

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration Between:

UNION COUNTY SHERIFF'S OFFICE

-and-

Docket No. IA-2012-037

PBA LOCAL NO.108

Before: Susan W. Osborn, Interest Arbitrator

Appearances:

For the County:

Bauch, Zucker & Hatfield, LLC
(Kathryn VanDeusen Hatfield, of counsel and on brief)
(Elizabeth Farley Murphy, on brief)

For the PBA:

Mets Schiro McGovern, Attorneys
(James Mets, of counsel and on brief)
(Brian Manetta, on brief)

Witnesses:

Tara Halpin, Sheriff's Officer/Local 108 V.P.
Michael Heller, Sheriff's Officer/PBA State Delegate
Charles Schmidt, Sheriff's Officer
Joseph Cryan, Undersheriff

INTEREST ARBITRATION AWARD

BACKGROUND

On April 20, 2012 the Union County Sheriff's Officers, PBA Local 108 filed a Petition with the Public Employment Relations Commission to initiate interest arbitration over successor collective negotiations agreements with the Union County Sheriff's Office. The previous agreements expired on December 31, 2009.

On April 26, 2012, 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 with no provision for a mutually agreed upon extension of any length. By letter of April 27, I scheduled an interest arbitration hearing for May 22, 2012 and directed each party to submit a final offer no later than May 11 in accordance with N.J.S.A. 34:13A-16(f)(1).

On April 28, the County filed a Petition for Scope of Negotiations Determination (Docket No. SN-2012-065). The County contends that the hours of work provisions under Article X, Section 1 and 2 of the contract are not within the scope of required negotiations, and therefore it refuses to submit those issues to interest arbitration. The Commission set a briefing schedule for this matter with reply briefs due June 11. Therefore, I have not addressed the legal negotiability issues in this decision.

At the May 22 Interest Arbitration hearing, the parties offered testimony and substantial documentary evidence.¹ Both parties submitted Final Offers and calculations of the financial impact of their respective economic proposals. The PBA submitted a certification of Accountant and Financial

¹ The hearing was stenographically recorded and a transcript produced. The transcript of the hearing shall be referred to as (T-).

Analyst Joseph Petracelli. The County submitted a certification of County Finance Director BiBi Taylor. Each also submitted a rebuttal certification. Post-hearing summations were filed by May 31, 2012.

FINAL OFFERS OF THE PBA

The PBA submitted the following final offer:

Contract Duration

-5-year contract-January 1, 2010 through December 31, 2014

Salaries (Article 4)

- Effective 1/1/10: 3% across-the-board increases
- Effective 1/1/11: 3% across-the-board increases
- Effective 1/1/12: 3% across-the-board increases
- Effective 1/1/13: 2% across-the-board increases
- Effective 1/1/14: 2% across-the-board increases

Senior Officer Pay (Longevity) (Article 4:2)

- A. Eliminate references to senior officer
- B. Increase each longevity step by \$210

Acting Pay (Article 4:8)

- A. Pay for officers who perform duties of a higher title
- B. Pay "officers-in-charge" sergeant's rate for time acting in that capacity.

EMT Certification (Article 4:9)

- Employer to pay for the cost of EMT certification/recertification. Release time for certification/

recertification courses.

Health Care Premium Sharing (Article 5:11)

-Replace contract provisions with health care contribution as provided by statute.

Vacations (Article 6:3)

-Vacation selection by department seniority.
-Five-day vacations shall be given priority over floating days.

Work Hours (Article 10:1)

-A. Effective 7/1/12 reduce work week by one hour.
-B. Define work week as Monday through Friday. Saturday and Sunday work shall be paid at the overtime rate. Work hours shall be an eight-hour day between the following hours:

ID/Crime Scene	0648-1630
Day Warrants	0618-1630
Night Warrants	1518-2330
Process	0748-1600 + 1 flex day a week
Security/Doors	0648-1630
Slap	0648-1530
Transportation	Shift 1 0618-1600
	Shift 2 1148-2000
	Shift 3 1518-2330
K-9	Shift 1 0648-1600

Shift 2 1448-2300

Courts

0818-1630

-Add this language:

The hours and days of work shall not be changed to avoid overtime. If operational needs, other than overtime avoidance, necessitate changing hours, an officer must receive five work days' notice of any change in his hours or days of work except in emergency cases. For each day or partial day that the officer receives less than five days' notice, he shall be paid overtime for such shifts.

Shift Bidding (Article 10:2)

-Shifts to be opened for bid each November for the succeeding year. Bid shifts by department seniority.

Overtime (Article 11:1)

-All overtime to be paid in cash (not comp time).
-Current comp time banks to be cashed out in two installments in 2013.

Overtime (Article 11:2)

-Change 40 to 41 effective July 1, 2012.

Overtime Assignments (Article 11:5)

-Equalize overtime opportunities as much as possible on an annual basis. Overtime requiring special skills to be offered on a rotating seniority order basis among officers with such special skills. A refusal to accept overtime shall count as overtime worked for equalization purposes. Officers on leave time not accepting an assignment shall not be charged with a refusal. A list of all overtime hours accumulated by bargaining unit member shall be provided to the PBA monthly.

Overtime Hospital Prisoner Security Assignments (Article 11:6)

-Delete this provision and include such assignments with generalized overtime.

Call-in Time (Article 12)

-Increase minimum from three hours to four hours.
Increase on-call pay from \$100 to \$200 per week.
-Add: "An officer shall be deemed "on duty" when he is contacted by the employer for the call-in and is required to report to work." Add: "Cell phone"

PBA Business (Article 16)

-Delete reference to adequate staffing needs.
-Increase delegate time to thirty days per year excluding conventions.
-PBA Local president to be off with pay one day per month in addition to current contractual allotment.

Miscellaneous (Article 20:5)

-Honor Guard to be paid uniform maintenance stipend of \$250 annually.
-Honor Guard to be released from duty with pay as follows:

Death of an officer outside Union County	2
Death of an officer within Union County	4
Death of an officer in the Sheriff's Department	Full honor guard

Funeral Leave (Article 20:7)

-PBA president or his designee to be allowed to attend, with pay, the funeral of any law enforcement officer in the state killed in the line of duty. Attendee to be permitted the use of a marked patrol unit if available.

Lockers (Article 20:8)

-The employer to provide the unit with exclusive use of a locker room. Each officer to be provided a locker with lock for uniform and equipment storage.

Clothing (Article 21)

-Change article title to Clothing and Equipment.
If the employer modifies all or part of the uniform equipment, employer will pay for the cost of the changes.

