Employer has a right to make management decisions about its staffing needs. For example, it may decide that it needs a

greater number of corrections staff on the day shift and fewer officers on the overnight shift. However, the hours during which employees will work is a term and condition of employment and remains subject to negotiations. If/when the County determines that a different scheme of work schedules would better suit its needs, it will be obligated to then negotiate that alternate shift schedules with the PBA before implementing same. Absent a specific proposal before me, I will not include language in the management rights clause which could be the basis to conclude that management may change work schedules unilaterally. Therefore, this proposal is denied.

Article 6: Uniform Maintenance:

The PBA proposes to add a provision to the Article that would require the County to reimburse officers for the cost of replacing uniforms or personal property damaged in the line of duty. Docimo explained that officers receive an initial set of uniforms when they join the department but there is no uniform maintenance program in place. The cost of replacing damaged uniform components is borne by the individual officer.

The County counters that until 2009, the PBA contract included a \$1,100 clothing maintenance allowance annually. In the 2009-12 contract, the PBA agreed to roll the clothing allowance into base pay. In that contract, the PBA also agreed not to seek a return of the clothing maintenance allowance thereafter. The

County also argues that N.J.S.A. 34:13A-16.7(b) prohibits the arbitrator from awarding any new economic benefit. Therefore, the County argues, I am restrained by statute from awarding this proposal.

N.J.S.A. 34:13A-16.7(b) provides that,

An award of an arbitrator shall not include base salary items and non-salary economic issues which were not included in the prior collective negotiations agreement.

There can be no doubt that reimbursement for damaged uniforms would be a new benefit to correction officers that they did not previously have in their collective agreement. Additionally, I find that the benefit is within the definition of a "non-salary economic issue": it shifts the cost of replacing damaged work clothes from the employee to the employer. Therefore, I find that section 16.7(b) prohibits me from awarding this new benefit. The proposal must be denied.

Article 7: Overtime Compensation:

Section A of the Clause currently provides,

Overtime shall be compensated for at the rate of time and one-half (1 ½) for each hour actually worked in an overtime status. Overtime payment shall commence after completion of eight (8) hours work in a workday or forty (40) hours in a work week. . .

The County argues that it is simply seeking to delete reference to overtime after 8 hours in a work day so that, in the event the parties ever agree to change schedules, this will not become a hurdle. For instance, if the County changed from a 5-

day, eight-hour per day schedule to a 4-day ten-hour per day schedule, under the current language the County would have to pay time and one-half after 8 hours when in fact the regular work day would become 10 hours. The County contends that it is only seeking to streamline the collective negotiations agreement in the event a schedule change ever becomes a reality.

I award the County's proposed language change but not for the County's stated purpose. I find the clause as written to be confusing. It implies that an officer is eligible for premium rate overtime when either of two conditions is present: he/she works more than 8 hours in a day, OR he/she works more than 40 hours in a workweek. The contract specifically states that sick and vacation time counts as "time worked" for overtime purposes, but other leave (i.e., personal days) do not. The clause as written suggests that an employee who works overtime on Monday but then is on personal leave, or even leave without pay, might claim premium overtime in excess of eight hours for Monday based upon the "...more than eight hours..." language. For this reason, I will delete the reference to eight hours in the overtime clause. The County's language change is awarded. I also add to the provision that compensatory time will count as time worked for the purposes of overtime calculations (see below).

The PBA submitted extensive proposed modifications to the overtime Article. I will discuss them one by one.

The PBA proposes to add to section A:

No County correction officer shall be prohibited from working overtime if he or she did not work during his or her regularly scheduled shift prior to being assigned overtime.

Docimo explained that currently an officer is not permitted to work an overtime shift or even part of an overtime shift if he took a sick day immediately before that. That is, the officer is required to work one full regularly scheduled shift before being eligible for an overtime assignment. Docimo explained that this prevents officers from taking even a partial shift immediately before their regularly scheduled shift. In other words, if an officer takes sick time on a Friday and is off Saturday and Sunday, he is not eligible for pre-shift overtime on Monday.

The County opposes this proposal. It points out that its current policy preventing overtime until a regular full shift is worked is designed to control sick leave abuse. The County points out that the rate of sick leave use among members of this bargaining unit is so significant that it does not want to give up any measure of sick leave control.

I decline to award this proposal. I understand that the PBA is looking for solutions to the burden of significant overtime requirements. Here, it is attempting to make it possible for officers to come in for overtime before the beginning of their regular shifts without having prior sick leave use act as a

barrier to that possibility. But Warden Hutler testified that the use of sick leave is rampant. In fact, Goetting testified that no employee in the unit has taken advantage of the sick leave buy-back program in years, and it has not been a success in curbing sick leave usage. Hutler believes that some the sick leave usage is due to the fact that officers need a day off to recover from overtime assignments. However, he also pointed out that some officers use all of their sick leave in the first few months of the year, which he considers to be an abuse of the leave benefit.

The County needs some measure of sick leave control. I am not inclined to disturb what appears to be the only deterrent it has to control sick leave usage. The PBA's proposal is denied.

Next, the PBA proposes to define types of overtime and codify the procedures for assignment of each type. It asks to add sections E, F, G, and H for this purpose:

E. "Scheduled Overtime" means overtime voluntarily agreed to and assigned on the same day on which it is worked.

F. "Non-Scheduled Overtime" or "Mandatory Overtime" means involuntarily assigned overtime made on the day on which it is to be worked.

G. All "Scheduled Overtime" shall be distributed as equally as possible amongst bargaining unit members utilizing an agreed upon "Scheduled Overtime" list based on departmental seniority. When assigning scheduled overtime, those officers working the shift prior to the "scheduled overtime" shall be the first officers requested to work said overtime and have the first opportunity to elect to work said overtime. Only after those officers working the prior shift have had

the opportunity to elect to work "scheduled overtime"
will officers be contacted outside of work via telephone
to be offered the opportunity to work a period of
"Scheduled Overtime".

H. All "Non-Scheduled Overtime" or "Mandatory Overtime"
shall be assigned based on agreed upon "Mandatory
Overtime" Lists. Each shift will utilize a list that is
comprised of all officers working on said shift and will
be based on departmental seniority. Once an Officer is
assigned and works a shift of "non-scheduled overtime"
or "mandatory overtime," he or she will be removed from
his or her place at the top of the "mandatory overtime"
list and placed at the bottom of the list and shall not
be reassigned "mandatory overtime" until such time that
his or her name rotates and reappears at the top of the
list.

Docimo testified that the definitions in proposed sections E and F above are based upon the current practices at the Jail. He explained that the current practice for scheduled overtime is that when it is learned that a staffing shortage exists which will warrant overtime on the next shift, the administration goes straight down the seniority list and offers the overtime - both to those on duty and those off duty. If there are not enough volunteers to fill the need, then the administration then goes to the mandatory overtime list, which is a list of officers currently on-duty. The mandatory overtime is assigned in inverse seniority order. Once an officer is "mandatoried", his name then goes to the bottom of the mandatory assignment list.

Warden Hutler stated that was not opposed to the proposed method of offering overtime first to the shift currently on duty, as long as his operational needs were met. The PBA notes the

Warden's lack of opposition to the proposal, and therefore, argues that the proposed language should be added to the contract without reservation.

The County argues that the PBA has not submitted evidence supporting a reason to change the current collective negotiations agreement. It points out that the current language in the contract concerning overtime has existed for many years and has not resulted in grievances or unfair practices being filed. It avers that the proper distribution of overtime is essential to the functioning of a correctional facility. It maintains that collective negotiations, not interest arbitration, is the proper venue for changing this language.

Further, the County avers that this proposal could be an administrative nightmare. Absent such compelling information as to what the difficulties of administrating this procedure might be, it is impossible for the Arbitrator to determine whether it is both necessary and beneficial to change the existing language.

The PBA's proposal is awarded. First, the County did not dispute that the PBA's definitions of scheduled overtime and mandatory overtime are accurate reflections of the existing practice. Second, codifying the existing procedures into the collective bargaining agreement prevents the temptation on the employer to change the procedures without negotiation. Third, the County's argument ignores the fact that the Warden indicated that

he had "no problem" with the proposed change as long as his staffing needs are met.

I award the following additions to the Overtime Article:

E. "Scheduled Overtime" means overtime voluntarily agreed to and assigned on the same day on which it is worked.

F. "Non-Scheduled Overtime" or "Mandatory Overtime" means involuntarily assigned overtime made on the day on which it is to be worked.

G. All scheduled overtime shall be distributed as equally as possible among bargaining unit members utilizing an agreed upon "scheduled overtime" list based on departmental seniority.

H. All non-scheduled overtime" or mandatory overtime shall be assigned based on agreed upon mandatory overtime" lists. Each shift will utilize a list that is comprised of all officers working on said shift and will be based on departmental seniority. Once an Officer is assigned and works a shift of mandatory overtime, his/her name will be placed at the bottom of the mandatory list and shall not be reassigned mandatory overtime until such time that his or her name rotates and reappears at the top of the list.

Next, the PBA asks to incorporate the procedure for splitting an overtime shift between two officers. It proposes:

I. Officers shall be permitted to split or "share" periods of "scheduled overtime" and "non-scheduled Overtime" with increments no smaller than a one (1) hour period being worked.

