

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration

-between-

CITY OF JERSEY CITY

-and-

POLICE OFFICERS BENEVOLENT ASSOCIATION OF
JERSEY CITY

DOCKET NO.
IA 94-113

OPINION
AND
AWARD

BEFORE: JACK D. TILLEM, Arbitrator

APPEARANCES:

For the POBA:
SCHNEIDER, GOLDBERGER, COHEN, FINN,
SOLOMON, LEDER & MONTALBANO, Attorneys
By: DAVID S. SOLOMON and BRUCE D. LEDER,
Of Counsel

For the City:
MARTIN R. PACHMAN, Attorney

Upon the filing of a petition to initiate interest arbitration by the Police Officers Benevolent Association the undersigned was designated to hear and determine the issues at impasse. Hearings were held on June 12, July 18, August 22, October 16, November 13, December 4, 1995 and January 12 and January 22, 1996 at which the parties framed the issues, engaged in mediation, examined and cross-examined witnesses, offered exhibits, argued their respective positions, and concluded with their fair and final offers. Post hearing briefs and reply briefs were submitted.

I. THE ECONOMIC ISSUES.

The Final Offer of the POBA

1. Article 10 - Work Day and Work Week. No change from current language in contract.

a. The normal work day and work week shall be the 8-section schedule for employees working the steady day, evening, midnight schedule. This schedule shall consist of five 8 1/2 hour tours on duty followed by 3 days off, after which the cycle repeats itself. The tours shall commence at a quarter of the hour and end at a quarter after the hour.

2. Article 33 - Salaries and Longevity.

1/1/94 - 4 1/4% wage increase on each step of the salary guide including detectives.

1/1/95 - 4 1/4% wage increase on each step of the salary guide including detectives.

1/1/96 - 4 1/4% wage increase on each step of the salary guide including detectives.

The Final Offer of the City

1. Salary. All steps on the salary guide found at Article 33.A are to be increased as follows:

1994	-	3.75%
1995	-	4.0 %
1996	-	4.25%

2. Longevity. An additional longevity step effective July 1, 1994 is to be added to the schedule found in Article 33.B so that beginning the first day of year 28, an employee would receive 16% longevity.

3. Work Schedule. The City proposes to modify the Agreement to reflect the work schedule in place since November of 1994. The specific modifications are as follows:

a. The City proposes that effective November of 1994, the Agreement provide that line personnel shall work the 15-section schedule consisting of 5 days on followed by 3 days off followed by 5 days on followed by 2 days off,

with each daily tour being 8 hours in length (Article 10.A).

b. The City proposes that as of November of 1994, the work schedule for staff personnel shall be the 21-section schedule consisting of 5 days on followed by 2 days off followed by 5 days on followed by 2 days off followed by 4 days on followed by 3 days off, with each daily tour being 8 hours in length (Article 10.B).

c. The City also proposes that sections C and D of Article 10 be modified to reference the 15-section schedule effective November of 1994 (Article 10.C and D).

d. The City also proposes that Article 18.A and E be revised to reflect the 8-hour daily tour of duty where 8.5 hours is currently indicated.

e. Because terminal leave as set forth in Article 20 is calculated with a formula based upon the work schedule, the City proposes to modify that formula as set forth in A.1.a of that Article to coincide with the new schedule as follows effective February of 1995:

"The number of years of service is multiplied by 5 to obtain the number of calendar days. Convert calendar days to work days by dividing by 15 (reflecting the 15-section schedule) and multiplying by 10 (reflecting days worked in the schedule). Add to this all unused accumulated vacation days and unused accumulated compensatory days. The total number of days is multiplied by the length of the work day (8.0 hours) and the hourly rate of pay for the individual involved."

4. Prescription Drug Insurance. The City seeks modification of the co-pay in the current plan to \$8.00 for brand name drugs and \$4.00 for generic drugs, effective July of 1995 (Article 13.D).

5. Vacation. The City proposes a modification of the existing vacation schedule for new hires effective with the execution date of the Agreement as follows:

During the 1st yr of svc. - 1 day per mo. of employment

During the 2nd-10th yr of svc.- 15 days per year

11 or more years of service - 20 days per year
(Article 11.C)

Additionally, the City proposes that during an employee's final year of service, vacation entitlement, rather than being vested on the first day of said year, would be prorated so that the employee would receive 50% of the last year's entitlement if he/she retires on or before June 30, and the entire year's vacation allotment if the employee retires on or after July 1 (Article 11.B).

6. Terminal Leave. The City proposes two modifications in this area. The first would be that new hires, effective with the execution date of the Agreement, would receive a terminal leave benefit based upon 3 days per year. Current employees would continue to receive the 5 terminal leave days in accordance with the current Agreement (Article 20.A). The second modification is reflected under the work schedule proposal set forth above as 3.e.

7. Supplemental Benefits. The City proposes, effective with the 1995 calendar year, to reduce its contribution to the Union's supplemental benefit fund to \$180 per year (Article 13.F).

* * *

Situated across from lower Manhattan on 14.5 square miles between the Hudson and Hackensack rivers the City of Jersey City with a population of 228,537 is the second largest city in the state. A blue collar working class urban center, it has a substantial degree of ethnic diversity: about half the population is defined as white, a quarter as African-American and about 25 percent identify themselves as Hispanic. The city has some 900 uniformed police employees comprised of supervisory ranks and

officers. The POBA represents the bargaining unit of some 750 police officers. Their last collective bargaining agreement, a 3 year contract, having expired on December 31, 1993, the parties have agreed that the successor contract, the subject of this arbitration, will cover another 3 year period - January 1, 1994 to December 31, 1996.

The basis upon which an interest arbitrator must make a determination is set forth in N.J.S.A. 34:13A-16(g):

The Arbitrator or panel of arbitrators shall decide the dispute based upon a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute.

- (1) The interests and welfare of the public.
- (2) Comparison of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, conditions of employment of other employees performing the same or similar services and with other employees generally.
 - (a) In public employment in the same or similar comparable jurisdictions.
 - (b) In comparable private employment.
 - (c) In public and private employment in general.
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, medical and hospitalization benefits, and other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer.
- (6) The financial impact on the governing unit, its residents and taxpayers.
- (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.

The statute requires the arbitrator to consider all eight listed factors, that mandate having been affirmed in 1994 by the New Jersey Supreme Court which underscored the requirement that "the award should identify the relevant facts, analyze the evidence pertaining to those facts, and explain why other factors are irrelevant." (Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 NJ 71)

THE INTERESTS AND WELFARE OF THE PUBLIC.

At the heart of this impasse lies the schedule. If that deadlock could be resolved it is safe to say there would be no need for this proceeding. A comparison of the rest of the parties' proposals tends to bear this out. The spread between their salary offers over the three years totals 3/4 of 1 percent - 1/2 of 1 % in the first year and 1/4% in the second. The POBA has no proposal other than salary and schedule.

The city's offer does include other items. Apart from the additional longevity step the rest of its proposals are give backs which can be divided into two categories: those affecting all employees and those affecting new hires only. For all employees the city proposes an increase in the co-pay for prescriptions, a modification of the number of vacation days

officers can take in their year of retirement, and a one-half cut in the city's contribution to the union's supplemental fund. Envisioning a two tier system the city seeks to curtail new hires' vacation benefits and reduce their terminal leave. Although it is always perilous to minimize any part of a party's proposal - after all, if it's so insignificant why is it still on the table at this final stage of the process? - the inescapable conclusion is that these items are not driving the dispute. Stealing a leaf from the last presidential campaign: It's the schedule, stupid.

During the past 20 years the Jersey City Police Department has used 2 different work schedules - the 8 section and the 15 section schedules. The term section describes the number of different starting dates in a work schedule based on the number of days in the work cycle. For example, a 5 day on, 3 day off cycle comprises an 8 section schedule. Section starting dates are staggered so that no 2 sections have the same starting date. The 15 section schedule works 5 days on, 2 days off, 5 days on, 3 days off.

The 15 section schedule was used from the 1970's until 1988 when the parties agreed to switch to the 8 section schedule. In November 1994, the city unilaterally implemented a change back to the 15 section schedule where it remains today. This schedule requires police officers to work 243.333 shifts consisting of 8 hour tours for a total of 1,946.66 hours per year. Each officer is given a compensatory day which adjusts the actual work year to 1,938.66 hours consisting of 242.3

shifts. In contrast, the 8 section schedule sought by the POBA produces 228.125 shifts of 8 1/2 hours each for a total of 1,939.06 hours per year. Both schedules result in the same number of hours of work; the POBA's schedule, however, results in 14 less work days.