On-the-Job Injuries (Article 24)

-Increase injury leave from 180 days to 1 year.
-Eliminate the distinction between third-party injuries and others.
-Add: "Only the portion attributed to wages shall be taxed."

Sick Leave (Article 25)

-Sick leave to be charged in one-hour increments.
-Quarterly bonus to be paid in first pay period after the quarter.
-Annual bonus to be paid first pay period in January.

Unused Sick Leave (Article 26)

-Effective July 1, 2012 employees may convert up to five

sick days to personal days annually provided they have at least forty-five sick days left after the conversion.
 -Converted personal days must be used within two years of the conversion.

PBA and Employee Rights (Article 27)

-Newly issued or amended orders, rules and regulations to be provided to the PBA president within five working days.

-Employer's ability to determine qualifications and conditions for continued employment, dismissal, demotion, promotion, transfer and discipline to be limited to NJ Statutes, the County Administrative Code and departmental investigations.

-Add: "In an effort to ensure the departmental investigations are conducted in a manner which is fair and promotes good order and discipline, all in person and questionnaire interviews shall be conducted in accordance with current Attorney General Guidelines on internal affairs and procedures."

-Add: "When an officer is involved in a critical incident, such as a shooting, motor vehicle accident or physical altercation, he shall be immediately removed from the area or as soon thereafter as possible if he requests medical attention or evaluation. Said officer shall not be required to respond to any questions or supply any statement or written reports until he is released by the evaluating physician or other medical professional. Such delay shall not exceed two business days unless the officer is physically or mentally incapacitated."

Seniority (Article 28)

-Post and fill vacant court and door security posts by seniority. If there is no bid the least senior officer assigned to the courts shall be assigned the post.

FINAL OFFERS OF THE EMPLOYERContract Duration:

-3 year contract: January 1, 2010 - December 31, 2012

Salaries:

-Effective 1/1/2010: 0%

-Effective 1/1/2011: 2.25%

-Effective 1/1/2012: 0%

-New salary guide for employees hired after the issuance of this award, as follows:

STEP	2012
1	\$32,643
2	\$37,393
3	\$42,143
4	\$46,893
5	\$51,643
6	\$56,393
7	\$61,143
8	\$65,893
9	\$70,643
10	\$75,393

-Section 2: Eliminate senior officer pay (longevity) for all employees hired after the date of the award.

Section 4: In order to maintain a bi-weekly basis for paycheck distribution, effective on the date of the award, a rotating bi-weekly pay day schedule shall be implemented whereby the pay day will be changed in each successive year as follows:

2010: Friday
2011: Monday
2012: Tuesday
2013: Wednesday
2014: Thursday

This cycle will continue every five years. When payday occurs on a holiday, paychecks or direct deposits will be issued on the day prior to the holiday.

-The PBA will not object to or challenge the County's decision to change to a bi-monthly paycheck distribution from a bi-weekly paycheck distribution.

-Section 7: Eliminate Training Officer stipend.

Management Rights (Article 2(c)):

Replace existing contract language with:

"Notwithstanding any other provision in this Agreement, the Sheriff shall have the right to (1) determine the duties, responsibilities and assignment of all employees, and (2) vary the daily or weekly work schedules, including, but not limited to, the implementation of shift work and/or weekend duty, consistent with the needs of the Department."

Prescription Drug Coverage (Article V):

-Retail Co-Pays (up to 30 days)

Effective 1 month after award, increase co-pays as follows:

Retail

\$6 - generic

\$15 - brand (no generic available or physician required)

\$20 - brand (generic available)

Mail Order (90-day supply)

\$5 - generic

\$10 -brand (no generic available or physician required)

\$15 - brand (generic available)

-Drug Utilization Plan

a. Enhanced concurrent drug utilization review

b. Preferred drug step therapy limited to PPI, SSRI and Intranasal steroid drugs

c. Clinical Intervention (MD Statement of medical necessity) limited to Anti-narcoleptic agents, weight less and anti-neoplastic agents.

-Continue restriction on flow through of prescription copays to major medical.

-Officers who receive fully paid retirement benefits under the 2005 through 2009 CNA shall be provided with the Medco Rx or an equivalent plan. This plan shall provide for free mail order prescriptions and 30% co-pay for retail. The plan shall provide for free mail order prescriptions and 30% co-pay for retail. It is understood that in order to provide the Medco Rx plan, the base health plan will be converted from CIGNA ROAP7 to CIGNA ROAP3.

-Effective January 1, 2011, the Third Party Administrator,

will be eliminated and the County will no longer reimburse employees for any out-of-network charges.

-Effective January 1, 2011, emergency room co-pays shall be \$25.00 per visit (to be waived if admitted).

Premium Contribution amounts (Article V, Section 3):

Contributions to healthcare that are mandated by statute shall replace contributions set forth in Section 3, paragraph (B). Employees hired after January 1, 2012 shall contribute the following percentages (or the rates set forth in Chapter 78, whichever is higher).

Family:	3.0%
H/W & P/C:	2.5%
Single:	2.0%

Hours of Work (Article X):

-Section 1.

-Effective July 1, 2012, employees in this unit shall work 42 hours per week and the rates of pay set forth in the salary guide (Exhibit A) reflect the agreed upon compensation for this 42 hour work week. The additional one hour shall be a "flex hour" and all 42 hours in the work week shall be in accordance with the work schedule established by the Sheriff.

Overtime (Article XI):

-Section 2.

-Effective July 1, 2012, employees covered by this Agreement shall be paid overtime at a rate of time and one-half his or her regular pay for all hours worked in excess

of forty-two (42) hours per week.

Call-In Time (Article XII):

-Section 1.

-Effective July 1, 2012, an employee who is called in to duty outside of his or her regularly scheduled work week shift shall be compensated at the overtime rate of pay for hours only for hours actually worked. There shall be no guaranteed minimum number of hours of overtime when an officer is called in to work.

Section 2.

-Delete "beeper pay" provision.

Holidays (Article XIII):

-Section 2.

-Modify to state:

-If an employee is called into work on a regularly scheduled holiday, he/she shall be paid for the time worked and shall be eligible to receive four hours of compensatory time in lieu of the holiday.

-Employees assigned to the Courts will not receive the day after Thanksgiving Day or Lincoln's Birthday as holidays and will be required to work those days. Those employees working shall be entitled to be paid for the time worked and shall be eligible to receive four hours of compensatory time in lieu of the holiday.