The PBA asserts that this provision seeks to codify a policy into the contract that is presently in practice. Due to the significant amount of overtime officers are presently required to work, the Department permits officers to split or "share" periods

of "scheduled overtime" and "mandatory overtime." As President Docimo testified, the splitting of overtime has been a practice in place for many years. In practice, the officers are allowed to split or share an eight hour overtime shift by breaking it down into increments as small as a single hour. By doing this, officers are allowed to assist other officers who are ordered to work overtime. Warden Hutler confirmed that the policy as proposed is currently in effect in the jail. He further stated that the new "Kronos" time management system permits this practice to be implemented with little difficulty. Finally, the Warden testified that the only potential abuse he could potentially see of this policy is that it presents an opportunity for an individual to "control overtime" by accepting an overtime shift that he or she has no intention of working only to split the same with an individual who wants to work the overtime, resulting in an inequitable distribution of overtime. However, the Warden did not state that this was actually occurring. Therefore, based on the fact that the ensured continuation of this policy will assist in providing officers with relief from the presently oppressive overtime situation, and the lack of opposition from Hutler, the PBA argues that the proposal should be granted without reservation.

The County argues in the PBA's April 9, 2014 proposal, this proposed provision was subject to the approval of the Warden. It

points out that the PBA now seeks language that would permit corrections officers to split overtime assignments without any approval or restrictions. The result could be devastating. Officers working on one assignment could swap with officers working another assignment or, worse yet, an experienced officer could swap with a less experienced Officer not ready for a particular assignment. Without controls, the County argues, this proposal is very dangerous. This arbitration proceeding is not the forum to change such a significant decision regarding the appropriate staffing in the jail and the proposal should not be awarded.

I award the PBA's proposal concerning the sharing of overtime assignments, with the modification that it is subject to the approval of the Warden or his designee. The contract will include the following additional language:

I. With the approval of the Warden or his designee, officers shall be permitted to split or "share" periods of "scheduled overtime" and "non-scheduled Overtime" with increments no smaller than a one-hour period being worked.

In the next three proposals, the Union seeks to put limitations on the amount of overtime an officer might be required to work. Section J prevents mandatory overtime after the last scheduled shift before an officer's days off, a scheduled vacation, sick or personal day. Section K limits mandatory overtime to eight hours, and the third (section L) limits overtime

to eight hours in a 24-hour period.

With regard to section J, the PBA argues that it seeks to codify a policy that is presently being followed. For the last several years, the Department has agreed not to order an officer to work mandatory overtime on his or her fifth working day or shift prior to his 48-hour weekend. However, in addition to codifying the existing practice, the PBA also seeks to expand this practice to scheduled vacation days, scheduled sick days, and scheduled personal days. The PBA argues that the amount of overtime officers are required to work is excessive and the single largest complaint amongst corrections officers. The PBA points out that the Warden agreed that having a full weekend of 48 continuous hours off in a seven-day work week is important for the officers to "recharge" before the next work week. Therefore, the PBA asserts that there is no basis not to grant this proposal and to extend it to include the shift before an officer's vacation time, scheduled sick time, and personal days.

President Docimo testified that officers are "regularly" ordered to work overtime prior to scheduled vacation time, scheduled sick time, and scheduled personal days. (T-209-211).

The PBA argues that vacation time, like an officer's weekend, is important to allow officers to "recharge" and spend time with their family. Furthermore, personal days are scheduled to take care of important personal business, as is scheduled sick time.

Based on this fact, and the need for officers to work as much mandatory overtime as they do, this proposal should be granted by the Arbitrator. The PBA maintains that granting this proposal would improve the quality of life in the prison and will not cost the County additional expenses in overtime pay.

With regard to Sections K and L, President Docimo testified that officers are sometimes required to work more than 16 hours in a row, which is extremely difficult and unhealthy in a jail environment. It contends that, since the Department employs approximately 170 rank-and-file officers, having this many officers on the rolls should ensure that no officer is ordered to work more than 16 continuous hours. The PBA pointed out that the Warden did not testify that he opposes to these two provisions. Hutler stated that he recognizes the difficulties that overtime imposes upon officers and their families. Therefore, the PBA argues that these provisions should be included in the contract.

The County argues that the proposal ignore the fact that sometimes there are emergent circumstances that require the Warden to have flexibility to hold people over for long periods of overtime. However, there are instances when an officer may have to work beyond those limits. Common examples would be in a weather emergency or staffing emergency. A correctional facility is not different than a hospital in this regard. When staffing levels dictate, personnel must continue to work until replacements

arrive. It is safer to have a tired nurse assisting patients than no nurse at all. The same logic applies to a correctional facility. To award this language would force the County, at times, to work at less than what it considers appropriate staffing levels. This proposed language should not be awarded by the Arbitrator.

For the reasons that follow, I am inclined to award a modified version of the PBA's three proposals limiting mandatory overtime. First, the job of a correction officer is both dangerous and stressful. It is imperative that officers be on constant vigil, particularly where, as here, the Jail is run on the model of direct supervision, meaning that the inmates are not constantly locked in their cells. To require an officer to work in such an environment continuously for more than 16 hours puts the safety of the officer, and his/her co-workers, in jeopardy. It is just plain inhumane to deprive an employee of sleep or even a reprieve from the stress of the job for any longer than 16 continuous hours. Yes, the County is correct that in the event of a weather emergency, it might be difficult for the Jail administration to get enough officers to staff a subsequent shift. However, Docimo testified that there are about 35 officers on a shift. That means that there are about 135 officers NOT on duty at any one time. It would be difficult to imagine that the

Employer could not find sufficient officers to replace those that have already worked for 16 continuous hours.

With regard to the PBA's proposal to restrict overtime on the day before an officer's off-duty days, vacation or other schedule leave time, I am inclined to award the proposal in part, and with modifications. According to Docimo, the current Jail policy is that officers are not usually assigned overtime after the last shift in their workweek. However, Docimo testified that the PBA's proposal is both to codify that policy into the contract, but also to add the restriction to the last shift before an officer goes on vacation or takes other leave time. Docimo testified that this now happens with regularity.

As Warden Hutler acknowledged, it is important for correction officers have their full 48 hours off duty to give them time to "recharge" and spend time with their families and pursue leisure activities. Just as important is that officers get their full measure of vacation time, for the same purposes. If an officer is leaving for a vacation first thing in the morning on the first day of his vacation, an extra overtime shift the night before takes away from his ability to enjoy the full measure of his vacation time. I believe this proposal to codify the prohibition on overtime immediately before an officer's day off or before the beginning of a vacation is fair and reasonable. It will improve employee morale and recognize the officers are already being asked

to do more. However, I am not inclined to extend the same ban on overtime immediately before other scheduled leave, such as a sick or personal day. It is a matter of balancing the equities. I award the following language¹¹:

H. No Officer shall be assigned "mandatory overtime" for the shift following his or her last shift worked prior to their regularly scheduled days off or a scheduled vacation day, absent extreme emergent circumstances as determined by the Warden.

No officer shall be required to work more than (8) eight hours of overtime during a single (24) twenty four hour period, absent emergent circumstances as determined by the Warden.

The PBA next proposes:

I. No Female Officer shall be assigned "mandatory overtime" if there is not a female officer scheduled to work the following shift.

President Docimo testified this proposal was made because female officers are ordered to work an inordinate amount of mandatory overtime simply to cover the following shift because there is not a female scheduled to work and the County follows a policy that a female on duty on every shift.

However, this goal cannot be accomplished when female officers are ordered to work more overtime than males based upon the need to fulfill a gender-based policy established by the Department. Therefore, in an effort to ensure that overtime is ordered to be worked in a fair and consistent manner, the PBA

¹¹ The PBA's proposed section "J" is not awarded, as I find it to be redundant of Section "K."

argues that this proposal must be accepted.

The County argues against this proposed change. It states that this language never proposed before, and it is clearly not a mandatory subject of bargaining. It contends that the Arbitrator should not delve into such sensitive issues that will impact the ability to properly run the facility. Consequently, this language should not be awarded.

I decline to award this proposal. The issue of gender-based job qualification is a determination within the Employer's management prerogative, and not a negotiable term and condition of employment.

The Union's final proposal under the Overtime Article is a proposal for overtime to be optionally compensated by compensatory time off. More specifically, its proposal language is:

N. As provided in Section A Overtime shall be compensated for at the rate of time and one-half (1 1/2) for each hour actually worked in an overtime status. Such compensation may be in the form of cash payment or compensatory time, at the sole discretion of the Officer. Officers may take compensatory time off upon approval by the Warden or his or her designee. The decision to grant a comp time request shall be based upon whether minimum staffing levels are met but may not be unreasonably denied. Officers may accrue a maximum of forty (40) hours of renewable compensatory time per calendar. Any compensatory time not used by November 15 of the year in which it is earned shall be paid to the Officer at his or her current rate of pay, within thirty (30) days thereafter.

The PBA asserts that, because of the amount of overtime

worked by PBA members, having the ability to utilize compensatory time off from work to obtain additional time to rest, recuperate, and be with family is important. President Docimo testified to the importance of compensatory time off from work and how he believed the proposal would not cost the County money from additional overtime occurring.

The PBA points out that the Department of Corrections currently has a policy in place that only six officers are permitted to schedule off per shift for utilization of vacation time. (PBA-10) These vacation day "slots" are scheduled by the Department so as to not incur overtime for coverage of the same. The PBA states that its proposal would only allow compensatory time off to be utilized when there are open and unused vacation "slots". In other words, if there were six vacation slots and four officers were scheduled off duty, two officers would be permitted to take a scheduled compensatory day off if requested. Alternatively, if the same officer asked for a day off and all six vacations slots were being utilized, the request for compensatory time off would be denied. So long as the Department performs the task of scheduling officers properly, the PBA argues that compensatory time will not cause additional overtime to occur.