Contending that the city's imposition of the 15 section schedule in 1994, an act it perceives as both illegal and arbitrary, has had an egregiously adverse impact on the morale of the bargaining unit the POBA concludes that it is utterly incompatible with the interest and welfare of the public. The 14 additional days would not be compensated nor, the POBA notes, will the officers receive any reimbursement for the additional expenses incurred for travel to and from work those extra days. Moreover, the 15 section schedule will provide police officers with only 2 days off between shifts during every other cycle as compared to the 8 section schedule which provides 3 days off, a minimum amount of time it says is essential for police officers and their families to readjust to the hours in which the family normally operates. In the POBA's view, the city is oblivious to the fact that a work schedule is more than just a determination of the start and quitting time; it directly and intimately impacts on the daily life of officers and their families.

Justifying its return to the 8 hour per day 15 section schedule the city asserts it represents a more efficient utilization of manpower, provides for better supervision, builds in economies of cost as opposed to the 8 1/2 hour 8 section

schedule which it maintains inhibits efficient and effective deployment of manpower and engenders serious staffing and scheduling problems. In essence, the city argues that the 15 section schedule provides a better range of public safety services to meet the needs of Jersey City residents.

Testifying on the city's behalf Police Director Michael F. Moriarty reviewed the history of the scheduling changes. In 1988, the city accepted the change to the 8 section schedule because it anticipated two managerial benefits: the additional half hour in the 8 1/2 hour day would provide time for training and it would make it possible to have communication between incoming and off-going shifts at roll call. But it didn't work out that way.

Experience demonstrated that in practice the overlapping shifts turned out to be inefficient. The 30 minutes were split into two 15-minute segments at the beginning and end of every shift, a segment of time much too slim to permit any training. As for head to head relief, it turns out that they were utilized before during and after the 8 section schedule, a standard practice staggering starting and quitting times so all the cops are not coming on or going off duty at the same time. When the early cars come in their relief immediately goes out so they are on the street when the late cars make the switch. The net result: the entire shift never had a 30 minute period during which they could all be trained or a 15 minute roll call when they all could exchange information.

Over the years several studies have been made to determine the most effective deployment of personnel. In 1988, the police director and former Hudson County prosecutor headed a committee of Jersey City police officers to review the operations of the department. Their report resulted in a number of recommendations to improve its efficiency and effectiveness with the 15 section schedule deemed more favorable than the 8 section. In February 1994 the New Jersey Division of Criminal Justice Police Bureau submitted a project report on the Jersey City Police Department's table of organization and work load analysis. It stated that the city:

should review the existing 5-3 work schedule provided for in the collective bargaining agreements. Department executive management personnel acknowledge this shift inhibits efficient utilization of manpower and causes significant staffing and scheduling problems (DCJPB, p.12)

In March 1994, the Operations Division Commander noted in a memo on tour comparisons that supervision by sergeants under the 8 section work schedule did not afford consistency in supervision. Calculations based on this memo indicate that 62.5% of personnel are available 3 days or less in the work cycle. Director Moriarty testified that under the 8 section schedule the entire complement of manpower was divided into 8 equal groups or squads in order to achieve an equal number of officers on every day. Five of those squads worked on any given day but it was not the same 5 - and a sergeant was assigned to only 3 of those squads.

Analysis of this schedule showed that a sergeant was assigned to rotate 100 percent of the time with only 1/8 or 12.5 percent of the officers with whom he worked. Of the other 7 squads he saw only 2 of them on 4 days, 2 of them on 3 days and 3 of them on only 2 days. On the balance of days when those other 7 squads of officers worked they would have different supervisors on different days. Five of the 8 squads did not have a sergeant with whom they worked all the time but reported to 3 different supervisors during their 5 day cycle. The only way this dilemma could be resolved under the 8 section schedule would be to have 1 sergeant assigned to each squad. Not only would this triple the number of sergeants needed but it would create situations in which the number of officers being supervised in each squad would be very low. Moreover, with 5 of the 8 squads working together there would be 5 sergeants on duty at the same time.

Compare this to the 15 section schedule. Divisible by 3, manpower can be separated into 3 squads with 2 squads working and 1 squad off on any given day. The arithmetic works out so that 1 sergeant is assigned to a squad 100% of the time. That squad comprising 50% of the manpower on duty, the sergeant supervises half the personnel 100% of the time and the other half 50% of the time. Every cop thus has a sergeant with whom he works every day and a second sergeant whom he sees half the time. And finally because there is a sergeant for every third of the total manpower the span of control or the number of officers for whom that sergeant has the responsibility to supervise becomes

much more reasonable.

Although the 1,939 annual work hours is the same under either schedule the 15 section schedule adds 14 additional shifts per officer and by using 3 sections provides for deployment of 66.6 percent of personnel every day. Assume the average district has 120 police officers who should be deployed to match workload demand. According to Director Moriarty, that's 20 percent on midnights, 35 percent on days and 45 percent on evenings. In each district 15 to 20 officers are assigned to Community Service Officer posts or assigned out to special details leaving less than 100 officers available for squad assignment.

The following chart compares the use of 96 officers under the current 15 section schedule utilizing 3 squads and the 8 section schedule in place prior to November 1994 which utilized all 8 squads. It bears underscoring that in order to implement squads under the 8 section schedule the number of sergeants would have to be tripled to obtain the same level of continuity of supervision within each squad.

Sample District

	<u>15 Section</u>	<u>8 Section</u>
Total officers	96	96
Total Sgts	9	24
Manpower allocation		
Midnight Tour 20%	24	24
Squads	3 (8 per squad)	8 (3 per squad)
Sgts	3	8
Day Tour 35%	21	24
Squads	3 (7 per squad)	8 (3 per squad)
Sgts	3	8
Evening Tour 45%	51	48
Squads	3 (17 per squad)	8 (6 per squad)
Sgts	3	8

Demand for police services fluctuates throughout the year by season and day as well as time of day. It is highest in the summer months. For example, demand for patrol car assignments in July is traditionally some 40 percent higher than in February. Unfortunately, this demand coincides with a season in which most police officers want their vacations. There is also a variance of calls during the week, Sunday being the least busy as opposed to Friday, the busiest. What this means is that all things being equal it would be ideal to have more police officers on duty in July and on Fridays rather than Sundays.

The 15 section schedule allows for staffing of 3 sections per district with 1/3 of available personnel assigned to each; 2 sections or 66.6 percent of the available officers working on any given day. The 8 section schedule requires that 12.5 percent of personnel for that tour be assigned in each of

the 8 sections, so that a maximum of 62.5 percent (5 x 12.5) of personnel for a particular tour would be working on days of peak demand. Hence, by increasing the manpower on each tour on each day by 4.1% the 15 section schedule makes available additional officers for peak workload days as well as for department programs such as community policing.

The POBA rejects Director Moriarty's data and the city's conclusions. Relying on the testimony of 2 supervisors, both experienced veterans of the Jersey City police force, Sgt. Gerard McCarthy, a former police director himself, and Sgt. Wesley Calloway, the POBA maintains the benefits of the 15 section schedule are more apparent than real. Weigh their opinions garnered from first hand experience in the department, the POBA urges, against that of Director Moriarty who has been on the job for only 2 years with absolutely no prior experience in police work. Based on the sergeants' testimony, the POBA contends:

- No evaluation by supervisors has occurred since the implementation of the 15 section schedule.

- There is no evidence to support the contention that training could not occur under the 8 section schedule, the POBA insisting the city knew in 1988 that training such as in firearms, sexual harassment and community relations could not be done in 30 minutes in any event.

In sum the POBA asserts that the 15 section schedule has produced operational problems such as gaps in coverage, increase in overtime, officers of similar rank

supervising one another, and problems with meeting minimum manpower requirements. It relies on the testimony of Sergeant McCarthy who having worked under both schedules said that the 8 section schedule resulted in better continuity in supervision, more orderly transition between shifts and more adequate time to review the day's work. It's all smoke and mirrors, the POBA says, referring to the purported benefits to be derived from the 15 hour schedule. What it really is, the POBA concludes, is a bald attempt by the city to save money while extracting 14 more days of work from the rank and file police officer.

The evidence submitted by the POBA in favor of the 8 section schedule is less than compelling. The squad system proposed by Sergeant Calloway would require 4 sergeants per tour to coincide with the four squads per tour per district. So, instead of 66% of the manpower assigned every day the system would alternate between 50% and 75% of the manpower. The sergeant would be supervising 3 other squads but see 2 of them on 3 days, 60% of the time, and one of them only 2 days, 40% of the time. By contrast under the existing 3 squad system each sergeant supervises his squad consisting of 1/3 of all the men 100% of the time and each of the other 2 squads 50% of the time.