FINDINGS OF FACT

Stipulations

The parties stipulated the following facts:

1. Union County is a civil service jurisdiction.
2. After the parties' contract expired in 2009, the County continued to pay the employees' step increases in 2010, 2011 and 2012.²
3. "Senior officer pay" is increased to employees upon reaching their next benchmark years of service.
4. The dollar value of senior officer pay does not increase by any across-the-board increases except at the top step.
5. Detective stipends are not part of base salary.
6. Base salary includes base pay plus increments plus senior officer pay.
7. In negotiations for the expired 2005-09 contract, the parties agreed to fold uniform allowance into base pay. There is no longer a separate uniform allowance.
8. Employees are currently on tier 1 of Chapter 78 of employee healthcare contributions, and will advance to tier 2 in July, 2012.

Demographics

Union County is comprised of seven boroughs, five cities, one town and eight townships. Of New Jersey's 21 counties, Union County ranks sixth in population and twentieth in size (PBA-B-9). The County has 36 parks on 6,626 acres of parkland (PBA-B-9). It is the third most densely populated county in New Jersey.

² The parties stipulated that employees advance in step on the salary guide on their anniversary. However, the contract provides that employees moves to the next step of the guide on either January 1 or July 1, depending on their anniversary date.

Union County is home to 536,499 residents located on 105 square miles of urban and suburban communities on the eastern edge of New Jersey (PBA-B-2). The total population of the County increased 2.7 percent between the 2000 and 2010 census (PBA-B-2).

The County's residents are relatively well off financially, as it ranks seventh in the State and is also a high-ranking county in the Country, as a whole, in per-capita income (PBA-B-2,9). The median household income between the years 2006 and 2010 was \$66,791 (PBA-B-18).

The County is comprised of 184,808 households, with an average of 2.84 people per household (PBA-B-3). There were 199,489 housing units within the County as of 2010 with a median value of owner-occupied units of \$397,200 (PBA-B-3).

The population of Union County is relatively well-educated. 84.3% of residents over the age of twenty-five (25) have a high school diploma while 31.2% have obtained a bachelor's degree or higher (PBA-B-3).

Job opportunities in Union County are growing. In the April 2011 Union County Edition of the Northern Regional Community Fact Book, the New Jersey Department of Labor and Workforce Development projected that the County could expect 7,060 annual job openings per year through 2018 (PBA-B-12).

Individuals working in Union County are employed in diverse

industries such as construction, manufacturing, information, finance, health services and the leisure and hospitality industry (PBA-B-13). The labor force consists of 266,900 individuals employed in various industries (PBA-B-9).

As of 2010, the County's percentage of citizens living in poverty was 9.1%, which is similar to the State average (PBA-B-3). In 2009, that percentage was 8.8% (PBA-B-14). However, this percentage is much lower than nearby counties including Essex and Hudson Counties, where 14.8% and 15.2% of residents, respectively, lived below the poverty line in 2009 (PBA-B-3).

Crime Rates

Beginning in 2007, the crime rate in Union County has been steadily rising (PBA-C-16). Violent crime increased by 13.3% between 2007 and 2008, while nonviolent crimes, like burglary and larceny, increased by 12.5% during that period. The crime rate increased another 10% between 2008 and 2009, rising in nearly every category including rape, homicide, robbery and burglary.

The crime rate continued to increase in 2010 (PBA-A-10). Eleven murders were committed in the County between January and June 2010. Aggravated assaults also increased in 2010. In 2012, there were 6,814 violent crimes in Union County (PBA-C-17).

Union County is home to one of New Jersey's most dangerous

cities, Elizabeth, New Jersey, which has a violent crime rate of 900 incidents per 100,000 people.³ The property crime rate in Elizabeth is 4,601.7 incidents per 100,000 people. Both the violent crime and property crime rates in Elizabeth far exceed the State and National averages.

One of the major factors relating to crime in Union County is the prevalence of street gangs (PBA-F-16). At least 95 known gangs take up residence in the County. These gangs operate in 12 of the County's municipalities.

Occupational Hazards/Dangers

The national rise in police officer fatalities in 2011 follows a particularly deadly year for law enforcement officers. In 2010, police officers killed in the line of duty rose 37% after a two-year period of decline (PBA-F-13). In total, 160 federal, state and local law enforcement officers were killed in the line of duty.

Assault is also a common occupational danger for police officers. Nationwide, in 2010, 53,469 officers were assaulted while performing their duties (PBA-F-16).

The rate of suicide amongst law enforcement officers, when compared to similarly aged males, is 30% higher. The danger and stress of police work cannot be understated.

³ Source: *Crime Report for Elizabeth, New Jersey*, available at http://www.homesurfer.com/crimereports/view/crime_report.cfm?state=NJ&area=Elizabeth.

Cost of Living

The CPI, the nation's most important price index, measures the average change in prices over time in a market basket of goods and services. It is used to measure inflation and success in restraining price increases. This cost of living standard is commonly used by arbitrators to calculate changes in the purchasing power of the average family.⁴ In determining the cost of living standard, arbitrators rely upon the index issued monthly by the Bureau of Labor Statistics of the United States Department of Labor. This index reflects the cost of living as of a date six weeks prior to its issuance. It is possible to measure changes in retail costs of services and commodities and the resulting effect upon the purchasing power of workers' income by utilizing this index. Essentially, the index is the ratio of the current cost of a specified market basket of goods and services to the average cost of the same market basket during a designated period in the past.

The PBA states that the cost of living in Union County has always been high. City-data.com reports that the cost of living index in Union County is 125.4, while the U.S. average is 100 (PBA-A-24). Thus, it costs 25% more to live in Union County than in other areas of the United States.

In April 2012, the CPI for all urban consumers remained

⁴Source: Elkouri & Elkouri, How Arbitration Works, 3rd ed. 1978; Norwood Janet, "The CPI Controversy," Labor Law Journal, Vol. 31, No. 3 (1980).

unchanged from March 2012 (PBA-E-3). As of March 2012, the CPI for All Urban Customers (CPI-U) increased by 2.7% before seasonal adjustment over the last 12 months. The unadjusted data are of primary interest to consumers concerned about the prices they actually pay. Unadjusted data also are used extensively for escalation purposes. Many collective bargaining contract agreements and pension plans, for example, tie compensation changes to the CPI *before adjustment* for seasonal variation.