Additionally, PBA also proposed that the compensatory time off that can be "banked" by officers be limited to no more than 40 hours that can be renewed once utilized. Finally, if the officers

fail to utilize the earned compensatory time off by November 15 of the calendar year the time was earned, the days must be cashed out so that their comp bank is "zeroed" out on an annual basis. This would prevent the County from incurring additional expenses from officers cashing out their compensatory time off bank at a higher pay rate from the time period from which it was earned.

Although Hutler stated that he believed compensatory time off was a "pyramid scheme," he did state that when the Jail was appropriately staffed, such a program is more manageable:

Q. And what does that do to your staffing?

A. I think it's going to create more mandatory overtimes. It's going to -- well, let me retrace that. If you're back to a full contingent of people when you're not on mandatories and you--right now if I have X amount that I have to schedule mandatory—I'll just throw out a number. Let's say I have a minimum staffing on a shift of 25 and I have only 30 on the shift because I'm down and I get five people off in advance for vacation time, well, right now I'm at my minimum staffing. If one person calls out sick I'm always calling people in.

Down the road if I'm fully staffed I may have 35 people and only five people take or six people take vacation time. I have a buffer there. So when you have a buffer like that programs like this are more feasible at the particular time, but I think in the long run, unless you limit the duration of it where it's like 40 hours a year or something like that, I think it becomes unmanageable and, as I said, I think it grows and grows and grows.

[T330-331]

To this end, the Warden testified that, upon the graduation

of the current recruit training class, the Jail will be "fully staffed." The PBA contends that management of a compensatory time program will then be feasible. Further, the PBA argues that it has included the 40-hour restriction as the Warden suggested was necessary, and has included a requirement that the comp time bank must be cashed out annually if the same are not utilized by November 15 of the calendar year the time was earned.

P.B.A. states that its comp time proposal would meet the needs of its members while not causing the County to incur additional expense in overtime expenditures. It states that the officers are in desperate need of new programs that will make the working conditions in the Jail more tolerable. This compensatory time off proposal will do just that, while at the same time ensuring that additional costs in overtime are not incurred. The PBA urges its adoption.

The County contends that compensatory time is clearly an economic issue. Moreover, it is an issue that would have a substantial and deleterious impact on the ability to properly operate the Jail. In addition, the County argues that the economic consequences of it would be huge, because the cost of overtime compounds when compensatory time is available for officers. To replace one hour of overtime that is taken in compensatory time requires another officer to work one and one-half hours. If that officer then takes his or her time in

compensatory time, the replacement would have to be at two and one quarter hours. The inverted pyramid continues and the cost is prohibitive. Moreover, staffing becomes much more difficult.

The County also points out that compensatory time is not included in the current collective negotiations agreement, and is a non-salary economic issue. Consequently, the Arbitrator cannot include this issue in her Award. N.J.S.A. 34:13A-16.7(b).

I intend to award a modified version of the PBA's proposal for a compensatory time program. First, I find that this new benefit is not truly economic issue - it is the displacement of one work time period for another. An "economic" benefit, by nature must include some connection to some form of compensation or an economic expense to the Employer. This proposal, as I award it, is neither.

First, it must be noted that officers are already contractually entitled to compensation for overtime at the rate of time and one half. This proposal merely changes the form of payment from cash to time off -- it does not change the calculation rate. Second, an officer could elect to take a compensatory day in lieu of cash overtime (to which he already contractually entitled). Comp time so elected as overtime payment would be added to the officer's comp time bank but only to a maximum of 40 hours. The officer would be required to use the comp time earned by the end of the calendar year or cash it out

for payment, thus depleting his comp time bank at year's end. The effect of this would be that, at worst, the County would be paying for the compensatory time at the same rate at which it was earned. There could be no saving of compensatory time until a later date when the County would have a greater liability for payment because of interim raises.

Most importantly, compensatory time could only be taken with the approval of the Warden or his designee, and only if granting the request for compensatory time would not incur overtime.

There are several benefits to this proposal. Inevitably, some officers will choose cash compensation for overtime worked, but some will opt for the time off. This should provide some relief to the County from its current, enormous burden of overtime cash payments. Additionally, as the Warden explained, because the incidence of mandatory overtime is currently significant, officers now take sick days to rest and recover from working frequent overtime assignments. It is the sick leave calls that result in mandatory overtime because the absence is unplanned and shifts must be covered. Thus, the availability of comp time would serve as an alternative to sick leave, and further trim down the overtime costs.

Finally, while the Warden expressed concerns about the pyramiding of comp time when one officer works overtime to cover another officer's comp day off, this would not be possible

pursuant to the terms awarded here. Officers could expect to obtain a comp day only if the "book was open", that is, that all available vacation slots were not already approved and therefore, minimum staffing could be met. To emphasize, an officer may only take comp time off with the Warden's approval and if it does result in overtime. Moreover, I award this comp time program to begin in April, 2015. By that point, according to the Warden, the newly hires 27 recruits will be working in the Jails, and they will be at full strength. The Warden conceded that, at full strength, a comp time program would be feasible.

I award the following contractual provision:

Pursuant to Section A herein, regular overtime will continue to be compensated at the rate of time and one half. **Effective April 1, 2015**, overtime compensation may be in the form of cash payment or compensatory time off, at the sole discretion of the officer. Officers may take compensatory time off upon approval by the Warden or his or her designee. The decision to grant a comp time request shall be based upon whether minimum staffing levels are met. It is understood that a request for the use of compensatory time off will not ordinarily be granted if it results in overtime for another officer. Officers may accrue a maximum of forty (40) hours of renewable compensatory time per calendar. Any compensatory time not used by November 15 of the year in which it is earned shall be paid to the officer at his or her current rate of pay, within thirty (30) days thereafter.

Article 8: Personnel Days:

The Article presently provides,

Each employee will be granted three (3) personal days per annum.

The County seeks to amend this language to read:

Each employee may be eligible for three (3) days of personal leave, which may be used for personal business, which cannot be conducted during the employee's shift. Personal leave days are considered "earned" on January 1st, May 1st and September 1st of each calendar year. In the event shifts are created in excess of eight hours, all personal leave shall be calculated in hours.

The County argues that currently, personal leave is treated as an earned benefit and it wishes to conform the contract language to its existing practice. With regard to the additional sentence concerning personal leave being converted in hours, the County asserts that it merely seeks to have all leave time converted to hours in case it decides to change shift times in the future.

The PBA argues that the County should not be permitted to add and remove language from the contract merely to circumvent negotiations over work hours and schedules.

As previously found, I am not inclined to convert leave time in the contract into hours simply because the County is contemplating a proposed change in shift schedules. Such a change would have to be negotiated with the PBA, and the conversion of leave time can be addressed between the parties at that time.

With regard to the County's proposal to treat personal leave days as earned one at a time at particular benchmarks during the calendar year, the County argues that this proposal is needed to control the abusive use of personal leave days by officers at the beginning of the year. In essence, officers would obtain personal

days at the rate of one every four months. Warden Hutler testified that officers frequently burn their leave time as soon as it becomes available.

I find that the County has not submitted sufficient specific information about the officers' use of personal leave for me to fairly evaluate this proposal and determine whether there is a problem that this amended contract language would solve. The Warden's generalized statement that officers frequently use their personal leave as soon as it becomes available is simply not sufficient. This proposal is denied.

Article 12: Holidays:

The PBA proposes to add two additional provisions to this Article. The first seeks to add a provision that if an officer works on Easter Sunday or any other holiday enumerated in the contract, they will be compensated either at the holiday rate or receive an alternative day off. As Docimo explained, currently officers only have the option of cash compensation for working a holiday which is paid at the rate of double time and one half. According to Docimo, the Union seeks this change because officers are required to work mandatory overtime so frequently that they need the extra time off to spend with their families.

The County argues the correction officers already have many more holidays in their contract than many other public employee groups and certainly more than private sector employees. Further,

the County points out that the Jail is already short staffed and awarding employees more time off would simply exacerbate the problem. However, Warden Hutler testified that the proposal made sense to him and that he would find a way to "make it work" to meet the Jail's operational needs.

I am not inclined to award this proposal, primarily because I believe that, having awarded the PBA's compensatory time for overtime proposal; employees will have sufficient time off. I do not wish to overburden the County with covering officers with even more time off. This proposal is denied.

The PBA also proposes to add language to the overtime provision of the contract which would make the selection for holidays off department-wide by seniority. Docimo explained that currently, holiday selection is based on unit-by-unit seniority which allows the specialized units to have off many more holidays than the security unit, thus creating an inherent unfairness. The County argues that this is an entirely new provision for the collective negotiations agreement and, most importantly, something that was never proposed in negotiations. Further, the County argues that this proposal it would be an absolute nightmare to administer in a department as large as this. Moreover, it corrections superiors currently do not have holiday selection by departmental seniority. The County continues that the PBA's proposed language that requests should be based upon what the

"Department schedule permits" is vague and begs for grievances and arbitrations and ultimately creates labor disharmony. Therefore, this proposal should not be awarded.

I find that this proposal would interfere with management's prerogative to determine which employees it needs to be on duty and which units are non-essential on holidays. The proposal is denied.

The County seeks to amend the Article as follows:

Effective April 1, 2015, holidays enjoyed by full-time officers shall be consistent with those holidays established by New Jersey State government.

In essence, the County seeks to reduce the number of holidays in the current contract from thirteen to eleven by eliminating Lincoln's birthday and the Friday after Thanksgiving - both of which are no longer included in the State's holiday schedule. The County argues that its other law enforcement bargaining groups have consented to this giveback outright or consented subject to the approval of the remaining bargaining units.