Using the sample district hereinbefore set forth, under the 15 section schedule with a 3 squad system there would be 1 sergeant for every 17 patrolmen. Under Sergeant Calloway's system, each of the 4 squads would consist of 12 patrolmen, each with its own sergeant. Under the 15 section model,

34 men would work each evening supervised by 2 sergeants. Under Sergeant Calloway's model, on the first night 36 men would work with 3 sergeants and on the next night 24 men would work with 2 sergeants.

During the summer of 1995, when Sergeant Calloway and Sergeant McCarthy testified, it was true at that time there were gaps in the implementation of the 15 section schedule. However, the most up to date evidence indicates that the 3 squad system is now being implemented throughout the city. The POBA also misperceives the evidence concerning evaluations, one goal of the continuity of supervision engendered by the 15 section schedule. According to Director Moriarty, evaluations have already been put in place for newly hired officers and those reassigned to different duties. Prior to November 1994, he said, evaluations had not yet begun but at present a full evaluatory system is in the process of development and implementation.

The evidence persuasively shows that the 15 section schedule provides more equal and efficient distribution of manpower and more effective use of supervisors with continuity of supervision, all without increasing the need for additional manpower. In short, the 15 section schedule benefits the interest and welfare of the public more than the 8 section schedule.

COMPARISONS

a. Other Police Departments

Jersey City is one of the Big Six cities in the state. The following chart compares their total direct compensation and average hourly rate over a 25 year career span. Total direct compensation is defined as the total monies received by a police officer for base salary, longevity, holiday pay, uniform allowance and any stipends guaranteed to the entire unit.

<u>Entity</u>	<u>Total Direct Compensation/Rank</u>	<u>Average Hourly Total Direct Compensation/Rank</u>
Jersey City	\$1,201,655 (1)	\$29.63 (1)
Camden	1,020,076 (6)	24.45 (4)
Elizabeth	1,080,281 (5)	24.00 (5)
Newark	1,175,637 (2)	27.23 (2)
Paterson	1,175,142 (3)	25.74 (3)
Trenton	1,109,325 (4)	23.31 (6)
Avg. excluding Jersey City	\$1,112,092	\$24.95
Jersey City as a % of Avg.	108%	119%

This chart puts Jersey City squarely in the number one position. The POBA however argues that it does not paint the entire picture. Jersey City, it says, falls short in a number of key areas. For example, its rate of longevity, 6%, is lower than the average rate, 6.7%, in the Big Six. Newark averages 8% and Trenton, 7.5%. Jersey City has the second lowest uniform allowance, \$580 per year. In contrast, Trenton pays \$1,000 and Paterson, \$795. Paterson police officers also receive a 3% night differential equal to about \$1,500 and they work less hours per

year.

Even more important, the POBA says, is that the wage increases of those of the Big Six which have settled contracts covering the years 1994 through 1996 are higher than that sought by the POBA. Elizabeth had a 6% across the board increase for those years. Newark gave 5% in all three years with longevity increases boosting senior police officers to 6.55% in 1995 and 5.5% in 1996. Trenton and Paterson show 5% and 4.5% increases respectively for 1994. If this trend continues the PBA concludes that Jersey City will quickly fall behind its sisters in the Big Six.

The POBA's reliance on all different aspects of remuneration is smorgasbord-like, picking and choosing those which appeal to it. It separates salary, holiday, longevity and other pay such as uniforms so that not only is the entire picture not shown but it beclouds it as well - some municipalities, for instance, include holiday pay with either salary or longevity. An example of the confusion this type of comparison engenders is found in the POBA's statement that because Jersey City police reach maximum pay after 7 years, while Newark's reach one peak after 10 years and another after 24 years of service, that a Jersey City cop remains at the same step for 19 years of a 25 year career. The POBA thus infers that its members are suffering by comparison.

Yet only when the entire career analysis is done does it become apparent that from year 7 through 10, in 1994 for example, a Jersey City cop earns \$5,000 more per year than

his Newark colleague, and for the rest of the time he earns \$3,700 more. In effect, what the POBA raises as a factor in its favor simply means that a Jersey City officer reaches a higher top pay many years earlier than his Newark colleague.

Only by using a 25 year period can the pitfalls of inaccurate conclusions be avoided. The same method as used for determining the total direct compensation can also provide a meaningful picture of what an employee's average annual earnings are over a 25 year period. Since different municipalities reach top pay at different times and offer longevity at different steps, the average over a 25 year period gives us a fairly accurate take on a true comparison. Here again Jersey City comes out on top. Jersey City is also number one in offering the best longevity program over a 30 year period. The average longevity earned in each year of a 30 year career is as follows:

Newark	8.56%
Elizabeth	5.0%
Trenton	6.23%
Paterson	5.73%
Camden	N/A
Jersey City	8.96%

In sum, it is fair to conclude that Jersey City in comparison with the Big Six cities has a higher career salary and a higher average longevity.

The following chart compares Jersey City's total direct compensation and average hourly rate over a 25 year career span with the other police departments in Hudson County:

	<u>Total Direct Compensation/Rank</u>	<u>Average Hourly Total Direct Compensation/Rank</u>
Jersey City	\$1,201,655 (3)	\$29.63 (6)
Bayonne	1,068,783 (11)	24.74 (11)
East Newark	1,016,109 (12)	21.06 (13)
Guttenberg	1,141,279 (9)	30.68 (3)
Harrison	1,137,690 (10)	29.16 (9)
Hoboken	1,166,489 (6)	30.26 (4)
Hudson County	1,010,567 (13)	22.32 (12)
Kearny	1,199,625 (4)	28.03 (10)
North Bergen	1,149,294 (8)	30.05 (5)
Secaucus	1,337,620 (1)	29.42 (7)
Union City	1,240,523 (2)	31.54 (1)
Weehawken	1,154,191 (7)	29.40 (8)
West New York	1,169,288 (5)	30.89 (2)
Avg. excluding Jersey City	\$1,149,288	\$28.13
J.C. as a % of Avg.	105%	105%

The union however compares the base salary for Jersey City officers with the rest of Hudson County. It points out that the average base salary in the county for an officer with one year of service was \$28,572 in 1994. In comparison police officers with one year of service in Jersey City will earn \$27,950 if the POBA's offer is accepted and \$27,816 under the city's final offer. After 5 years of service, the average base salary in the county is \$43,483. Under either party's final offer Jersey City police officers with the same length of service will receive about 11% less. With 13 years of service, a length of employment the POBA uses because it says it is generally deemed to be the midpoint of a police officer's career, a police officer will earn a total of \$52,579 comprised of a base salary of \$49,056, longevity of \$2,943 and \$580 for a uniform allowance. This compares quite unfavorably to other Hudson County communities, the POBA asserts. For instance,

both Secaucus and Union City have a higher compensation package with Union City steadily overtaking Jersey City.

The POBA shows that wage increases received by police officers in the county will result in all of them moving up on Jersey City. Nine municipalities averaged 5.44% for 1994 and 8 averaged 4.75% in 1995. In 1996, Weehawken police officers will receive 7.5%, West New York police will receive 4.5% and Hoboken police officers will receive 4%. Overall, Hoboken and Weehawken obtained boosts of 13% and 14% respectively. The POBA also says the average increases received by police officers in 14 other municipalities throughout the state for the years 1994-1996 are 4.79%, 5.5% and 4.79% respectively.

Here again in its comparisons the POBA discriminates about its choice of data in a way that tends to skew the figures against the city. Yet assuming its numbers for 13 years of service are correct, Jersey City remains in third place in the county. Let's take a longer view: using average annual longevity earnings based on 30 years of service and salaries based on 25 years, the following table shows that even if the city's offer were to prevail Jersey City cops would be the beneficiaries of the highest annual longevity payments per year and the second highest annual average salary in the county falling behind only Secaucus.

	<u>Annual Average Longevity</u>	<u>1994 Annual Average Salary</u>	<u>1995 Annual Average Salary</u>	<u>1996 Annual Average Salary</u>
Bayonne	5.2%	39,743	N/A	N/A
E. Newark	3.06%	39,614	41,594	N/A
Harrison	5.13%	41,606	43,270	N/A
Kearny	6.3%	43,838	N/A	N/A
N. Bergen	7.66%	40,021	42,852	N/A
Secaucus	6.0%	51,051	53,604	N/A
*Union City	13.53%	45,309	N/A	N/A
W. New York	6.66%	N/A	N/A	N/A
Jersey City	8.96%	45,549	47,371	49,385

*Union City pays for holidays within longevity.

b. Other City Employees

The POBA charges that the city has treated its other employees better. It says the city has granted bonuses and merit increases to some 116 union workers in addition to increases obtained under their collective bargaining agreement. Combining these boosts swelled their average rate of increase to 6.14% with an average bonus of 2%. If the total of bonuses and merit increases paid by the city to the 116 employees is taken together, the POBA asserts the average annual salary raise was 8.14%.