The CPI-U for the U.S. Northeast city average urban area is reflected by population size and percent change in the following chart:

Region & Area Size	% Change to Mar 2012 from:			% Change to Feb 2012 from:		
	Mar-11	Jan-12	Feb-12	Feb-11	Dec-11	Jan-12
Northeast Urban	2.5%	0.9%	0.5%	2.8%	0.8%	0.4%
Size A - More than 1,500,000	2.4%	0.9%	0.5%	2.7%	0.8%	0.4%
Size B/C- 50,000 to 1,500,000	2.8%	1.0%	0.5%	3.3%	0.8%	0.5%

Budgeting:

County's Perspective

The Employer states that Union County is in the midst of a financial crisis (Er-III-A). It asserts that layoffs of 248 County employees are required in order to avoid a budget deficit in 2012 (Er-III-A).

The Union County Director of Finance, Bibi Taylor, certified that as 2011 progressed, the budget did not improve and in fact, worsened (Er-III-A). As she reviewed 2012 projections, she realized that there was a significant gap between revenues and expenses (Er-III-A). While the County has introduced a budget for 2012 which balances revenues and appropriations, this budget will not be finalized until May 31, 2012 (Er-III-A).

At the start of 2012, the County was facing a \$36 million dollar budget deficit and had no option but to take necessary measures, including layoffs, to close the gap (Er-III-A).

The Employer states that the \$36 million dollar budget deficit is due to declining revenues as a result of the slump in the real estate market, a reduction in State reimbursements along with increased mandated costs for salaries, pensions and health insurance (Er-III-A). In summary, Taylor certified that revenues decreased by \$9.2 million dollars while appropriations increased over \$26 million dollars (Er-III-A).⁵

⁵The increased revenues cannot be easily verified without further articulation from the Employer identifying the increases by year and type.

According to the Employer, approximately 73% of the County's budget is attributed to salaries and benefits (Er-III-A). In 2012, those mandated costs increased by \$17 million dollars with health insurance costs rising more than \$11 million dollars alone (Er-III-A).⁶

The County's ratable base decreased from a high of \$78 billion dollars several years ago to under \$69 billion in 2012 (Er-III-A). Revenues from real estate transactions and sheriff's sales decreased by \$1.1 million dollars and the reduction in real estate values have spurred a 25% increase in tax appeals (Er-III-A).⁷

The County's surplus has decreased rapidly from the end of 2010 through 2012 (Er-III-A; PBA-K). At the end of 2011, the County has approximately \$17.9 million dollars in surplus (Er-III-A,E). The Employer anticipates using \$16 million dollars of the 2011 surplus by the end of fiscal year 2012 (Er-III-A,E).

The County's long-term general obligation bond rating was downgraded from AAA to AA1 status affecting appreciably \$722 million dollars of County and County Guaranteed Bonds (Er-III-A).

⁶The Union disagrees with the Employer's statement. Their position is explained in the PBA's Perspective portion of this document.

⁷ The Union contends that the decrease in sheriff's sales revenue from 2010 to 2011 was the result of a court-ordered statewide halt on foreclosure proceedings in part, to prevent "robo-signing" of loan documents by lender institutions. The foreclosure ban has been lifted and foreclosures have resumed in the State. As a result, sheriff's sales revenues are expected to increase to prior year levels (PBA-K).

State reimbursements to the County for correctional services have decreased from \$4 million in 2008 to \$500,000 dollars in 2012 (Er-III-A).

The County's Runnells Specialized Hospital, which broke even in 2009, is operating at a \$14 million dollar deficit due in part to state cuts in funding and rising contractual costs (Er-III-A). The County has an appeal pending, challenging the State's method for determining Medicaid payment rates. This appeal, if successful, would bring in \$5 million dollars. However, the County cannot use anticipated funds of an appeal, to balance the County's budget, when it has no idea when and if the appeal will be decided (Er-III-A).

Given the above, the County formulated a plan for reducing costs while maintaining essential services (Er-III-A). As a result, each department and constitutional office was asked to reduce at least 5% of their adopted 2011 operating budget (Er-III-A). However, the Employer states that the savings were minimal and accordingly a decision was made to implement workforce reductions (Er-III-A).

The Employer's first layoff plan was filed with the State in February of 2012 (Er-III-A). This plan affected 44 employees and was effective May 1, 2012 (Er-III-A). On March 21, 2012, the County filed a second layoff plan with the State (Er-III-A).

The second plan affects approximately 236⁸ additional employees with an effective date of June 1, 2012 (Er-III-A). In total, approximately 280 employees or 10% of the County's workforce will lose their employment (Er-III-A). Throughout the period above (February 2012 - May 2012), the Employer also eliminated a total of 72 vacancies (Er-III-E).

The Employer contends that they were able to close the \$36 million dollar deficit through the following means (Er-III-A):

COUNTY'S PLAN TO REDUCE \$36 MILLION DOLLAR BUDGET DEFICIT	
Increase Taxes	\$12,300,000
Use Surplus	\$16,000,000
Use Deferral Dollars for Contractual Health Benefits for Retirees	\$2,000,000
Eliminate Raises for Exclusionary Employees	\$800,000
Staff Reduction Savings (To Be Determined = TBD)	TBD
TOTAL	\$31,100,000

In 2011, the Employer budgeted for an increase of 2.25% for the Sheriff's Office (Er-III-A). This money is still available and can be used to fund an increase (Er-III-A). In 2012, the Employer contends that there is no money available to fund any increase for this unit (Er-III-A). In terms of entering into an agreement for 2013 and 2014, it states that their budget is not improving, whereas they are anticipating a deficit of \$16

⁸These employees are in addition to the 44 employees in the first layoff plan.

million dollars in 2013 ⁹ and that assumes that the County can raise taxes to the maximum amount as was done in the 2012 proposed budget (Er-III-A).

PBA's Perspective

The Union contends that the County's December 31, 2011 annual financial statement indicates \$13,988,100 in generated excess results of 2011 operations. It states that miscellaneous revenue anticipated was \$4.2 million below budget expectations and revenue not anticipated totaled \$7.9 million (PBA-K; Er-III-D)¹⁰.

According to the Union, the 2012 proposed budget reflects total general appropriations of \$483,844,564 dollars compared to the 2011 general appropriations of \$499,753,489 dollars. This amounts to a reduction in spending of \$15,908,925 dollars for 2012 (PBA-K; Er-III-E).

The Union states that the Employer's assertion that 73% of the County's budget is due to increases by \$17 million dollars in salaries and benefits and healthcare and other mandated costs in 2012, is significantly overstated (PBA-K). The Union asserts

⁹ This deficit can be attributed to 2013 increases over 2012 appropriations for Debt Service, PERS Pension, PFRS Pension and Health Benefits (Er-III-E).