The Union opposes this proposal. It points out that no other police bargaining unit has actually conceded the two holidays; rather they have agreed to give the holiday up if all other units do likewise. The Union avers that this is not a pattern of settlement which must be followed.

Contrary to the Union's assertion, I conclude that there is a County-wide pattern of at least conceding to surrender the additional two holidays if all other County employees so agree. The County contends that I am obligated to follow the internal pattern of settlement.

The County's proposed adherence to the State's schedule of holidays would effectively eliminate Lincoln's Birthday and the Friday after Thanksgiving. However, the proposal would perpetually tie the holiday benefit of County correction officers to whatever the State and its bargaining units agree upon. This would ignore the fact that PBA Local 258 -- not the organizations representing State workers -- is the exclusive representative for this bargaining unit. I believe employee benefits should be negotiated locally by the employees' exclusive representative, not by the bargaining representatives of employees of a different entity.

The County maintains that nearly all of its bargaining units with settled contracts have agreed to either abide by the State's holiday calendar, or have agreed to do so when all County bargaining units also so agree. The County argues that the pattern of settlement dictates that I award its proposal.

But the PBA points out that the Sheriff's officers' unit did not agree to give up the two holidays. Therefore, the PBA argues, there is no County-wide pattern to which I must adhere.

Alternatively, the PBA argues that it sees the "if all other units agree" language as more palatable than an outright surrender of the two holidays.

I see the language agreed to by other units as unawardable. A clause which hinges the benefits of one group to the negotiations of another group has been held to be illegal. These types of clauses - commonly referred to as "me too" clauses -- automatically grant a benefit to one group if another bargaining unit successfully negotiates for the benefit. I see no difference in the issue being a benefit or a concession. Therefore, I decline to award the language as agreed to by the corrections superiors and others.

I do award the following amendment to the Holidays clause:

Effective January 1, 2016, Lincoln's Birthday and the Friday after Thanksgiving will no longer be included as holidays in this Article.

The effective date of this imposed concession is not accidental, as I have awarded an increase to the dollar value of the top step of the salary guide on the same date.

Goetting testified that the County will save about \$70,000 if these two holidays are eliminated. The awarded increase to top pay will cost the County about \$67,200 (\$1200 x 56 officers). Thus, these two awarded provisions are meant to be taken in tandem. If provides a justification to deviate the correction

officers salary guide from the sheriff's officers guide at top pay rates.

Article 13: Sick Leave:

The County asks to change the existing language as follows:

Sick Leave shall accumulate in hours at the rate of one and one-quarter (1 $\frac{1}{4}$) days per month in the first year of service, commencing on the 1st month or major portion thereof, from date of hire.

Like other forms of leave time, the County seeks to convert sick leave into hours to streamline the process of negotiating a change in shift schedules. The PBA responds that there is no need to convert leave time to hours since there is no proposal to change the work schedule.

As previously found, I am not inclined to convert leave time in the contract into hours simply because the County is contemplating a proposed change in shift schedules. Such a change would have to be negotiated with the PBA, and the conversion of leave time can be addressed between the parties at that time. The proposal is denied.

Article 14 - Sick Leave Liability Reduction Program:

The County proposes to eliminate this program after the payments due May 15, 2013 were made.

The current contract permits employees to "sell back" unused sick leave at the end of the year. The amount the County will cash out is dependent upon the amount of sick leave the officer

used during the year. The fewer sick days taken, the greater the officer's ability to convert sick leave to cash.

The County avers that the program has not been successful in deterring correction officers from using sick leave and therefore the County seeks to abandon the program. While the PBA has objected to this proposal on the grounds that it might dissuade recruits from accepting employment with this department, it has not refuted the County's evidence that the program is ineffective in controlling sick leave. I find it unlikely that the absence of an annual sick leave sell-back program would deter prospective applicants from the Ocean County Corrections jobs, particularly since officers maintain the right to sell back sick leave up to \$15,000 upon retirement. The proposal is granted and the Article will be eliminated.

Article 15 – Vacation Leave:

The County proposes to modify the first part of this clause to read:

Vacation leave will be granted to each full-time employee, in hours, on the following basis: . . .

Like other forms of leave time, the County seeks to convert sick leave into hours to streamline the process of negotiating a change in shift schedules. The PBA responds that there is no need to convert leave time to hours since there is no proposal to change the work schedule.

As previously found, I am not inclined to convert leave time in the contract into hours simply because the County is contemplating a proposed change in shift schedules. Such a change would have to be negotiated with the PBA, and the conversion of leave time can be addressed between the parties at that time.

Article 17 - Association Meetings:

The PBA has proposed modifications to the existing sections and five additional sections to this Article. The existing Article provides,

A. It is intended that no more than two (2) delegates may attend Policemen's Benevolent Association meetings during their normal working shift and further, there shall not be more than two (2) days of such meetings in any given month. If possible, Association meetings should be scheduled for those delegates during their off-duty periods.

B. The PBA President or his/her designee shall be granted five (5) additional days per contract year to conduct Union business.

The PBA seeks to amend section A to change "delegates" to "members". The PBA explains that the local only has one delegate. As a practical matter, the practice has been that the local president, or his designee, is released to attend PBA meetings together with the local's state PBA delegate. The Union asks that the contract language be changed to match the actual practice.

The Union also asks to remove the limitation to two meetings per month, and the obligation on the PBA to attempt to schedule meetings when the delegates are off duty. The PBA argues that it

is proposal in Section A is not a demand for additional time off that would create overtime costs. Instead, it contends that it merely seeks to match the contract language to the reality of the situation.

The County argues that the fact that the PBA does not have two State PBA delegates is the PBA's problem and not the County's. Second, the County argues that removing the cap on the number of monthly PBA meetings would expand the number of days that PBA representatives can be released from duty with pay. Additional union leave is economic and will cost the County additional funds. Further, it states that the PBA's proposal to delete the language obligating the PBA to attempt to schedule meetings when its delegates are off-duty will also result in additional costs to the County.

The County argues that the statute prohibits non-salary economic issues, which were not included in the prior collective negotiations agreement, from being part of this Award. Thus, the proposal should not be awarded.

I award the first part of the PBA's proposal to change the contract language from "two delegates" to "two members." Docimo testified that it has long been the practice that he (or his designee) and the local's PBA State delegate attend PBA meetings. Moreover, this parallels the language in the Sheriff's officers' contract, which provides for release time for "the President and

State delegate." This is no additional burden on the County.

The language change is awarded.

The remaining proposed revisions to Section A have not been sufficiently justified and are therefore not awarded.

In Section B, the PBA proposes to change the number of days a month -- from 5 to 20 -- that its president is released from duty to conduct Union business. The Union argues the number of union leave days has remained stagnant while the size of the bargaining unit is growing.

The County notes that this proposal would cost the County an additional 15 paid days which would likely have to be filled with overtime work. It also points out that no bargaining unit in the County has this many Union leave days.

Moreover, the County contends that this proposal should be rejected because the PBA lead the County to believe that all of these proposals would be off the table if the Union obtained a shift bidding procedure.

First, I note that the sheriff's officers' unit also has five union leave days, while the Prosecutor's investigators have an aggregate of 24 union leave days but no separate provision for attendance at PBA meetings. I could find no provision in the corrections superiors' contract for union leave. Thus, in considering the factor of internal comparability and the fact that the size of the correction officers unit is presumptively larger

than the sheriff's officers and in increasing in size, I award one additional day of union leave to Section B for a total of six days.

In addition, the PBA proposes to add five additional sections to this Article, as follows:

C. Each April 1, the PBA shall accrue a time bank of eighty (80) hours for use for professional development each year. This accrual of the time bank shall be in addition to the time granted in Sections A and B above. The purpose of the time bank is to allow PBA Officers paid time off to attend professional conferences and seminars related to Corrections and/or labor relations or to conduct other PBA business as deemed necessary by the President.

D. Leave taken by representatives of the PBA to represent Association members at: (i) hearings or appearances before an Administrative Law Judge at the Office of Administrative Law; (ii) arbitration hearings, conferences or appearances; (iii) proceedings at the New Jersey Public Employment Relations Commission; (iv) appearances at alternative dispute resolution proceedings, hearings or conferences; (v) pre-arbitration conferences held in accordance with contract grievances; and (vi) Laudermill hearings and County level disciplinary hearings shall not be "chargeable" union leave that will count against the time allotted in Sections A, B, and C above.

E. The County agrees that during working hours, on its premises and without loss of pay, properly designated and mutually agreed upon PBA representatives shall be allowed to:

1. Represent employees or assist counsel in representing employees in the bargaining unit at grievance proceedings or County disciplinary hearings.
2. Represent employees at investigative interviews conducted by the Internal Affairs Division or the Warden's designee. These activities must

be performed by the PBA President or member of the PBA Executive Board.

3. Submit PBA notices for posting.

4. Attend negotiating meetings or contract negotiation sessions with the County if designated as a member of the negotiating team to a maximum of five (5) members. Provided, however, that where the representative, upon completion of the representational activities set forth in Section E(1), (2) or (3) above, could return to work with a least one (1) hour remaining on his/her scheduled shift, such representative must return to work and complete the remainder of his or her scheduled work shift. The determination as to whether the representative could return to work with at least one (1) hour remaining on his/her scheduled shift shall take into account reasonable travel time from the location of the representational activity back to the representative's work location.

F. Leave pursuant to this Article shall be submitted in writing to the Warden 48 hours in advance, when possible, to be reviewed for contractual compliance. Timely requests will not be unreasonably denied. Leave will only be granted individuals authorized by the PBA President.