The POBA continues: Look at the increases the city granted to the Supervisors Association and to the bargaining members of the Supervisors Association and the Public Employees, Local 245, the former obtaining a \$1,050 boost to their base salary in 1994 and \$1,450 in 1995; the latter, a \$725 raise in 1994 and \$1,000 in 1995.

The calculations and conclusions drawn by

the POBA concerning other bargaining units and employees in the city do not withstand scrutiny. Union increments for Local 245 and the Supervisor's Association on the average base salary were 2.9% on July 1, 1993, 2.9% on July 1, 1994 and 4.0% on January 1, 1995. The raises for management employees were 0% for 1993, 2.0% for 1994 and 2.0% for 1995. Local 246 and city have not agreed to a contract; the offer made to that union is identical to the settlement of Local 245.

The merit increases and bonuses paid to some of the employees amounted to only 0.21% for the entire rank and file bargaining unit in 1995 and nothing in any prior year. Applying the same arithmetic to the Jersey City Supervisor's Association, the bonuses and merit increases equalled .59%. As for management employees, it added an additional .675% for 1995. All white collar employees who formerly worked a 35 hour week have agreed to add one-half hour per day to their work week. They have all accepted the modified prescription co-pay. None get a supplemental benefits fund and all have salaries well below those paid to the POBA.

The firefighters' locals in the city have also settled. Each unit received 3.75% for 1994, 3.9% for 1995, and 3.9% for 1996. They have agreed to accept a curtailment of their supplemental benefits fund, accepted the prescription co-pay adjustment and have agreed to a reduction in vacation and terminal leave for new hires. The POBA counters that firefighters cannot be accurately compared to police officers. Firefighters have a wholly

different schedule, work different hours and when on duty, the PBA notes, they do not work their entire 24 hour shift as compared to police officers who are engaged in police functions for their entire tour. Anyway, the POBA reasons, by offering it more than the firefighters and the rest of the city employees the city has acknowledged that police officers need to be treated differently than them.

These two arguments are not especially convincing. Whether cops work harder than firefighters is arguable at best - and as productive as a debate over whether Hank Aaron or Stan Musial was a better ballplayer. Equally questionable is the proposition that the city has implicitly agreed that police officers are entitled to more than all others by virtue of its larger offer to them. Apart from perhaps reaffirming the lament that no good deed goes unpunished, this would mean the city is damned if it does and damned if it doesn't: if it offers less it is guilty of treating police officers worse than the rest of the work force, and if it offers more it proves the POBA is right.

Rhetoric aside, the following table is the most accurate reflection of the patterns of settlement for the other city bargaining units:

	<u>Date</u>	<u>Increase</u>
1. J.C. Firefighters (Local 1066)	1/1/94	3.75%
	1/1/95	3.9%
	1/1/96	3.9%
2. J.C. Fire Officers (Lcl 1064)	1/1/94	3.75%
	1/1/95	3.9%
	1/1/96	3.9%
3. J.C. Public Emp. (Local 245)	7/1/93	2.9% (\$725)
	7/1/94	2.9% (\$725)
	1/1/95	4.0% (\$1,000)
4. J.C. Supervisor's Assn.	7/1/93	2.9% (\$1,050)
	7/1/94	2.9% (\$1,050)
	1/1/95	4.0% (\$1,450)
5. Int'l. Union of Operating Eng. (Local 68-68A)	7/1/93	2.9% (\$890-950)
	7/1/94	2.9% (\$890-950)
	7/1/95	2.9% (\$890-950)
6. J.C. School Traffic Guards	9/1/93	1.9%
	9/1/94	3.1%
	9/1/95	3.4%

c. Other Employment

According to a New Jersey Department of Labor survey the average annual starting salary in New Jersey in 1994 for positions requiring a degree were as follows:

<u>Academic Major</u>	<u>Salary (1)</u>	<u>Net Working Hours Per Year (2)</u>	<u>Hourly Salary</u>
Accounting	\$27,000	1,904	\$14.18
Computer Science	30,000	1,904	15.76
Electrical Engineering	34,000	1,904	17.86
General Business Admin.	26,000	1,904	13.66
Marketing/Sales	25,000	1,904	13.13
Average of the Above	\$28,400	1,904	\$14.92

Based on a 40 hour work week, 8 hour day, with 10 vacation days and 12 holidays the survey shows virtually no change in private sector starting salaries over the past 2 years. The POBA argues that the use of this survey would imply that none of the city police officers have earned college degrees and that reference to it in any event is pointless. The POBA is undoubtedly correct in reminding us that many police officers do have college degrees and is probably also right in arguing that equating cops to such other employment has little probative value. Still, the interest arbitration statute requiring such comparisons, some value is gleaned from noting that police officers do have guaranteed step increases, enjoy an excellent pension plan, bear little if any risk of a layoff and work fewer hours per year. To be sure, their work is more dangerous and there are people who would not or could not do their job for any amount of money. Nevertheless, for whatever slight fruit it bears the comparisons are there.

According to the Bureau of National Affairs the average private sector wage increase in New Jersey in 1994 was 3.5%; nationally, it was 2.9%. A report compiled by the New Jersey Business and Industry Association pegs the statewide increase for all salaried employment in 1994 at 3.6%. The past 2 years have also witnessed modifications in health insurance coverage in the private sector, be it premium contribution or curtailment of coverage or the imposition of some form of managed care.

OVERALL COMPENSATION

Like virtually all other police departments, Jersey City provides a fully paid health insurance program. But it stands out in also providing an additional \$360 per year for each employee, the monies paid into a union supplementary fund for purchase of additional benefits. No other municipality in the Big Six or in Hudson County has such a fund.

The supplemental fund can of course be used by the union to purchase additional coverage such as dental. However, the fact of the matter is that the city provides a dental benefit better than 8 of the municipalities in the county and arguably better than Bayonne, Harrison and Secaucus. Jersey City is the only municipality which provides both a closed plan and an open plan. Although the closed plan limits the choice of dentists it generally provides greater coverage with less out of pocket expenses, with no yearly maximum.

Bayonne, Harrison and Secaucus do offer a level of dental coverage rivalling that of Jersey City; but Harrison and Secaucus have higher yearly maximums and both require \$25 deductibles which Jersey City does not. Neither of these two municipalities provides a closed plan so to a certain extent their overall dental coverage does not measure up to Jersey City. Bayonne also provides a higher yearly maximum and with the lack of a closed plan, it too would appear to be inferior to Jersey City's. A comparison of the level of coverage in the Big Six clearly shows that none compare to Jersey City's open plan. As for the closed

plan, Paterson does offer an identical one, but overall the benefit level for dental coverage provided in Jersey City is clearly superior to the other Big Six cities.

The city's proposal anticipates a modification of the prescription co-pay from the current \$5 per prescription to a plan in which generic drugs would be reduced to \$4 while brand name drugs would be subject to an \$8 co-pay. The program would continue to cover all employees and their families. Because the city is self-insured the inducement to use generic drugs would presumably result in significant savings. Employees who choose the generic alternative will save on the co-pay and the city will save on the cost difference. If employees opt for a brand name then the only change from current cost is that the city will be charged \$3 less with the employee paying that additional sum. Among the Hudson County municipalities, Guttenberg, Secaucus, Union City and East Newark have no separate prescription coverage at all and among the Big Six co-pays are the rule with Newark offering a spread of \$1.50 co-pay for generic and \$5 for brand names.

Vacations are covered by Article 11 of the collective bargaining agreement. All employees receive 30 days after 5 years of service, the most generous vacation allotment in the Big Six or Hudson County. Hoboken offers 40 days after 15 years, but it does not pay anything additional for holidays, that amount being included in the base pay. Most Hudson County municipalities provide 20 to 25 days and then only after 15 or 20 years. Among the Big Six, vacation levels are not reached until

between the 15th and 25th years of service. Camden provides 25 days in the 20th year of service; Elizabeth gives 25 days after 15 years of service; Paterson offers 28 days after 15 years and Trenton offers 25 days in the 25th year of service.

The city proposes reducing the allotment for new hires to 15 days after their 1st year of service and 20 days after their 10th year. This would appear to put them slightly below average but above average as far as the length of time needed to reach the maximum. The city's other vacation proposal seeks to curtail the number of vacation days which can be taken in the year of retirement. Police officers who have retired on January 1st have been paid for the entire year's vacation of 30 days even though they were on the payroll only 1 day. At a cost of about \$25 an hour the city maintains that this payout of some \$6,000 is a windfall which it can hardly afford.