¹⁰ It must be noted that the \$13,988,100 dollars in excess revenue for 2011 was carried to the surplus fund balance as of January 1, 2012. Of the total January 1, 2012 Fund Balance (\$17,945,976 dollars), \$16,000,000 dollars is appropriated for use in the 2012 budget, leaving a remaining 2012 balance of \$1,945,976 dollars (Er-III-E; PBA-K).

that 55.22% of the County's proposed 2012 budget is due to benefits, salaries and wages and healthcare (PBA-K).¹¹

The Employer contends that insurance costs alone have increased by \$11 million dollars (PBA-K; Er-III-A). However, the Union maintains that insurance costs have increased by \$6.3 million dollars (PBA-K).¹²

The chart below indicates that healthcare costs are estimated to increase by \$5,700,806 dollars from 2011 to 2012 (PBA-K; Er-III-A). The Union states that the mandated 1.5% (minimum) employee healthcare contribution will result in significant offsets to the increased healthcare costs (PBA-K).

	2012 Proposed Budget	2011 Paid or Charged ¹³	Increase in Insurance Costs
Group Insurance	\$45,449,937	\$38,735,873	\$6,714,064
Medicare		\$20,000	\$20,000
Prescription Plan	\$10,231,225	\$11,205,500	\$974,275
Dental Plan	\$1,055,660	\$955,865	\$99,795
Disability Insurance	\$150,000	\$270,000	\$120,000
Health Waivers	\$1,565,000	\$1,563,778	\$1,222
Totals	\$58,451,822	\$52,751,016	\$5,700,806

¹¹ Upon my review of exhibits Er-III-E, sheets 16, 26 and 32; and PBA-K, I concur with the Union's statement that 55.22% of the County's proposed 2012 budget is due to benefits, salaries and wages and healthcare (PBA-K).

¹² I also concur with the Union's statement regarding the increase of \$6.3 million dollars in "appropriated" 2012 insurance costs.

¹³ This chart reflects an increase of \$5.7 million dollars when using "actual dollars paid or charged" in 2011 versus 2012 appropriated.

The Union maintains that the County's ratable base has increased by \$33,056,963,419 dollars since 2000. This represents an increase of 92.40% from \$35,777,112,095 dollars in 2000 to \$68,834,075,514 dollars in 2011 (PBA-K).¹⁴

Total Appropriations

Total appropriations for 2011 were \$499,753,489 dollars of which \$490,411,595 dollars were paid or charged leaving a reserved amount of \$5,987,008 dollars (Er-III-E). Total appropriations for 2012 are \$483,844,564 dollars (Er-III-E).

State Aid

The County anticipates 2012 State Aid in the amount of \$1,805,730 dollars compared to 2011 State Aid of \$1,806,447 dollars realized in 2011 (Er-III-E; PBA-Tab-2). The State Aid is in the form of County College Bonds (N.J.S.A. 18A:64A-22.6) (Er-III-E).

Surplus

The County's 2011 surplus balance as of December 31, 2011 was \$17,945,976 dollars with a current anticipated surplus in 2012 of \$16,000,000 dollars (Er-III-E). The remaining surplus balance is \$1,945,976 dollars (Er-III-E).

¹⁴ The County and PBA provided conflicting data on ratables. The County contends that ratables decreased from \$78 billion dollars to \$68 billion dollars in the last several years. The PBA contends that ratables increased by 92.40%, or \$33 billion dollars since 2000. A review of the provided budget data did not reflect ratables.

The following chart reflects anticipated revenues for the 2012 budget (Er-III-E):¹⁵

REVENUE BUDGET (2012)		
Revenue	Anticipated	% of Total
Surplus/Fund Balance	\$16,000,000	3.31%
Surplus (with special permission of Division of Local Government Services)	\$0	0.00%
Miscellaneous Revenues		
State & Federal	\$48,459,543	10.02%
County	\$116,345,845	24.05%
Sub-total General Revenues	\$180,805,388	37.37%
County Purpose Tax	\$303,039,176	62.63%
Total Revenues	\$483,844,564	100.00%

The next chart reflects a surplus analysis for the County from 2009 through 2012:

	Budgeted 2012	Actual 2011	Actual 2010	Actual 2009
Fund Balance as of January 1	\$17,945,976	\$22,657,876	\$28,493,872	\$22,071,888
Surplus Utilized in Budget	\$16,000,000	\$18,700,000	\$24,250,000	\$18,500,000
Remaining Fund Balance	\$1,945,976	\$3,957,876	\$4,243,872	\$3,571,888
Excess from Operations/Revenue	-	\$13,988,100	\$18,414,005	\$24,921,984
Fund Balance as of December 31	-	\$17,945,976	\$22,657,877	\$28,493,872
Percentage of Surplus Used	-89%	-83%	-85%	-84%

¹⁵ I have modified the County's chart to reflect the "correct" Sub-total of General Revenues. I based my calculations on the revenue amounts provided. It appears that the sub-total was incorrectly added on the exhibit.

Debt Service

The County has a debt service amount of \$50,695,825 dollars, equating to 10.48% of the total appropriation budget for 2012 (Er-III-E). Total debt service realized for 2011 was \$44,266,115 dollars equating to 8.86% of the 2011 appropriated budget (Er-III-E).

Tax Rates

The 2012 \$483.8 million dollar budget compared to the 2011 general appropriations of \$499.7 million dollars would increase property taxes, per taxpayer, by an average of around \$93 dollars (Er-III-E).

Percent of Budget - Funded by Taxpayers

The County's amount to be raised by taxation for 2012 is \$303,039,176 dollars (Er-III-E). The County's appropriated budget for 2012 is \$483,844,564 dollars (Er-III-E). The amount of the 2012 budget funded by taxpayers is 62.63%.

Sheriff's Department Percent of Budget

The Sherriff's Department appropriated salaries and wages for 2011 was \$16,732,666 dollars of which \$16,327,443 dollars was paid or charged, leaving a balance of \$405,223 dollars in reserve (Er-III-E; PBA-Tab 1). The 2012 appropriated salaries and wages for the department are \$15,926,355 dollars (Er-III-E; PBA-Tab-1). For 2012, the department's appropriated salaries and wages contribute to 9.49% of the County's total budget for

salaries and wages (\$15,926,355 dollars/\$167,867,442 dollars)
(Er-III-E).

Tax Appeals

The Employer states it has experienced a 25% increase in tax appeals; however, the Union contends that the Employer has not provided documentation to support their claim (PBA-K).¹⁶

2% Tax Levy Cap

N.J.S.A. 40A:4-45.4 places limits on county tax levies and expenditures. This law is commonly known as the "Cap Law" (the "Cap Law").