G. Three (3) members of the PBA Executive Board as designated by the PBA President shall work the day shift from 7:00 a.m. to 3:00 p.m., Monday through Friday, weekends off. These Executive Board members shall not be required to bid for the day shift Monday through Friday, weekends off but will automatically be given an assigned regular post on the day shift Monday through Friday, weekends off. These three (3) designated positions awarded to the PBA Executive Board members shall not be counted against those posts normally allotted during the day shift that carry weekends off.

The PBA argues that, with regard to new Sections C, D, E and F, these added provisions would merely codify what is already the

practice in place.

The County urges rejection of these provisions. It argues that the PBA is seeking an entirely new benefit not contained in the current collective negotiations agreement regarding additional time off to represent members of its bargaining unit in various proceedings. It contends that the PBA already has sufficient time off to represent its members.

Section 16.7 of the statute prohibits me from awarding any new economic benefit not previously contained in the contract. The fact that the benefit exists by past practice does not provide an exception to this prohibition. The leave time sought herein was not in the prior contract and, because paid release time from duties is an economic issue, I do not have the authority to award these provisions.

In the new Section G, the PBA seeks to have three members of its executive board permanently assigned to non-bidded positions on the day shift with weekends off. It also asks that these three slots not count as part of the posts normally allotted to the day shift with weekends off.

PBA President Docimo testified that the PBA proposes this language because meetings with management to resolve issues are ordinarily held during the day, when management is available. Having its executive board assigned to the day shift would

facilitate these meetings and board members would not have to come in on their own time.

The County asserts that it would make more sense to have its executive board members spread out among all the shifts so that all members of the Department are equally represented. The County avers that this proposal is simply an effort to provide preferred shifts to the union's leadership.

In addition, the County notes that it would be unfair to a permit a 25-year correction officer to be outbid for shift assignment by a member of the executive board with less seniority. Further, the County contends that the proposal will cost the County significant money as the proposal would require it to expand its staffing level on the Monday through Friday day shift to include three new posts while at the same time reduce the number of positions available on other shifts, resulting in more overtime. The County states that this proposal would be a frivolous utilization of taxpayers' money. Furthermore, it notes that this provision is not included in any other County public safety contract.

I find that this proposal amounts to "super-seniority" for shift bidding for the Union's executive board. The PBA has not proven the necessity for this provision. Further, I agree with the County that guaranteeing three slots on the day shift with weekends off for the executive board would reduce the number of

positions available on other shifts. It also fails to respect seniority, a right of officers who have put in years of service to bid for the most desired posts. Thus, it has the potential to create friction in the workplace between the PBA and members of its own unit about seniority for bidding positions, and negatively impact employee morale. The proposal is denied.

Union Office:

The PBA proposes this new provision:

H. The County will provide office space, a desk, chairs and a filing cabinet for the exclusive use of the PBA.
In addition, the County shall install the proper equipment for telephone and internet service for the exclusive use of the PBA. The PBA shall pay all the costs of installation and monthly fees for the telephone and internet.

The PBA argues that presently, it does not have office space either inside or outside the prison to conduct business. Docimo testified that presently, he conducts Union business, including speaking with members about contract issues or disciplinary matters, anywhere in the Jail he can grab unused space, or in public facilities. He testified that there are several workspaces or cubicles to which no one is currently assigned which could be used for a PBA desk. President Docimo testified that the Jail has sufficient vacant space that could be provided to PBA which would allow it to conduct business in a more ideal setting. The cost of setting up the office would be borne by PBA, thereby alleviating any issue that may arise concerning the cost of the same. Given

the fact vacant space is available and the County will not incur any additional cost, the Union argues that this addition to the contract should be awarded.

The County argues that this proposal should be rejected for several reasons. First, it points out that this issue was not included in the PBA's response to the interest arbitration petition, nor in its April 9, 2014 proposal. In addition, this benefit is not contained in any other collective negotiations agreement in the County.

Further, the County claims that providing space to be exclusively utilized by the Union is an economic benefit not contained in the prior collective negotiations agreement and not in any other County unit agreement. It argues that the proposal is unreasonable and must be rejected.

I find that providing the Union with dedicated space in the Employer's facilities is an economic issue and was not previously included in the contract. Therefore, pursuant to section 16.7 of the statute, it is unawardable.

Article 26, Negotiation of a Successor Agreement:

The Article currently provides in its entirety as follows:

The parties shall commence negotiations for a successor contract no later than April 1, 2013.

The PBA proposes to identify this as section A and amend the language to require negotiations to commence by November 3, 2016.

The PBA explained that it would like to begin the collective

negotiations process as soon as reasonably feasible in an effort to reach a successor agreement prior to the expiration of their next agreement. This proposal is made in an effort to avoid freezing step movement for any longer than necessary.

The County objects to this language "because it's Final Offer would expire on March 31, 2016. The date proposed by the PBA is substantially beyond that date. In fact, it is substantially beyond the PBA's three (3) year proposal."

I believe the County misunderstands the PBA's proposal, or it misstated its argument. As I understand the PBA's proposal, it asks that negotiations begin well in advance (about 5 months) before contract expiration, which in its proposal, would be March 31, 2017. The arbitration record also indicates that negotiations for this contract began months before the contract actually expired. Commencing negotiations in November would give the parties five months to get a head start on a contract settlement before contract expiration. This is a reasonable proposal, particularly in light of the fact that employee step increments will not be paid after the contract expires. This part of the proposal is awarded.

Further, the PBA ask that two new sections be added as follows:

B. Employees of the County who may be designated by the PBA to participate in collective negotiations meetings called for the purpose of the negotiation of a collective negotiations agreement will be excused from

their work assignments, without loss of pay.

C. During contract negotiation sessions, the authorized representatives of the PBA consisting of not more than five (5) representatives shall be excused from normal duties for the amount of time reasonably required for the scheduled negotiations meeting and shall receive their regular compensation for time spent when such negotiations interfere with their work schedule. It is agreed that such representatives shall be released from work two (2) hours prior to the scheduled negotiations session in order to confer and prepare with counsel. Further, it is agreed to release one (1) PBA representative from one (1) tour of duty, with pay, when representative is regularly assigned to the night shift and is scheduled to a regular tour of duty on the night immediately preceding a scheduled negotiation session.

Docimo testified that Local 258's negotiations team usually consists of five members including the President. He explained that it has been the County's practice to give employees release time for negotiation sessions. The PBA wishes to codify the practice into contract language.

The County objects to the additional contract language. It contends that the added language amounts to a "new economic benefit" and therefore cannot be legally awarded under the statute. In addition, the County argues that the proposed language, especially in Section B, is vague and does not limit the number of members on the Union's negotiations team to be released from duty. Further, it points out that neither the Sheriff's officers' contract nor the corrections superiors contract has language permitting release time for the Union's negotiations team.

Again, paid time off is an economic benefit and was not previously included in the contract. Therefore, even where the benefit previously existed by past practice, it is statutorily unawardable.

Article 31, On-Call and Extradition Assignments:

The PBA seeks to change the provisions concerning the assignment of "on call" status and to increase the amount of the stipend associated with the assignment.

A. Two officers will be assigned to "on-call" duty status at all times. Any Corrections Officers that are current with firearms qualifications are eligible to be assigned to "on-call" duty status. "On-call" duty will be assigned based on seniority from an "on-call" seniority list. Those officers eligible and interested in being assigned to "on-call" duty shall sign up for the same by making the Warden or his designee aware of their interest via email during the last two weeks of December. Thereafter, starting on the first day of the calendar year, "on-call" duty assignments shall be assigned on a rotating basis based on the officer's position on the "on-call" seniority list. After an officer is assigned a week of "on-call" duty he or she will be rotated to the bottom of the list and the next officer on the list will be assigned a week of "on-call" duty status. This procedure will continue until the fifty two (52) week calendar is assigned. [when assigned by the Warden] Those Officers assigned to an on-call duty status shall be compensated in the amount of Two Hundred and [Twenty-Five] Forty dollars [\$225.00] \$240.00 per week for each week so assigned. The rate for "on call" duty compensation shall increase annually by fifteen dollars (\$15.00) per year effective the first day of the year. [Effective November 1, 2012, on-call pay shall be increased to Two Hundred and Forty Dollars (\$240.00) per week for each week assigned].

Currently, correction officers are assigned to "on-call" duty status where they are responsible to be available on off-duty

hours to primarily perform transportation duties for the prison. In exchange for being in an "on-call" status, officers receive an additional two hundred twenty-five dollars (\$225.00) per week whether they are called out for duty or not. Presently, there are eight officers that rotate being assigned to "on-call" status.

The PBA proposes to increase "on-call" pay from \$225 per week to \$240 per week and open the assignment up to all officers qualified to perform the duty. According to Docimo, in order to perform "on-call" duty, an officer merely must qualify with a weapon in order to carry the same on duty as well as have a valid driver's license. (228-232). Duties associated with "on-call" status are rudimentary duties associated with the position of a County correction officer. Docimo further testified that it is patently unfair that only eight officers be afforded the right to work "on-call" duty given the minimum qualifications to do so.

The Warden testified he has limited the number of officers assigned to "on-call" duty to those officers that he can "trust" to perform the responsibilities of the assignment (T332-335). He stated that it takes a responsible individual to agree to be assigned to "on-call" duty as they must place restrictions on their personal life for the week they are so assigned. The assignment comes with a take-home police vehicle and a stipend. If called in, the officer is responsible for transporting a prisoner for medical help or meeting the ambulance with the

inmate/patient at the hospital. The Warden explained that some officers have in the past used the police vehicle and badge to "play cop" by making vehicle stops and other police activity normally undertaken by municipal police. (T347-351).