Its proposal would amend the collective bargaining agreement so that if an employee retires in the first half of the year the entitlement would be only 1/2 the year and if the employment is subsequent to July 1 the full entitlement would be paid. This situation has arisen, according to the city, as an unintended consequence of a contractual provision designed to permit employees to use vacation at any time during the calendar year. That practice would continue but this loophole, as the city perceives it, would be closed.

Holidays and bereavement leave are fairly uniform throughout the county and the Big Six. Jersey City provides

14 holidays while the rest of the county ranges from a low of 9 in Bayonne to a high of 15 in Secaucus. Almost all others offer 13 or 14 days. Jersey City allows time off for bereavement leave from the day of death until the funeral, not to exceed 5 calendar days. Most of the other municipalities in the county and Big Six are similar, some providing unlimited days off from the day of death until the day of the funeral.

The uniform allowance is the one benefit which is inferior to that provided in other municipalities. The average in Hudson County is \$718 compared to \$580 in Jersey City. Only 2 of the 11 Hudson County police departments - Weehawken and Harrison - provide lower amounts. In the Big Six the only one lower than Jersey City is Elizabeth at \$500. Trenton pays \$1,000, Newark \$850 and Paterson \$775. The figures for Camden, still involved in negotiations, are not available.

Terminal leave is covered in Article 20 of the labor agreement. Section A provides:

All police officers who retire after execution of this Agreement will receive a mandatory cash payment in lieu of time off for the number of years of service to the City based upon five (5) calendar days for each year of service. All Police Officers who retire after said date will also receive a mandatory cash payment in lieu of time off for any unused vacation time, to a maximum of the time to which the Police Officer is entitled. In addition to the above, all Police Officers will receive a mandatory cash payment for all unused compensatory time.

This provision is unique in providing terminal leave and unlimited banked time unrelated to unused sick

time, the reason presumably stemming from the fact that the city permits absence for illness with no loss of pay for up to a full year. All other municipalities in the county and the Big Six limit terminal leave to either a maximum - for example, 1 year - or peg it to unused sick leave. Instead of 5 calendar days the city proposes 3 calendar days for each year of service for newly hired police officers. This reduction has already been negotiated with both the firefighters and fire officers in 1992.

The POBA replies that terminal leave benefits are more generous in municipalities such as Union City, Harrison and Hoboken; for example a police officer with 25 years of service in those cities is entitled to payment of 1/2 of accumulated sick leave with a maximum of 15 days per year. Hence they would be entitled to 187.5 days compared to a Jersey City officer who would be entitled to 125 days. In Secaucus a police officer reaches 125 days of terminal leave in 10 years compared to the 25 years required here. Nevertheless, all these municipalities have limitations tied to sick leave and only appear more favorable than Jersey City if the employees use few if any sick days.

The contract provides for full reimbursement for courses which are part of a degree in police science, criminal justice, or law. Trenton, Camden and Newark offer no educational reimbursement or incentives. Paterson provides \$22.50 for each credit hour earned in criminal justice administration with a maximum of \$2,500 per year. Elizabeth offers full reimbursement for all police related courses.

In comparison to the rest of the county Jersey City has one of the better educational provisions. Bayonne, East Newark, Harrison, Hoboken and Weehawken offer none. The best educational reimbursement benefit is provided in North Bergen where the attainment of a degree in political science or criminal justice results in an addition to the base salary of 1.5% for an associate degree, 3% for a bachelor's, 4% for a masters and 5% for a doctorate. Union City adds percentages to the base upon attainment of a police science degree: 2.5% for an associate degree and 5% for a bachelor's degree. West New York pays \$1,200 annually for the entire bargaining unit plus \$2 per credit for courses leading to a police related degree. Guttenberg pays \$10 per credit for such a degree and Kearny, \$25 per credit and \$40 annually toward the cost of books and materials.

A review of the Jersey City police officer's overall compensation and fringe benefits compels the conclusion that they are most definitely among the best paid in the Big Six and the county - and arguably the best. No other bargaining unit has a supplemental fund. Nobody beats them on health and dental insurance; their vacations are the most generous; their educational reimbursement stands out in the county as well as among the Big Six and their longevity of 14% in the 25th year of service is surpassed by very few municipalities.

STIPULATIONS OF THE PARTIES

The parties have entered into the following stipulations:

1. P.O.B.A. witness, Francis McEnerney's testimony will be regarded as expert testimony. (Tr. Vol. 1, p.8).
2. P.O.B.A. witness, Mark Parnes' testimony will be regarded as expert testimony. (Tr. Vol. 3, p.9).
3. The Curriculum Vitae of Francis McEnerney and Mark Parnes. (Tr. Vol. 1, p.8) (Exh. A-1(a), A-1(b)).
4. Exhibit A-4. (Tr. Vol. 5, pp. 46-47).
5. This Interest Arbitration is governed by N.J.S.A. 34:13A-16(g) and not the revised Interest Arbitration law passed by Governor Christine Whitman in January, 1996. (Tr. Vol. 6, p. 33).
6. If approved by PERC, the Arbitrator's Award shall be simultaneously released to the parties at the time it is released to PERC. (Tr. Vol. 6, p. 150).

LAWFUL AUTHORITY OF THE EMPLOYER

In preparing its budget each year Jersey City, like all New Jersey municipalities, compiles a CAP calculation by listing total appropriations less exceptions to the CAP. Since 1993 the city has never spent up to its CAP limit. In that year the city was under CAP by \$1.1 million, in 1994 by \$1.53 million and in 1995, by \$2 million. In 1996 the proposed budget is in excess of \$5 million below the maximum allowable increase of 3%.

The POBA stresses that the difference between the salary increases proposed by the parties is 3/4% or

about \$635,000 over the 3 contract years. Hence, it concludes that the city can meet the POBA's final offer without approaching the CAP ceiling.

Conceding that it has never argued that the CAP limitation prevents it from paying for the union's proposal the city argues that the POBA is setting up a straw man with this statutory standard. The CAP issue, it says, is a non-issue in this proceeding; it would not be exceeded by either proposal. The city makes a point: just because you have a credit limit does not mean you should spend it unless you know how and when you can pay it back.

FINANCIAL IMPACT ON THE GOVERNING UNIT, ITS RESIDENTS AND TAXPAYERS

The following table illustrates that Jersey City's population ranks below Hudson County and the State of New Jersey in all demographics pertinent to a person's economic ability:

	<u>Jersey City</u>	<u>Hudson County</u>	<u>New Jersey</u>
<u>Income</u>			
Per Capita Income	\$13,060	\$14,714	\$18,714
Median Household	29,054	30,917	40,907
Median Family	32,785	35,350	47,589
<u>Educational Attainment (Persons 25 Years or Older)</u>			
High School Graduate	27.4%	64.1%	76.7%
College Graduate	15.0%	19.7%	24.9%
<u>Persons Living Below the Poverty Level</u>			
Number of People	42,539	81,171	573,152
% of Population	18.6%	14.8%	7.4%
<u>Households Receiving Public Assistance</u>			
# of Households	82,381	208,739	2,794,711

# Receiving Assistance	9,997	20,043	159,683
Percent	12.1%	9.6%	5.7%

Although not yet adopted, the city's 1996 municipal budget has been introduced in the amount of \$280,270,086. The following table reflects the increases in the municipal budget since 1992:

<u>Year</u>	<u>Introduced</u>	<u>Adopted</u>	<u>As Amended</u>
FY 1992	\$264,622,379	\$254,877,175	\$263,382,713
FY 1993	\$280,558,687	\$280,263,514	\$288,894,176
FY 1994	\$274,084,414	\$278,986,031	\$286,667,632
FY 1995	\$271,513,530	\$286,843,970	\$297,550,577
FY 1996	\$280,270,086		

For the last 6 years Jersey City has suffered large decreases in its assessed value, primarily from tax appeals from commercial and industrial property owners and from owners of undeveloped waterfront property. The following table illustrates that it gives no sign of abating:

<u>Budget Year</u>	<u>Assessed Value</u>	<u>Dollar Difference</u>	<u>Percentage Change</u>
1990	6,210,280,351	(\$354,525,673)	(5.40)%
1991	6,017,162,779	(\$193,117,572)	(3.11)%
1992	5,763,487,657	(\$253,675,122)	(4.22)%
1993	5,609,565,587	(\$153,922,070)	(2.67)%
1994	5,454,468,448	(\$155,097,139)	(2.76)%
1995	5,317,292,056	(\$137,176,392)	(2.51)%
1996 (Est)	5,168,560,189	(\$148,731,867)	(2.80)%
	Total	(\$1,396,245,835)	(21.27)%