The 1977 Cap Law provides that the local unit shall limit any increase in its budget to 2.5% or the COLA, whichever is less, of the previous year's local unit tax levy, subject to certain exceptions.

The provisions of P.L. 2010, c.44 effective June 13, 2010 (the "Amendment"), reduces the cap to 2% and limits exclusions only to capital expenditures, including debt service, certain increases in pension contributions and accrued liability for pension contributions in excess of 2%, certain healthcare cost increases in excess of 2% and extraordinary costs directly related to a declared emergency. Waivers from the Division of Local Government Services or the Local finance Board are no

¹⁶ No evidence of appropriated dollars to cover the cost for tax appeals were found in the provided budget exhibits. However, this does not negate the fact that tax appeals in Union County may exist.

longer available under the Amendment. The Division of Local Government Services has advised that counties must comply with both the original "Cap" and the Amendment tax levy limitation, selecting the more restrictive of the two. These tighter restrictions make it more important to control expenses in areas that are within the Cap.

A municipality may by ordinance, or a county by resolution, increase the COLA percentage up to 3.5% [N.J.S.A. 40A:4-45.14(b)] or bank (for up to two years) the difference between its final appropriation subject to the cap and 3.5%. Cap Banking is not automatic. A single ordinance or resolution can be used to accomplish both activities: increasing appropriations and banking any unappropriated balance. Cap bank balances from 2010 and 2011 are available for use in 2012.

The County's Maximum Allowable Amount to be Raised by Taxation - County Purpose Tax for the 2012 Levy Cap Calculation is \$307,462,184 dollars (Er-III-E; PBA-Tab-14). The Amount to be Raised is \$303,543,083 dollars (Er-III-E; PBA-Tab-14). The 2011 Cap Bank Utilized in CY2012 was zero (\$) (Er-III-E; PBA-Tab-14).

The 1977 Cap Calculation reflects that the "1977 Cap" Maximum County Purpose Tax, after all exclusions, to be \$303,039,176 dollars (Er-III-E; PBA-Tab-14). Union County utilized \$.40 from the 2010 Cap Bank; \$707,514 dollars from the

2011 Cap Bank and \$2,185,277 dollars from the COLA increase (Er-III-E; PBA-Tab-14). Since the County is legally obligated to use the more restrictive of the two caps, the amount to be raised by taxation in 2012 is the lesser amount of \$303,039,176 dollars (Er-III-E; PBA-Tab-14).

Sheriff's Department

Approximately 170 officers and employees of the Union County Sheriff's Office are employed in the Courthouse Security Division, the Transportation Unit, the Fugitives Investigation Unit, the Extraditions and Renditions Unit, the Domestic Violence Unit, the Legal Process Unit, the Bureau of Identification and the K-9 Search and Rescue Unit.

The Sheriff's Department provides valuable programs to the community. The Sheriff's Youth Academy is a program designed to introduce students to emergency services and law enforcement training (PBA-C-1). The Project Lifesaver Program outfits autistic and disabled individuals with transmitters so the Sheriff's Department can find them if they are reported missing. In addition, the Sheriff's Office has developed safety programs for children and the Operation Bread Basket Program, which solicits donations from private donors to purchase food baskets during the holidays.

The Sheriff's Office is also particularly proud of its Honor Guard. The Honor Guard performs at various civic and

ceremonial functions and often appears at funerals to pay respect to fallen officers, along with making appearances at political functions and parades. (TR-52-53)

The Courthouse Security Division provides Court security. Officer Michael Heller testified that between 50 and 60 officers are assigned to this unit (TR-104). The unit provides security at the metal detectors located in the courthouse entrances, which is the first line of defense at the courthouse (TR-104). Officers assigned to courtroom duty provide security for judges, juries, witnesses, persons in custody and courtroom staff (PBA-M-5). The unit also maintains order and decorum in the court. Minimum staffing in each courtroom is one supervisor and one officer for family courts and at least one supervisor and two officers for criminal courts (TR-105). Not all courtrooms have a sergeant assigned to them (TR-106). Undersheriff Cryan testified that when no superior officer is assigned to a particular courtroom, the most senior rank-and-file officer is in charge of the courtroom (TR-106).

The Legal Process Unit serves legal paperwork on defendants (TR-40) (PBA-M-12). These officers, wearing plain clothes, are often placed in hazardous situations because they are serving individuals without the benefit of a criminal lookup to determine if they are dangerous (TR-41).

The Fugitive Investigations Unit is responsible for the

execution of warrants issued by the Superior Court and other law enforcement or judicial agencies (PBA-M-10).

The Sheriff's Labor Assistance Program ("SLAP") oversees inmates performing community service (TR-44-45). Officer Halpin testified that the courts assign defendants to work in a community service type of program instead of going to jail (TR-44-45).

The Crime Scene ID unit performs numerous tasks. It processes all inmates that were brought into the jail during the previous night (TR-60). The process includes fingerprinting, obtaining DNA, photographing and taking the inmates background information. The unit also processes crime scenes (TR-61).

The Union County Emergency Response Team (UCERT) is used for riot control situations while the SWAT team is used for special weapons and tactics (TR-122-123). The SWAT team is called out in hostage situations, barricaded suspect situations, special details, and security details (TR-123).

Sheriff's Officer Training

There are two job specifications under the Civil Service Code for Sheriff's Officer: Sheriff's Officer and Sheriff's Officer Bilingual (PBA-C-11, 12). Both of those job descriptions set forth a vast array of law enforcement functions performed by Sheriff's Officers.

Sheriff's Officers must undergo the same training that

municipal police officers receive. The Division of Criminal Justice Police Training Commission ("PTC") has created the "Agency Training for the Basic Course for Police Officers" and the "Basic Course for Class II Special Law Enforcement Officers", which sets forth the training guidelines for Sheriff's Officers (PBA-H-1). The Training manual contains 71 performance objectives that each trainee must successfully complete. In addition, Sheriff's Officers must also take a basic firearms course while at the Academy (PBA-H-2).

Further, there is separate agency training requirements for Sheriff's Officers, above and beyond the training received by municipal police officers (PBA-H-5).