The PBA argues that there is no justifiable reason only on-call duty should be limited to only the current eight officers. As such, PBA proposal should be awarded in its entirety and the "on-call" duty roster should be opened up and distributed to those officers that are qualified to handle the position and volunteer for the same.

The County argues that the PBA's proposal must be rejected. First, the County argues that the issue is non-negotiable, as the Employer has a managerial right to determine what the staffing levels should be for "on-call" duty assignments. The PBA's proposal mandates that two officers will be on-call at all times.

Second, the County argues that the determination of qualifications for an assignment and the number of officers so assigned are both non-negotiable managerial prerogatives. On-call assignments can involve a number of different tasks. Only the Employer can determine what qualifications are necessary for each assignment and whether a firearm is even necessary. The County contends that to suggest that on-call and Extradition assignments should be based solely on seniority is a disservice to the public.

Third, the County notes that the procedural aspects of the

PBA's proposal requiring assignment to be based solely on seniority and administered on a rotating basis are intertwined with the Employer's non-negotiable managerial prerogative and could be an administrative nightmare. Fourth, the County argues the PBA's proposal to increase the on-call compensation by \$15 a year runs contrary to on-call pay for all other law enforcement units in the County. Sheriff's Officers receive \$240 weekly for all call pay and Prosecutors' detectives just signed a settlement agreement increasing their on-call pay to \$240 (C-89). Prosecutors' superiors receive less: \$225 a week for all-call assignments. Thus, the County argues, there is no justification for the PBA's on-call pay to increase.

There are several issues here. The PBA seeks to increase the number of officers on-call at one time from one to two. The determination of staffing levels is a management prerogative of the County and therefore, not an issue over which the parties must negotiate and not within my authority to award. It is a matter for the Employer to decide how many officers it needs to be assigned to the duty. The statute provides that an arbitrator may not award any proposal over which the parties are not lawfully required to negotiate. N.J.S.A. 34:13A-16(f) (4).

Second, the qualifications for the assignment are also matters which are managerial prerogatives. The record shows that, based on the Warden's testimony about past experiences, granting

the PBA proposal to open up on-call duty to all correction officers who have a driver's license and weapons certification would interfere with the Warden's ability to select officers "he can trust" to perform the needed responsibilities when actually called to report for the assignment. While arguably there are more than eight officers among the 170 unit members who would fit the Warden's definition of "qualified", where would I draw the line? This proposal cannot be awarded without interfering with management's right to select qualified officers for the assignment.

With regard to the stipend attached to the "on-call" status, I award an increase in the stipend to \$240 per week, effective January 1, 2015. This matches the stipend set in the contracts with sheriff's officers and Prosecutor's detectives. The remaining components of the PBA's proposed changes to Article 31 are denied.

Article 32 - Weather Emergencies:

The contract currently provides,

If the Board of Chosen Freeholders closes the County offices due to inclement weather, any members of this bargaining unit required to work by the Employer shall receive an extra personal day for each eight (8) hour shift worked.

The PBA proposes to delete this language in its entirety and replace it with the following:

If the County Offices and/or County Courthouse close due to inclement weather, or the Governor declares a state of emergency for the entire State or a portion of the State that includes Ocean County due to inclement weather, any member of this bargaining unit required to work by the Employer shall receive an extra personal day as additional compensation for each full eight (8) hour shift worked.

The PBA states that, as a practical matter, the existing clause is meaningless in that the County never actually closes its offices.

The County contends that again, this proposal amounts to a new economic benefit which cannot legally be awarded. In addition, it notes that no other unit has additional compensation for a weather emergency declared by the State.

There is no doubt but that correction officers are what would be considered "essential personnel" who must come to work even during the worst of inclement weather. However, I note that none of the other 20 County negotiations units have language in their contracts which pins the benefit to declarations by the State. Therefore, if I were to award the proposed benefit to the correction officers here, it would result in them getting an extra personal day as a reward for coming to work while all County employees who come to work in the same inclement weather would receive nothing extra for their efforts. This would create dissention and resentment among County employees, which is not in the public interest. This proposal is denied.

New Article, Facial Hair:

The PBA proposes to add a new article to the contract which would provide as follows:

All officers will have the option of growing facial hair if they so desire. The facial hair will be no longer than one-half inch and in compliance with the department hair regulations. Thus, all facial hair shall be maintained in a neat and clean manner and possess no unnatural colors.

Currently, the County's policy for correction officers is that officers are permitted to have a mustache which does not extend below the lip line. There is no policy permitting or prohibiting facial hair.

Docimo testified that this proposal focuses on a health and safety issue. The PBA's stated reason for the proposal is that facial hair would protect officers' skin and pores from attacks by inmates of bodily fluids.

The PBA argues that the Warden had no objections to the proposal, and therefore it should be granted.

The County argues that it has management right to determine the Department's uniform and therefore this right extends to a determination as to whether facial hair should be permitted. It offered no caselaw support for this proposition.

Neither the PBA nor the County made a convincing argument concerning this issue. However, the burden is on the party making the proposal to justify its inclusion in the contract. I find that the PBA has not met this burden. The proposal is denied.

New Article: Out-of-Title Work:

The PBA proposes a new Article as follows:

D. Employees shall be assigned work appropriate to and within their job classification. The assignment of out-of-title work on a regular and continuing basis, exclusive of stand-in for limited periods of vacation, sick leave or other leaves, shall be avoided. Instances of such out-of-title work identified by the PBA and formally brought to the attention of the County shall be corrected immediately or by phasing out such assignments at the earliest possible time which shall in any case be no later than three (3) months from the time of notification by the PBA. Any dispute as to whether the work is within the job classification of employee(s) involved may be resolved through the grievance procedure.

E. Each employee shall be furnished a copy of the job specification for the position in which he or she is employed upon request.

F. No post presently filled by a full-time employee covered by this Agreement shall be covered by any Correction supervisor, officer assigned to the Internal Affairs Division, non-correction officer, part-time employee, civilian employee or other personnel.

The PBA argues that its proposal speaks for itself and is supported by the testimony of President Docimo. (233-234). In short, correction officers should be assigned duties and functions appropriate to their job classification. This proposal merely seeks to codify this fact.

The County argues that this proposal was withdrawn by the PBA on April 9, 2014 and has now resurfaced in interest arbitration.

First, the PBA is suggesting that superior officers work overtime that could be worked by Corrections Officers. The PBA

seeks to eliminate this on the grounds that it is out-of-title work for the superiors performing such security work. The County disputes that it is out-of-title work because a Corrections superior officer's responsibilities include jail security, the same as a corrections officer's responsibilities include jail security. This would be tantamount to arguing that in a police department a sergeant could not perform patrol duties. The County maintains that if the PBA believes that superiors are working outside of their Civil Service Job Classification, the appropriate jurisdiction to resolve that alleged issue is the New Jersey Department of Personnel, not an interest arbitration proceeding. This same argument applies to the other titles referred to by the PBA in its proposal.

Second, the County avers that the security work has historically been performed by correction officers and by superiors. It argues that the PBA cannot seek to remove this work from another bargaining unit in this interest arbitration proceeding. An arbitrator does not have jurisdiction to do that. Third, the County asserts that the PBA has not justified this proposal and merely offered Docimo's testimony that "... some people want that overtime..." (T233-234)

I find that insufficient evidence has been presented for me to properly evaluate this proposal. Further, it is unclear what the PBA is seeking to accomplish by this proposal. It appears on

its face to be a preservation of unit work provision that would limit the County from assigning correction officer work to members of other bargaining units. But, at least with regard to the first portion of the proposal, it may be viewed as limiting the County from assignment correction officers to duties above their job title, i.e., superior officer duties. However, the PBA has not produced evidence that there has been a problem in either regard that would require contract language to correct. I find that this proposal has not been justified. The proposal is denied.

New Article: Reassignment & Layoff and Recall

A. If an officer is reassigned from his or her bidden post for reasons of hardship or emergency, said reassignment shall not last longer than ninety (90) calendar days.

B. When necessary to lay off employees covered by this Agreement, the PBA shall be notified once such a decision is made. Furthermore, should a layoff occur, the conditions outlined below and the established protections administered by the Civil Service Commission shall be observed.

C. Employees covered by this Agreement shall not be laid off before any emergency appointments, temporary appointments or extra personnel serving in any position normally occupied by a correction officer. Employees that are provisional appointees awaiting appointment to permanent positions or employees serving in working test periods within the classification affected shall be laid off prior to any employees covered by this Agreement. Non-permanent employees will be given minimum notice of at least two (2) weeks of any reduction in force.

The PBA argues that its proposal speaks for itself and is fully supported by Civil Service Commission rules and regulations.

The County argues that this proposal was withdrawn by the PBA's April 9, 2014 written proposal to the County (C-80). The County notes that while the PBA alleges there a current a policy regarding this issue, the policy was not produced nor was testimony about it given. Nor has the PBA identified any problem or need to include this language in the Agreement. In addition, it argues that this proposal is preempted by Civil Service regulations.

With regard to Section A of the proposed new article, this proposal appears to limit special or emergent post assignments to 90 days. While Docimo testified that this is the current practice, the PBA has not provided sufficient justification for adding this provision to the contract.

Ocean County is a civil service jurisdiction and therefore under the State's regulations concerning layoff notice, layoff rights, and recall. Where there is statutory or State administrative code that regulate an issue, such regulations preempt negotiations on the issue. The civil service regulations have not been provided to me so that I can evaluate the PBA's proposal in conjunction with the regulations.