The loss in ratables increases the tax rate because it is the number the total tax levy is divided by to achieve the rate. As the assessed value shrinks, the tax rate will increase, unless the levy also decreases. The tax rate is the

changing factor for most individual taxpayers because their assessments don't change year after year. Hence, the taxpayer experiences a tax increase even though no additional taxes are being levied in total. The only way to avoid a tax increase is to decrease the levy. The following table reflects the total levies and tax rates since 1989 and the impact on the tax bills for 3 homes that have different assessments:

<u>Year</u>	<u>Total Levy</u>	<u>Tax Rate</u>	<u>Tax Bill on Home Assessed at \$100,000</u>	<u>Tax Bill on Home Assessed at \$125,000</u>	<u>Tax Bill on Home Assessed at \$150,000</u>
1989	207,209,515	\$3.157	\$3,157	\$3,946	\$4,736
1990	223,250,889	\$3.595	\$3,595	\$4,494	\$5,392
1991	221,341,078	\$3.679	\$3,679	\$4,599	\$5,519
1992	224,630,729	\$3.898	\$3,898	\$4,873	\$5,847
1993	209,378,359	\$3.733	\$3,733	\$4,666	\$5,600
1994	188,485,844	\$3.456	\$3,456	\$4,320	\$5,184
1995	219,336,069	\$4.125	\$4,125	\$5,156	\$6,188

Anticipating that the 1996 assessed value of property will continue to contract, the city is reducing the amount of the municipal portion of the levy to limit the increase taxpayers will have to pay on their tax bills. It is unknown at this time what will happen to the levy requirements of the county and school district. However, it is known that because the Jersey City School District is categorized by the state as a "special needs district", the state does not permit a levy decrease for the school portion of the total levy.

In 1988, Jersey City completed its revaluation of all assessed property in the city, increasing the assessed valuation by 600%, from \$812,071,352 in 1987 to

\$5,681,165,637 in 1988. The city had not done a revaluation since 1970. In 1989 a reassessment was done on commercial properties in the city in an effort to reduce the tax burden of residential property taxpayers. That, along with the fall-out of the real estate market during the recession, led scores of commercial property owners to appeal their tax assessment. As real estate values continued to plummet, the number of tax appeals on commercial and development property skyrocketed, leaving the city with the task of refunding large amounts of taxes paid on properties that received successful tax appeals.

This situation has resulted in a two pronged fiscal problem. First, since each successful appeal results in a reduction of ratables, it has the consequence of creating an increased tax rate. Additionally, however, the city must also refund the prior overpayments of taxes to property owners. Incapable of funding the large amount of these refunds in the current operating budget in each year in which they had to be made, the city passed emergency authorizations for the appeals and raised money through the authorization of tax appeal refunding notes.

Since 1989, the city has had to sell \$43.4 million in tax appeal refunding notes, which are paid through debt service over a 5 year period, thereby increasing the amount of money being raised by taxation in the future. As of June 30, 1995, the city still has \$24.3 million of these notes outstanding. It is anticipated that Jersey City will have to continue to refund millions of dollars of successful tax appeals through the

authorization of refunding notes for a number of years. In the introduced 1996 budget, servicing this debt alone requires an appropriation of \$5.9 million in principal and interest.

The State of New Jersey sets the parameters by which municipalities and counties can incur long term debt through the selling of bonds and notes. The Local Bond Law also sets a limit on debt a municipality can incur without intervention from the State. The debt limit for a municipality is 3.5% of its net debt as a percentage of the municipality's averaged equalized valuations for the past three years.

Jersey City currently exceeds its debt limit. Its net debt at June 30, 1995 is \$262 million, in excess of \$32 million of the statutory debt limit percentage. Two factors contribute greatly to this predicament: First, as the city's assessed valuation continues to decline, so does its equalized valuation. That affects the city's debt limit. Secondly, when the city changed its operating year to one that mirrors the state's operating year it was required to bond for expenses in its transition budget that the state usually funded through state aid. Fiscal year adjustment bonds were \$128 million. In 1991, Moody's Investor Service downgraded the city's bond rating due to the issuance of the fiscal year bonds.

In its daily rating recap, Moody's wrote on May 1, 1995:

Historically, the city has been plagued by financial instability revealed in a trend of fiscal imbalance. The city continues to face financial difficulties. Efficiency efforts

include the reduction of personnel by 14% since 1992. While recent year-end results gained support from one-shot revenue such as monies derived from tax lien sales and utility surpluses, the 1995 budget includes a substantial, \$20 million or almost 30% increase in the property tax levy...

The sale of \$128 million in fiscal year adjustment bonds in 1991 significantly increased the city's debt. The city's debt burden is high according to Moody's medians and exceeds the state's debt limits for municipalities. City officials indicate their plans for additional debt issuances are to keep new debt service payments in line with current maturities. Maintenance of infrastructure for this aging urban center thus remains a challenging issue.

The city expends \$62,095,803 for police department operations. The following table shows that while the city has reduced its appropriations in all other departments, police expenditures have increased:

<u>Year</u>	<u>All Other Departments</u>	<u>Police Department</u>
1993	\$76,813,481	\$51,924,073
1994	\$86,205,992	\$55,360,346
1995	\$79,772,631	\$59,797,025
1996	\$71,900,406	\$62,095,803
\$ Difference 96/93	(\$4,913,075)	\$10,171,730
% Difference 96/93	(6.4%)	19.6%

Maintaining that the financial picture of the city is not quite so bleak - indeed, it says the city's finances are improving every year - the POBA submits the following arguments:

- Because the annual budget for the past 4 years has been

fairly consistent, the city has not been forced to raise taxes or local revenues. Consequently, the city's taxpayers have not been required to shoulder any greater burden. In fact, the POBA asserts the taxpayers have saved money. If the taxes on a house assessed at \$125,000 had remained constant in 1992, the taxes paid would have been \$4,873 x 4 years (1992-1995) or \$19,492, as compared to the \$19,015 actually paid. The POBA thus reasons that the city has reduced taxes over the past 4 years.

- The city has been developing new shopping and business areas and projecting growth in the waterfront area. This development is a reliable indicator of the confidence of the business community's willingness to invest in the city's future.

- By using tax abatements the city has successfully attracted investors to build on or renovate existing properties, a method commonly used in large urban communities to enhance growth. The developer makes PILOT payments (payments in lieu of taxes) thus providing funds to the city with the assurance that the properties will eventually be included in the ratable tax base. In 1992 the city collected \$16.5 million in such payments, an amount that swelled to \$21.1 million in 1995, an increase of 28.4%. In 1996 the city anticipates receiving another \$21 million in lieu of tax payments. Clearly, the POBA concludes, this program encourages long term growth, expansion and development - a substantial benefit to the taxpayers and residents.

- The tax collection rate in the city has improved from 80.6% in 1991 to 94.1% in 1995, a 14% improvement which benefits

the city's taxpayers in two ways: the amount to be raised for the following year's reserve for uncollected taxes decreases, and the additional monies collected can be applied to surplus. Because the collection rate has been better than 90% in the last 3 years, the \$27 million appropriation for the reserve for uncollected taxes in 1993 has been cut better than half, to \$13 million in 1996.

- The city has other sources of funds besides tax collections; for example, revenues generated from licensing fees and collections. And, of course, the POBA stresses the large amount of aid the city receives from the state. Indeed, the state aid totalling \$98 million comprises more than half of the city's non-tax revenue. With the enactment of CMPTRA legislation in 1995 the city will receive almost 1/2 of that amount in one lump sum which it can spend any way it chooses as opposed to the prior method when it received individual allocations of revenue pegged to a particular need.

- The city receives funding from municipal block grants, and the legislature, the POBA notes, is always free to make funds available for further discretionary aid. Then there is the other income the city receives: \$25 million in 1993 and \$4.5 million in 1994 for the sale of bulk liens; \$2 million in savings generated from the implementation of a one week lag in the payroll; and revenues realized from the sale of a portion of its watershed property, some 2,900 acres in Morris County.

The POBA contends that its offer can be readily absorbed by the city with minimal impact on its residents

and taxpayers. Contract after contract the city cries wolf dusting off the same old stale arguments about budget deficits, low per capita income levels and high property taxes, the POBA says, concluding that the city's financial position is not bad at all.

The POBA's contention that the city's finances are not in bad shape poses a difficult proposition for me. The thoroughness of its analysis is not to be faulted but its conclusions raise a high degree of skepticism. The tax burden has grown even while the levy decreases, a forbidding symptom evident in the municipal portion of the tax levy as well. In 1989 the municipal levy was higher than in 1995 yet the municipal tax rate in 1989 was \$1.52 compared to \$1.70 in 1995. Let's be clear: the city has lost over 21% of its ratable base since 1990. That leaves it only two choices: fund the same budget by increasing the tax rate or cut the budget.