Existing Working Conditions

The Sheriff's office has 120 sheriff's officer positions, 7 of which are currently vacant. The 113 current unit members have base salary pursuant to the salary guide in the 2005-09 contract (Er A-D). The following chart shows the number of employees at each step of the salary scale, together with their current salaries:

Step	# of Employees	2009
Start	1	34,478
Grad Academy	0	40,457
Step 1	3	49,122

Step 2	6	53,163
Step 3	3	57,207
Step 4	6	61,252
Step 5	7	65,294
Step 6	13	68,556
Step 7	5	72,674
Step 8	8	79,169
Step 9	17	80,534
Step 10	12	81,534
Step 11	32	82,034

Employees move from the "starting pay" rate to the academy rate upon graduation from the academy. Thereafter, employees move up the steps of the salary guide upon reaching their anniversary date of hire. The aggregate base pay for this bargaining unit is \$8,357,837.

Pursuant to the expired contract, employees receive the following longevity compensation, referred to in the contract as "senior officer pay":

After 10 years' service \$1,365.

After 15 years' service \$2,365.

After 20 years' service \$2,865.

This longevity payment is added to the employees' base pay, but is not compounded by any annual percentage increases except the 20-year longevity payment, which is compounded. The following

chart shows the County's cost of longevity for this bargaining unit:

Years of Service	# of EES	Seniority Pay Amt.	Total
10	17	\$1,365	\$23,205
15	12	\$2,365	\$28,380
20	32	\$2,865	<u>\$91,680</u>
		Total Cost	\$143,265

In addition, officers assigned as detectives receive a Stipend of \$1,500. Detectives perform various investigative duties. The Sheriff may designate up to 15 officers to serve as detectives at any one time.

Further, an employee assigned as Training Officer receives a stipend of \$1,000 for a six-month period. Training Officers are designed by the sheriff for a six-month period.

Sheriff's officers work a 41-hour workweek, usually 8 hours and 1 minutes a day. They are assigned to a post and shift time by the Employer, although they submit periodic assignments requests, called "Dream Lists" to the Sheriff.

As to time off, Sheriff's Officers enjoy 14 paid holidays annually. They are permitted 15 sick days annually, and receive cash incentives quarterly and annually if no sick days are charged. Officers retiring after 25 years' service with the County may sell back their unused sick leave up to a maximum of \$18,000. Sheriff's officers are provided with a vacation allotment, after 1 year of service, of between 13 days (after 1

year service) and an increasing allotment for continuing service up to a maximum of 32 days after 30 years' service. Vacation time must be taken in five-day increments except for 4 floating days annually. In addition, they enjoy 4 personal days/religious observance days annually. Further, when the courts are closed for Christmas recess and New Years' recess, sheriff's officers are off with pay for either one or the other recess period.

Sheriff's Officers enjoy the usual array of health benefits, prescription coverage, and dental plan.

County Exhibit ER1-J shows the extent of turnover among unit employees:

Since January 1, 2010, 5 employees retired including 4 with 25 or more years' service; 1 employee resigned, 1 was transferred to another unit, and 1 became deceased.

During that same time period, the County hired 9 employees: 4 employees were hired in 2010; 4 more were hired in 2011; and 1 has been hired so far in 2012 (Ex. C-III-F).

There are currently 20 sheriff's officers with at least 20 years' of service and 4 with at least 25 years' service.

Comparables - Internal

The County's 2,300 non-management employees are organized into 22 separate negotiations units, 10 of which are law

enforcement personnel. Of the law enforcement groups, the County has settled contracts with four units:

The County police unit consisting of 53 officers, represented by PBA Local 73, agreed to a 3-year contract for 2010-2012, which included a zero increases in 2010, 2.25% increases in 2011, and 2.50% increases in 2012. In addition, Senior Officer pay was increased by \$210 at each level. The unit agreed to prescription copay increases and medical concessions. This contract was settled in May, 2010 (ER-1-F).

The same day, the County settled with the County police superiors' unit (21 superiors), represented by the Superior Officers Association. That contract contains the same provisions as the rank-and-file county police unit (ER-1-F).

In December, 2010, the County corrections officers unit (265 employees), represented by PBA Local 199, agreed to a 3-year contract for 2010-2012, which included a zero increases in 2010, 2.25% increases in 2011, and 2.50% increases in 2012. In addition, Senior Officer pay was increased by \$210 at each level, and \$870 was added to the top step of the guide in exchange for a new, lower salary guide for new hires. The unit also agreed to prescription copay increases and medical concessions, and holiday pay was rolled into base salary over 2010 and 2011, which increase top pay by about \$4,300 (ER-1-F).

In January, 2012, Arbitrator Hundley issued an interest arbitration award covering the Sheriff's Officers superior officers unit (46 superior officers) represented by FOP Lodge 103. Union County Sheriff, Docket No. IA-2010-118 (Hundley, 2012). That award provided for the same 0% in the first year, 2.25% in 2011, and 2.5% in 2012 with the same \$210 increase in senior officer pay, and same health benefit and prescription co-pay concessions (ER-1-F; PBA G-9).

The County has 6 law enforcement units left with no current contracts: this unit of sheriff's officers (120 employees); the Corrections superiors officers (50 employees); the Prosecutor's investigators (49 employees); the Prosecutor's superior officers (29 employees); the Weights and Measures officers (2 employees); and the Assistant Prosecutor's unit (62 assistant prosecutors). All of these contracts had expired at the end of 2009 except the Assistant prosecutors, which expired in 2010 (ER 1-F).

Further, the County has six civilian bargaining units currently in negotiations, where the contract expired in 2011, including the main County-wide unit of 916 white- and blue-collar employees represented by Council 8, CSA/IPFTE. All six of these expired contracts were for a four-year period (2008-2011) and provided for a wage freeze in 2010 and a 3.0% increase in 2011, among other terms (Er 1-F).

As to actual pay rates for other County law enforcement personnel, the following chart reflects the minimum and maximum-step salary for other law enforcement personnel in the County's employ: (PBA Ex. G 1-6)

<u>County Unit: *</u>	<u>2,009</u>	<u>2,010</u>	<u>2,011</u>	<u>2,012</u>	<u>2,013</u>	<u>#Steps to Max</u>
Union Co Sheriff Superiors	No info					
Union Co Corrections**		33,246 79,110	36,223 84,922	38,794 88,711		9
Union County Police		36,260 81,301	37,075 83,130	38,002 85,209		9
Union County Prosecutor's Detectives	44,692 83,204					11
Union County Sheriff's Officers	34,778 79,169					13
<u>AVERAGE</u>			<u>2011</u>	<u>2012</u>		
AVERAGE MINIMUM SALARY			36,649	38,398		
AVERAGE MAXIMUM SALARY			84,026	86,960		

*Does not include longevity or senior pay steps.

**The County Corrections officers rolled in 4 holidays into base pay in 2010 and 10 additional holidays into base pay in 2011. The total value of the roll-in at top pay was about \$4,300.