More importantly, however, there is no evidence presented in the record that layoffs have occurred in the Corrections Department in recent memory, nor is there evidence that a possible

reduction in force is even being forecast for the future. To the contrary, the County has recently hired 27 additional recruits which will graduate from the training academy in January and be assigned to one of the County's correctional facilities. The PBA has not identified any issue which it is trying to solve by this language. Therefore, I find that the proposal has not been justified.

New Article: Health and Safety

A. The County shall continue to make reasonable provisions for the safety and health of its employees during the hours of their employment and will continue to provide appropriate safety devices for their protection and to provide a reasonably safe and healthful place of employment.

B. When transporting inmates to an outside health facility for treatment or when an inmate is admitted to an outside healthcare facility, for health and safety, a minimum of two (2) officers will be assigned to perform said task.

C. The County agrees to provide officers with two consecutive days off for each seven day work week. Officers shall be permitted to continue the practice of exchanging days off with one another without restriction so long as the practice does not create overtime. The County agrees to provide each employee covered by this Agreement with a forty (40) minute paid meal break and two (2) fifteen minute health and comfort breaks during the course of an eight (8) hour work shift. One (1) health and comfort break will be provided in the first four (4) hours of the work shift, and one (1) health and comfort break will be provided in the second four (4) hours of the work shift. During said meal break and health and comfort breaks. Any employee covered by this Agreement is subject to immediate and unannounced recall to duty to assist in unexpected emergency situations.

D. In an effort to promote the health and safety of those employees covered by this Agreement, officers

assigned to security posts shall report to work fifteen (15) minutes prior to the start of their regularly assigned tour of duty. This time is to be utilized by the incoming and outgoing Officers to exchange information that occurred during the outgoing Officer's shift. If the outgoing officer is to report to a new post following his or her regularly assigned shift, the Officer that he or she is to replace shall remain in place for fifteen (15) minutes following his or her tour of duty to ensure the exchange of information.

E. The County agrees to provide adequate and regularly maintained sanitary facilities for employee use.

F. Each employee will maintain acceptable standards of personal hygiene and cleanliness in accordance with the requirements of his/her job.

G. An employee must report incidents of unsafe or unhealthful conditions to his/her supervisor immediately. Corrective action shall be initiated at the earliest time practicable to bring such conditions within established safety guidelines providing the necessary resources to do so.

H. Employees shall not be required to work under conditions of work which are determined to present an imminent hazard to safety or health. An employee whose work is temporarily eliminated as a result of the foregoing, may be assigned on an interim basis to other work which the employee is deemed to be qualified to perform.

I. The County and the PBA shall establish a joint Safety and Health Committee consisting of three (3) members appointed by each party. Regular quarterly meetings will be scheduled as required to discuss safety, health problems and/or hazards and to make recommendations concerning implementing improvements or modification of conditions. The PBA shall supply an agenda when requesting a meeting. All committee meetings shall take place during working hours that encompass the day shift and employees shall suffer no loss of pay as a result of attendance at such meetings.

This proposed new article actually contains eight separate and diverse proposals. I will discuss each in turn. With regard to Section A, the County argues that it recognizes its obligation to provide a safe and healthy facility for its Corrections Officers to work in. This is an inherent obligation of any employer, required by the law and certainly something the County endeavors. The County points out that, as with other inherent employer obligations, this requirement is not contained in any other unit's contract including corrections superiors. The Warden acknowledged that his door is always open at any time if there an issue that the PBA wishes to address. Moreover, the Warden testified that the Jail recently passed inspection with a 100% score.

The PBA makes no specific argument on this point in its brief.

I agree with the County that it already has an obligation to provide a work environment that is as healthy and safe as possible, given the confines of a Jail environment. However, this proposed section A is so broad and yet vague that I am unable to discern what I would be committing the Employer to "continue" to do. Vague, broad language invites grievances over disputes regarding the meaning and application. Further it is unclear what "appropriate safety devices" the County is presently providing

that the PBA wishes it to be contractually obligated to continue.

I decline to award this section.

In Section B, the PBA proposes:

B. When transporting inmates to an outside health facility for treatment or when an inmate is admitted to an outside healthcare facility, for health and safety, a minimum of two (2) officers will be assigned to perform said task.

With regard to section B, the PBA argues that presently, officers performing outside transportation duties of moving inmates from the prison to the hospital have been finding themselves in a precarious position which presents various health and safety issues. Officers are often left at the hospital with inmates in a "one-on-one" situation. When this occurs, the officers are duty bound to remain alongside the inmate or face disciplinary action. Thus, they are left with the inability to take care of the most basic humanitarian needs, such as relieving themselves in the bathroom.

The PBA points out that Hutler acknowledged this problem and agreed that an officer who leaves an inmate unguarded in a hospital at any time is subject to discipline. Thus, the PBA asserts that this is a health and safety issue which a contractual provision for the assignment of two officers would make for safer working conditions.

The County argues the PBA is seeking to negotiate minimum staffing levels -- clearly not a mandatory subject of bargaining.

Staffing is an issue which must be determined on a case-by-case basis given the unique nature of the work that this bargaining unit performs. Moreover, the facility that a prisoner is being transported to, and the type of prisoner that is being transferred, determines the staffing needs. This is not an issue that should be included in the collective negotiations agreement. The County argues that its managerial prerogative should not be interfered with by granting this proposal.

Here, I agree with the County that if this proposal were awarded, I would be interfering with its managerial prerogative to determine the number of officers it believes appropriate to be assigned to a given detail. Minimum staff levels are uniquely the providence of the employer and are not negotiable. Therefore, I cannot legally award this proposal.

The PBA's next proposed sections (C through F) of its health and safety article would provide: (a) that officers would be guaranteed two consecutive days off in workweek; (b) officers could exchange days off provided the exchange did not result in overtime; (c) the meal break would be extended from 30 minutes to 40 minutes; and (d) there would be two comfort breaks (one in the first half; one in the second half) in each shift.

Docimo testified that the officers currently have work schedules that permit two consecutive days off. Further, he stated that the Department's current policy permits officers to exchange days off

in the same week, provided that the switch does not result in overtime. He mentioned that the failure of an officer to work on the exchanged day results in his being ineligible to exchange days off for a full year. Docimo testified that the PBA is trying to include the existing practice into contract language.

With regard to meal breaks, Docimo testified that officers currently get a 30-minute meal break. He explained that, while there is a staff dining room, it takes time to get to and from the facility; officers then have to wait for their food order to be prepared; leaving only ten minutes or so left to eat. He acknowledged that employees are currently permitted to leave their post during their shift to use the lavatory.

The PBA argues that currently, the officers have the ability to cover work shifts for one another in an effort to provide officers with additional time off. This is particularly important to these officers given the inordinate amount of overtime they are forced to work. President Docimo testified the policy currently in effect is working without issue and it wants to codify this practice in its contract. He stated the policy operates without additional cost to the County and provides a much needed respite period for the rank-and-file officers.

President Docimo further testified the PBA is seeking to enlarge the meal period from 30 minutes to 40 minutes due to the time it takes travel to the officers' dining room. The Union

argues that expanding the meal period by ten minutes is not an unreasonable request and, by all accounts, practical.

The PBA states that it is reasonable for officers to be provided with short health and comfort breaks, one in the first four hours of their shift and one in the second four hours of their shift. These health and comfort breaks will allow officers to exit the prison for a very brief period of time to obtain fresh air. The PBA argues that officers often have to work 16 hour-days and providing health and comfort breaks will go a long way in making working conditions more bearable.

With regard to the proposed language concerning reciprocal days off, the County notes that the specific language proposed is, to "continue the practice of exchanging days off with one another without restriction." However, the County notes that the current practice includes restrictions. President Docimo testified that the purpose of the PBA's proposal is to eliminate the current restrictions. The reason restrictions are in place are to ensure adequate coverage. This enhances the working conditions of those officers on duty and obviously ensures appropriate staffing coverage to maintain the facility. To lift those restrictions without other evidence is very dangerous. The burden of proof here was on the PBA and not the County. That clearly was not satisfied, especially with an issue as sensitive as the adequate and appropriate staffing of a correctional facility. The County

argues that this proposal is economic and would have a significant impact on the County's operation. In short, the PBA is looking for an additional 40 paid minutes per day during which they will be relieved of their duties. Unquestionably, the County asserts, this will have an impact on the level of security provided to the facility. If correction officers are working forty minutes less a day, then obviously there is forty minutes less of security.

Section D proposes for a 15-minute shift overlap, with additional compensation. President Docimo testified that having a 15-minute period of shift overlap will allow officers to participate in a pre-shift "line up" where information can be passed concerning unusual and dangerous events that occurred during the prior shift all officers should be made aware of. The PBA contends that having the ability to pass information about dangerous conditions from one officer to another is of the utmost importance. Therefore, PBA asks that this provision be included within the collective negotiations agreement.

With regard to the proposed contract provisions concerning consecutive days off, the County maintains that the PBA has not submitted any evidence showing the impact this proposal would have on the current scheduling, whether it would cause overtime, staffing shortages or surpluses of employees at certain times. The County contends that the Union has not justified these two proposals, and therefore, they should be denied.