The reserve for uncollected taxes has little if anything to do with the relationship between the size of the budget and the tax rate. The city has been able to curtail budget increases by budgeting less in the "reserve for uncollected taxes" account because its tax collection rate, only 80% in 1991, has increased in the past 4 years. This factor alone has made possible a reduction in that part of the budget of over \$20 million.

Even this silver lining has a cloud. The increase in tax collections comes not from the increased ability of residents to pay, but from a special bulk tax lien sale to outside

investors who have been promised a whopping 18% return on their money if they keep taxes current on their property. A life support system designed to insure that taxes are collected on a current basis, this is financial triage designed to insure that vast sums do not have to be budgeted to cover unpaid taxes. Meanwhile, the tax rate in Jersey City continues to increase.

The POBA's perspective on tax abatement brings to mind someone who upon observing a sick person with 105 fever remarks how nice and rosy his cheeks look. Reduced to its fundamentals tax abatement means that developers must be enticed to build in an old urban center with a decaying infrastructure and a high tax rate. PILOTS are not payments in addition to taxes but in lieu of and lower than what would be paid in property tax. Take 101 Hudson, on which the city is currently getting \$1.6 million in revenue. If 101 Hudson were fully taxed, the city would be netting \$3.5 million, a difference of \$2 million per year. This property, as well as all the others, have minimum 15 year abatements so they will not come onto the tax rolls until well into the 21st century.

Much of Jersey City's large scale commercial development and some of its residential development have been accomplished with the use of tax abatements. Although the city is located directly across the Hudson River from Manhattan, and has within its boundaries all forms of mass transportation, its location and access have not been sufficient to attract any major development projects without an abatement that is paid "in lieu of tax payments." Contrary to the POBA's assertion, tax abatements are

not indicative of the confidence of the business community's willingness to invest in the future of the community, but rather indicate its lack of confidence in that the city must provide enormous monetary incentives in order to secure new projects within its boundaries.

The following table is a sampling of major PILOT payers: The dates indicate when the issuance of temporary certificates of occupancy commenced the onset of payment in lieu of taxes to the city. The years reflect how long these payments must run before the city has any expectation of receiving full taxes on the properties.

	<u>Certificates Issued</u>	<u>Length of Abatement</u>
Plaza II & III U/R Associates	1/88	15 years
James Monroe (in phases)	1/87 - 1/89	30 years
101 Hudson	1/89	20 years
Exchange Place	1/89	15 years
Port Liberte	6/88	30 years
Grove Street	5/89	15 years

A comparison of Jersey City's finances with Elizabeth and Newark, two Big Six cities in close proximity, is illuminating. The following table compares their net debt and debt limit:

	<u>Net Debt</u>	<u>Debt Limit</u>
Elizabeth	\$103.1 million	3.15%
Newark	\$124.2 million	2.06%
Jersey City	\$262.0 million	3.96%

As debt rises, the annual required payments for servicing it swell also. New Jersey municipalities are mandated by law to appropriate the minimum debt service for payment of debt due during the budget year. Jersey City's annual debt requirement has risen dramatically and is higher in both dollar amount and percentage of debt service to the total budget than Elizabeth and Newark. The following table illustrates this difference:

	<u>Total Budget</u>	<u>Municipal Debt Service</u>	<u>% of Budget</u>	<u>School Debt Service</u>	<u>% of Budget</u>
Elizabeth	\$107,286,936	\$11,311,024	10.5%	\$2,799,136	2.6%
Newark	\$398,719,872	\$20,424,552	5.1%	\$7,308,215	1.8%
Jersey City	\$280,270,086	\$35,120,707	12.5%	\$11,246,931	4.0%

While the City of Jersey City has recorded a fund balance on its books between \$11 and \$15 million for the last few years, fund balance in New Jersey municipal accounting standards does not equal cash. Surplus is further delineated as either "cash" surplus or "non-cash" surplus. Cash surplus is considered cash and investments and does not make up any of Jersey City's fund balance. Non-cash surplus is the portion of the fund balance which is considered an asset on the municipality's trial balance because those items in question are either expected to be received from sources outside the municipality or because the requirement for paying for those items (the liability) is in subsequent years. Deferred charges, an asset account, is established to record the pledging of future budgets to pay for overexpenditures or emergency appropriations. All of Jersey City's

fund balance consists of non-cash surplus.

Non-cash surplus has restrictions placed on its use as an anticipated item in the municipal budget. Certain types of non-cash surplus, such as the amount due from the state for deductions already made by the municipality on senior citizen and veteran tax bills, require the consent of the director of the Division of Local Government Services in the state's Department of Community Affairs. Other types of non-cash surplus, such as deferred charges, may not be utilized under any circumstances as non-cash anticipated surplus.

Jersey City does not anticipate most of its fund balance because it has no cash surplus to anticipate and only a small portion of its non-cash surplus is eligible for approval from the state to be anticipated. Fiscal year 1995 resulted in a surplus balance of \$591,837, an amount incorporated into the city's total surplus fund balance. Although the fund balance is shown as \$10.99 million, the city's cash liabilities at the end of the year exceeded its cash in the bank, resulting in a deficit in cash surplus of \$15.9 million. Compare this dismal state of affairs to Elizabeth and Newark: 96.8% of Elizabeth's surplus balance and 99.5% of Newark's surplus balance is cash.

The POBA is correct in one aspect of its argument: The city has indeed taken steps to survive without sending taxes even higher. It has instituted a payroll lag of 1 week, a step to which all employees agreed except the POBA. It has offered early retirement options to its uniformed and non-uniformed

personnel. As resignations and retirements occur, replacements are not always obtained thereby reducing the work force. It has offered a cash buyout incentive to its civilian personnel and even with these steps, it has had to institute layoffs in the civilian ranks.

Other attempts at brightening its financial picture include its bundling of tax liens in a bulk lien sale in an attempt to clear up years of tax delinquencies while generating some short term revenue; the sale of watershed property not connected to the operation of its reservoir; medical savings accounts offered to non-union employees in a pilot health program designed to reduce its annual cost for employee health benefits.

All these steps are being taken with the intent to reduce spending while maintaining services. All in all, the evidence clearly shows that Jersey City is a municipality suffering through critically difficult times and doing just about all it can to restore its financial well-being.

COST OF LIVING

For the year ending 1995 the Consumer Price Index was up 3%. According to the U.S. Bureau of Labor Statistics the Consumer Price Index during the prior 4 years rose as follows:

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>
C.P.I.	142.1	146.9	151.1	154.5
% Change in C.P.I.	4.3	3.6	3	2.4

Pointing out that both final offers exceed the Consumer Price Index the POBA says the difference between their

costs is minimal. However, it argues that the city's proposals which would implement two tier systems for vacation and terminal leave and a 50% cut in the supplemental benefits are what makes the city's offer unreasonable in the context of this standard.

On the other hand, the city uses the following table to support its position that the increases received by its police officers over the past dozen years are almost double the increase in the C.P.I.:

<u>Year</u>	<u>% Change in CPI</u>	<u>POBA Annual % Increases</u>	
1983	4.4	4.5	
1984	4.6	9.75	
1985	4.2	7.45	
1986	2.5	7.8	
1987	6.0	7.95	
1988	4.5	7.7	
1989	5.8	7.0	
1990	6.2	7.0	
1991	3.5	5.0	
1992	3.6	5.0	
1993	2.4	5.0	
1993 CPI	155.6	1993 Salary	\$47,057
<u>1982 CPI</u>	<u>97.5</u>	<u>7/1982 Salary</u>	<u>22,178</u>
Diff. in CPI	58.1	Diff. in Salary	24,879
% Change in CPI	<u>58.1</u> = 60%	% Change in Salary	<u>24,879</u> = 112%
	97.5		22,178

The city also reminds us that the foregoing increases do not take into consideration the huge increases in health insurance and other mandated obligations which the city has absorbed in full, widening the gap even further between the gains this bargaining unit has made over the years and the rise in the cost of living.

CONTINUITY AND STABILITY OF EMPLOYMENT AND OTHER FACTORS

That a reduction of benefits will not make employees happy is an immutable law of human nature. That it will lower their morale may be an equally valid conclusion. Yet one cannot help but ponder that high remuneration does not necessarily translate into terrific morale and conversely that poor pay does not always mean sullen employees. Were it so, the U.S. Marine Corps would have no esprit de corps and the New York Knicks would be a bunch of happy basketball players. But let us not quibble; Jersey City police officers' morale will scarcely be enhanced by the imposition of a 2 tier system for terminal leave and vacations and a 50% cut in their supplemental benefit, let alone an increase in their work schedule. Still, it is far from clear that the dilemma is resolved. Recall the statutory standard is not the morale of the employees. It is the interest and welfare of the public - a standard which cuts deeper and reaches more broadly than merely taking measure of the contentment level of the bargaining unit.

As no tree grows to the sky no negotiations can always be one sided. Restricted to that one concern - the happiness of the employees - there could never be givebacks. If we assume that is impossible - the pendulum must swing both ways - 2 questions are begged: In Jersey City, if not now, when? And if not with a 2 tier system, how?

The least painful manner of imposing givebacks is to lay them on new employees, people who have no expectations that their less generous terms and conditions of

employment are other than what they are signing on to. Nor are 2 tier systems written on stone tablets. Should the future unfold more halcyon times, a 2 tier system can ultimately be bargained out of the contract as indeed has occurred in other contracts throughout the world of collective bargaining.

Nor is the 2 tier system a stranger to police department bargaining units in the county. Secaucus and North Bergen have lower starting salaries for new employees and require them to work more years before they reach maximum. North Bergen provides a less generous longevity program to the newcomers. Vacations are curtailed under a 2 tier system in Weehauken, Guttenberg and Hoboken as well as North Bergen. The detective differential is different for veterans and newcomers in Union City and so is terminal leave in North Bergen. The Big Six is not immune from a 2 tier system either. Paterson has a new starting date for newcomers and requires them to work more years before they reach maximum.

If Jersey City, bleeding as it is, cannot obtain some relief in collective bargaining now because the morale of its employees will suffer, how will it ever sustain such an argument let alone prevail some day when hopefully its financial picture will brighten? Consider how much more the POBA would be bent out of shape if the city had some cash and tried to curtail benefits. Placed in a lose-lose position the city cannot seek reductions now when it is tapped out and certainly cannot when it is flush. A union need merely wave the flag of discontent, argue

that the employer's proposals are depressing them, and the employer must cave. Of course, employees' morale is an important factor which must be considered. But given the evidence in this case, albeit the employees may be not enamored of the result, the fact is that the interest and welfare of the public commands acceptance of the city's fair and final offer.

Putting aside the morale of the current employees for the moment, the impact of the 2 tier system on new employees is not quite as parsimonious as the POBA would have it either. It does not impose any change in salary or longevity or any other benefits other than vacations and terminal leave. Present members of the bargaining unit are entitled to 30 days after 5 years of service, an entitlement unrivalled by any other municipality, Big Six or countywide. Kearny provides 30 days in the 6th year plus 1 day for each additional 5 years, but offers no holidays; Jersey City has 10 paid holidays. Newark provides a maximum of 25 days after the 1st year; Elizabeth, 25 days in the 6th year; Paterson, 28 days after 15 years. In the county nobody comes close. In comparison the vacation schedule for the new hires does not look so bad: 15 days after their first year of service and 20 after the 10th year. Indeed, it's better than average. Most municipalities in the county as well as a few of the Big Six don't reach maximum of 20 to 25 days until the 15th to the 25th year of service.

The other half of the city's 2 tier proposal impacts on terminal leave. Here again Jersey City is

unique in providing a very generous terminal leave benefit. It seeks a reduction in the benefit from 5 calendar days to 3 calendar days for each year of service, a concession which has already been negotiated for new hires in the fire department.

An underlying assumption throughout this proceeding has been that the key difference between the parties' proposals is the schedule, not the difference in cost. This assumption is not entirely accurate. Although the spread between their salary proposals is more of a fissure than a gap the cost impact resulting from their schedule proposals is more like a chasm.

As we know, from 1976 to 1988 police officers worked a 15 hour schedule - 8 hour shifts for a total of 243 tours per year making a total work year of 1946.66 hours. In 1988 the parties modified that work schedule to 8 sections. So employees worked 5 tours followed by 3 days off with each tour 8.5 hours in length for a total of 228 tours and a slightly reduced annual work year of 1939 hours.

Although the number of tours worked was reduced no adjustment was made to vacations or holidays so that the number of days off did not change. Their value increased, however, not only because they were now based on an hourly rate which resulted from less hours but also because they were based on a 8.5 hour day. This not only impacted on the current accumulation of time but also on the previously banked time. Days which had been earned and accumulated since 1976 having a worth of 8 hours times

the hourly rate now had a worth of 8.5 hours times the hourly rate, as did the payout for terminal leave based upon the contractual formula.

True, the percentage increases in their salary and longevity offers are very slight but the impact of the 8 hour versus the 8.5 hour day on either holiday pay or banked time is quite large. As the following exhibit submitted by the city reveals, the POBA's fair and final proposal would cost an additional \$1,782,650, more than half of that amount attributable to the increase in the accrued liability for banked days and payments for early retirement buyout based on the 8.5 hour day. Put another way, the increased cost of the banked time exceeds the cost of the salary proposal difference.

	<u>Union Proposal</u>	<u>City Proposal</u>	<u>Variance</u>
Salary	\$7,593,322	\$6,985,504	\$607,818
Longevity	449,148	413,313	35,836
Holiday Pay	203,812	123,335	80,477
Pension	683,610	628,899	54,711
Overtime	527,600	484,289	43,311
Reduction in 1996 payments to Supplementary Fund (670x\$180)	0	(120,600)	120,600
Payments for early retirement buy-out	255,445	225,393	30,052
Increase in the accrued liability for banked days	2,270,373	1,460,528	809,845
	<u>\$11,983,310</u>	<u>\$10,200,660</u>	<u>\$1,782,650</u>

The other parts of the city's proposal concerning the schedule merely seek to align contractual language

with the reality of the present 15 section schedule being used. For example, overtime is earned beyond the normal 8 hour tour rather than an 8.5 hour tour and a "full tour" is defined as 8 hours rather than 8.5 hours.

* * *

Jersey City is a struggling municipality. Its population falls well below the state and county averages for income and education and ranks above average in the number of public assistance recipients and those living below the poverty level. Its taxpayers currently pay higher taxes than other comparable urban cities in the state. Its tax bills continue to rise while its assessed valuation plummets. Old tax abatement deals delay its ability to collect full taxes on development properties and state aid remains flat, probably shrinking in the future. And finally, perhaps most ominously, it has no cash surplus funds.

Although it has consistently faced a decreasing tax base, an increased debt and an increase in the tax rate, there has been no reduction in police personnel since 1992, and since 1993 police department appropriations have increased by over \$10 million. All other department appropriations have decreased by some \$5 million. At the present time the police department constitutes 22.2% of the total 1996 budget of \$280 million, or over \$62 million.

With all of this evidence and data clearly revealing the city as a municipality going through some very difficult times its proposal in this proceeding warrants acceptance. It is an offer which attempts to increase the efficiency of the department without a severe negative impact on the members of the bargaining unit.

In contrast, the POBA's proposal would reduce police presence on the streets, diminish the ability of the city to increase supervisory control, and cost the city almost \$1.8 more over the 3 year term. In a municipality with the highest taxes of the Big Six and among the highest in the county, the POBA's proposal would exceed the cost of living and the raises granted to all other city workers.

In my view the city's offer strikes a reasonable balance between the needs of the police officers and the needs of its residents and taxpayers. Accordingly, the City of Jersey City's fair and final economic offer is awarded.

I. THE NON-ECONOMIC ISSUES

The POBA did not submit any non-economic proposals. The city has proposed the following non-economic issues:

1. Pursuant to the arbitration decision in case #92-478 the Article regarding holidays should be modified to reflect that holidays in the final year of retirement are pro-rated so that an employee who retires on or before June 30 will receive 50% of that year's allotment, and one who retires on or after July 1 will receive the entire year's allotment (Article 16.A).

2. Article 19 shall be modified so that it shall read that, "The additional \$290 will be paid on the first Thursday after the regular meeting in July..."

These 2 items were not contested by the POBA. Both are in the nature of editorial changes to reflect an arbitration award as to Article 16-A and past practice regarding Article 19. The Article 16-A change is self-evident from the proposal.

Article 19 however requires an explanation. In election years an additional July meeting is held for reorganization purposes which predates the regular meeting. No business beyond the reorganization itself normally being conducted at that meeting, the parties have recognized that the meeting at which the payment is approved in July should be the regular meeting rather than the one dealing with reorganization.

Both proposals are awarded.

AWARD

Pursuant to the authority granted by N.J.S.A. 34:13A-16g, the undersigned renders the following award:

1. The economic fair and final offer of the City of Jersey City is awarded.

2. The 2 non-economic proposals of the City of Jersey City are awarded.


Dated: March 8, 1996



JACK D. FYLLEM, Arbitrator

STATE OF NEW YORK)
COUNTY OF NASSAU) SS:

On the 8th day of March 1996, before me personally came and appeared JACK D. TILLEM, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that the same was executed by him.



Dawn K. Gray
Notary Public, State of New York
Qualified to Perform
On this 8th day of March 1996
D.K.G.