I grant the PBA's proposal to include contract language concerning the two consecutive days off, with modifications. For one, the record shows that this is currently the accepted practice. Second, the Warden did not present testimony in opposition to this proposal. Third, this is not really an economic issue: the PBA is not asking for more days off; it merely seeks to codify the existing benefit of to permit members' two days off occur consecutively. The overtime clause already guarantees that an officer who is required to work on his regular day off will do so at his overtime rate. Therefore, it is of no additional cost to the County and no additional monetary or additional time benefit to the employee. It is not an economic issue, it is a scheduling issue. Therefore, the proposal is not precluded by Section 16.7 of the statute.

That said, I recognize that there may be operational needs or emergent circumstances which might dictate a deviation from the policy of two consecutive days off. Therefore, I award the following language:

C. Whenever operational needs permit, officers will have their regular days off scheduled consecutively.

With regard to the PBA's proposal to permit the exchange of days off, I also grant this proposal, with modifications. Docimo testified that this is the current practice, provided that overtime does not result. Again, this is not economic issue, this is a scheduling issue. There is no added cost to the County and

no added monetary benefit to the employee. Moreover, the Warden stated that he does not have operational problems or administrative problems with the current practice of officers switching days off. I have considered the County's point that the Warden must have some control over the switch to insure that he has qualified personnel assigned at all times. I award the following language:

With the approval of the Warden or his designee, officers shall be permitted to exchange days off with one another provided that the exchange does not create overtime. The Warden will continue to be able to restrict employees who do not fulfill their obligations under this section from further participation in the benefit.

With regard to the remaining proposed sections of this new article, I find that all three are new economic items not previously included in the PBA contract and therefore, I am constrained by Section 16.7 of the statute from awarding them. The section proposing a 15-minute overlap of shifts would, in effect, require each officer on each shift to work 15 minutes of overtime for each shift worked - an additional 1 hour and 15 minutes weekly. This most assuredly has a significant economic cost to the County, and it increases the officer's overtime payments for the extra time. However valuable it would be have a short period where officers could exchange information between shifts, I am constrained from awarding it.

The PBA's proposals to lengthen the meal break from 30 minutes to 40 minutes, and to add two 10-minute "comfort" breaks

during each shift are also economic in nature. Taken together, that would amount to 30 minutes a day that officers would be away from their duty areas. The County Corrections Department would then be in the difficult dilemma. Either the Jail would have to "run short" on staffing, potentially interfering with operations at certain times (such as inmate meal periods); or it could pay other officers on overtime to rotationally relieve officers on post for the break periods and additional meal times. Thus, I view this proposal as potentially economic in nature, and therefore unawardable under Section 16.7 of the statute. This portion of the proposal is therefore denied.

Finally, with regard to the PBA's proposed Sections E, F, G and H, the PBA has not identified any particular problem that needs contract language to remedy. The PBA's claim that the elevator in the new Jail is not working hardly requires contract provisions to correct. Any new building is likely to have kinks that need to be adjusted. Moreover, the Warden has demonstrated his willingness to meet with the PBA over health and safety issues. I find that the addition of these proposed contract provisions is unnecessary. These proposals are denied.

SUMMARY OF AWARD

CONTRACT DURATION:

April 1, 2013 through March 31, 2016

SALARIES (Article XI):

2013: All employees will be placed on the revised salary guide as follows:

Old Step	New Step	Old Guide	New Guide 4/1/2013	Incr	3/31/13 # EES	Guide Conversion Cost	Total Conversion Cost
	1	38,000	38,000	2,998			
	2		40,998	2,998			
Probation	3	41,839	43,996	2,998	14	2,157	30,198
	4		46,994	2,997			
1	5	47,028	49,991	2,998			
2	6	51,981	52,989	2,998	43	1,008	43,344
	7		55,987	2,998			
3	8	58,229	58,985	2,998	3	756	2,268
	9		61,983	2,998			
	10		64,981	2,997			
4	11	64,638	67,978	2,998	6	3,340	20,040
	12		70,976	2,998			
5	13	71,044	73,974	2,998	16	2,930	46,880
	14		76,972	2,998			
6	15	77,371	79,970	2,998	15	2,599	38,985
	16		82,968	2,997	-		
7	17	84,582	85,965	2,998	7	1,383	9,681
	18		88,963	2,998			
8	19	91,961	91,961	1,500	32		
Sr. Off	Sr. Off	93,461	93,461		24		

All employees will move horizontally on the guide; that is, for example, employees on the old step 7 will move to new step 17, and so forth. Employees at step 8 will move to new step 19 and their salary rate will remain at \$91,961. In order to provide employees with a relatively even retroactive payment of their conversion money, I award the following effective dates for retroactive payments: Employees in former steps 3 and step 7 will receive their conversion money payments retroactive to April 1, 2013; all other employees will receive their conversion money payments retroactive to October 1, 2013. Therefore, no employee will receive less than \$750 or more than \$1,600 in retroactive payment for 2013. The cost of converting all employees from the old

salary guide to the new salary guide, including the flow-through costs into 2014, will be \$191,396. Longevity payments and senior pay increases will be paid to all current employees as they reach benchmarks of service. College incentive pay will also continue.

2014: Effective April 1, 2014, all employees will advance one step on the new salary guide. The dollar values of the new 19-step salary guide will remain unchanged. The cost of this increment payment in 2014 is \$311,763. Longevity payments and senior pay increases will be paid to all current employees as they reach benchmarks of service. College incentive pay will also continue.

2015: In 2015, all employees will be frozen at their then current step of the new salary guide and no increments will be paid in that year. Effective January 1, 2016, the value of step 19 on the salary guide will increase by \$1,200. The cost to the County of this salary increase in the third year of the contract will be \$16,800. Longevity payments and senior pay increases will be paid to all current employees as they reach benchmarks of service. College incentive pay will also continue.

ARTICLE 7: OVERTIME COMPENSATION

Modify Section A to delete the reference to "eight hours." Add to the provision that compensatory time will count as time worked for the purposes of overtime calculations (see below).

Add the following sections to the Article:

E. "Scheduled Overtime" means overtime voluntarily agreed to and assigned on the same day on which it is worked.

F. "Non-Scheduled Overtime" or "Mandatory Overtime" means involuntarily assigned overtime made on the day on which it is to be worked.

G. All scheduled overtime shall be distributed as equally as possible among bargaining unit members utilizing an agreed upon "scheduled overtime" list based on departmental seniority.

H. All non-scheduled overtime" or mandatory overtime shall be assigned based on agreed upon mandatory

"overtime" lists. Each shift will utilize a list that is comprised of all officers working on said shift and will be based on departmental seniority. Once an Officer is assigned and works a shift of mandatory overtime, his/her name will be placed at the bottom of the mandatory list and shall not be reassigned mandatory overtime until such time that his or her name rotates and reappears at the top of the list.

I. With the approval of the Warden or his designee, officers shall be permitted to split or "share" periods of "scheduled overtime" and "non-scheduled Overtime" with increments no smaller than a one hour period being worked.

J. No Officer shall be assigned "mandatory overtime" for the shift following his or her last shift worked prior to their regularly scheduled days off or a scheduled vacation day, absent extreme emergent circumstances as determined by the Warden.

K. No officer shall be required to work more than (8) eight hours of overtime during a single twenty four (24) hour period, absent emergent circumstances as determined by the Warden.

L. Pursuant to Section A herein, regular overtime will continue to be compensated at the rate of time and one half. Effective April 1, 2015, overtime compensation may be in the form of cash payment or compensatory time off, at the sole discretion of the officer. Officers may take compensatory time off upon approval by the Warden or his or her designee. The decision to grant a comp time request shall be based upon whether minimum staffing levels are met. It is understood that a request for the use of compensatory time off will not ordinarily be granted if it results in overtime for another officer. Officers may accrue a maximum of forty (40) hours of renewable compensatory time per calendar. Any compensatory time not used by November 15 of the year in which it is earned shall be paid to the officer at his or her current rate of pay, within thirty (30) days thereafter.

ARTICLE 12: HOLIDAYS

Amend the Article as follows:

Effective January 1, 2016, Lincoln's Birthday and the Friday after Thanksgiving will no longer be included as holidays in this Article.

ARTICLE 14 – SICK LEAVE INCENTIVE PROGRAM

The Article is eliminated after the payment benefit is made in 2015.

ARTICLE 16: LONGEVITY

Modify the Article as follows:

Tier 2 of the longevity guide will apply to correction officers hired after November 1, 2012 but before October 6, 2014. Correction officers hired after October 6, 2014 will be ineligible for longevity benefits.

ARTICLE 17: ATTENDANCE AT ASSOCIATION MEETINGS

Amend the wording of Section A to read "two members" instead of "two delegates."

Amend Section B to change the number of union leave days from five to six days.

ARTICLE 26, NEGOTIATION OF A SUCCESSOR AGREEMENT

Amend the Article to read:

The parties shall commence negotiations for a successor contract no later than November 3, 2015.

NEW ARTICLE: HEALTH AND SAFETY

Add the following provisions of this new Article:

A. With the approval of the Warden or his designee, officers shall be permitted to exchange days off with one another provided that the exchange does not create overtime. The Warden will continue to be able to restrict employees who do not fulfill their obligations under this section from further participation in the benefit.

B. Whenever operational needs permit, officers will have their regular days off scheduled consecutively.

* * *

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

Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken the statutory limitation imposed on the local tax levy cap into account in making the award. My Award also explains how the statutory criteria factored into my final determinations.

Susan W Osborn

Susan Wood Osborn

Interest Arbitrator

Dated: October 6, 2014
Trenton, New Jersey

On this 6th day of October, 2014, before me personally came and appeared Susan W. Osborn to me known and known to me to be the individual described in and who executed the foregoing instrument and she acknowledged to me that she executed same.