Comparables - External

The following chart shows a comparison of sheriff's officers' maximum base pay in other New Jersey counties:

	2009	2010	2011	2012	2013	2014
Atlantic	68,086	69,447	70,489	71,546		
Bergen	102,146	106,385				
Burlington	No info					
Camden	70,732	72,713	74,749	76,842		
Cape May	69,118	72,082	75,165	78,372		
Cumberland	No info					
Essex	No info					
Gloucester	66,754	68,757	72,236	75,891	79,730	
Hudson	71,020	75,281	79,797	84,584		
Hunterdon	57,500	58,500	60,000			

Mercer	No info					
Middlesex	No info					
Monmouth	86,712	89,313	91,992	94,752	97,594	
Morris	82,429	85,726				
Ocean	88,157					
Passaic	No info					
Salem	73,556	76,204	78,947			
Somerset	79,152	81,724	81,724	83,971		
Sussex	71,526	74,029	76,620	79,302	82,078	
Union	79,169					
Warren	No info					
Average			76,172	80,658		

The following chart reflects the minimum/maximum step salary for patrolmen for years 2009 through 2013 for numerous neighboring municipalities:

Minimum/Maximum Step Salary Guide

<u>Town</u>	<u>2,009</u>	<u>2,010</u>	<u>2,011</u>	<u>2,012</u>	<u>2,013</u>	<u>#Steps to Max</u>
Berkley Heights	48,109 83,522	48,109 83,522	49,319 84,775	50,799 88,191	52,322 90,837	8
Clark	32,532 85,258					9
Cranford	39,750 80,729	41,340 83,958	41,340 82,958	42,167 85,638	43,010 87,350	8
Elizabeth	45,915 84,002	47,407 83,015	48,948 85,713	50,539 88,499	52,181 91,375	7
Fanwood	44,436 89,508					8
Garwood	37,090 75,985	37,832 78,949	38,589 82,028			6
Linden	43,283 84,003	43,283 85,503	44,690 88,282	46,254 91,372	43,081 94,980	9
Mountainside	35,909 89,352	37,256 92,702				8
New Providence	56,012 91,612	58,532 95,734				7
Plainfield	39,005 87,672					7
Rahway	35,995 86,529	37,435 89,990	38,933 93,590	40,490 97,333		6

Roselle	44,549 79,939	45,739 81,896	46,961 84,113	48,330 87,013	49,741 89,850	5
Roselle Park	46,092 79,824	39,157 83,336				8
Scotch Plains						9
Springfield	34,936 91,636	32,378 95,301				7
Summit	47,728 94,699	48,460 98,298				8
Union Township	41,706 88,016	42,957 90,656	44,139 93,149	45,132 95,245		9
Westfield	37,034 82,297	40,052 89,652				7
Winfield		34,257 66,770	35,285 68,773	36,344 70,836		5
<u>AVERAGE</u>			<u>2011</u>	<u>2012</u>		
AVERAGE MINIMUM SALARY			43,134	45,007		
AVERAGE MAXIMUM SALARY			84,820	86,766		
AVERAGE NUMBER OF STEPS						7.4

*Does not include corporal, detective or superior officer steps.

Further, a review of settlement and interest arbitration award trends reported by the New Jersey Public Employment Relations Commission shows that the average salary increase granted in interest arbitration awards and those units that voluntarily settled is as follows:

Year	Number of Awards	Average Salary Increase of Awards	Voluntary Settlements	Average Salary of Increase of Settlements
1/1/12-4/30/12	9	1.82%	10	1.83%
1/1/2011-12/31/2011	34	2.05%	38	1.87%
1/1/2010-12/31/2010	16	2.88%	45	2.65%

DISCUSSION

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).

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 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 the other factors that interrelate and require the greatest scrutiny in this proceeding are the financial impact of the award [N.J.S.A. 34:13A-16g(5) and N.J.S.A. 34:13A-16g(9)]; the cap restrictions on the employer [N.J.S.A. 34:13A-16g(6)]; the comparison of wages, other compensation and benefits of Union County's Sheriff's officers to other similar jurisdictions; the cost of living; and the internal pattern of settlements within Union County's workforce.

The Employer's Lawful Authority and Statutory Restrictions, and Financial Impact on Taxpayers: g(5), g(6) and g(9).

Chapter 62, N.J.S.A. 40A:4-45 et seq, provides that a municipality or county shall limit any increase in its annual budget to 2.5% over the previous year's final appropriations unless authorized by ordinance or resolution to increase it to 3.5%, with certain exceptions. This is commonly referred to as the "Appropriations Cap." Chapter 68, N.J.S.A. 40A:4-45.45 prevents a municipality or county from increasing the tax levy by more than 2% absent a public referendum. This is commonly called the "tax levy cap."

The County argues that it has raised taxes to the maximum extent permitted by law in order to balance the 2012 budget. The County is required to use the more restrictive of two cap laws in order to determine how much it can raise taxes. In 2012, the

maximum levy was included in the budget. Since 2005, taxes have risen from \$216,332,767 to the proposed levy in the current year budget of \$303,039,176, an increase of \$86,706,409 over seven years. (Taylor Supplemental Cert., ¶6). The County carried over \$707,513.90 from its cap bank in 2011 for the preparation of the 2012 budget. (Taylor Supplemental Cert., ¶5). The cap bank was used in the 2012 budget along with the COLA increase of \$2,185,277 to raise taxes to the maximum amount allowed by the 1977 CAP (Taylor Supplemental Cert., ¶5).

The PBA's asserts that the County has almost \$14 million in excess of operations for 2011 and miscellaneous revenues not anticipated in the amount of almost \$8 million. This total amount, however, is not comprised of separate pots of money and all goes into surplus. The 2012 introduced budget shows that the County had a surplus of \$17.9 million at the end of 2011. This amount was rolled into 2012 and the County has used \$16.0 million of that surplus to balance the budget leaving approximately \$1.9 million in surplus in the event of an emergency.

The PBA asserts that the County presently has no issue with the cap limits and that its proposed wage increases will not cause any cap violations. It notes that the 3.5% cap calculation utilized in the 2011 budget (with the full COLA rate resolution) resulted in the County maximum spending cap of \$291,876,050.90 with utilization of the 2009 \$1,915,496.98 cap bank and the 2010

\$7,001,437.24 cap bank.

The PBA claims that the 2% Cap is not a basis to conclude that the County cannot fund the requested increase, as evidenced by the County's surplus, available Federal and State Grants and other unanticipated and existing revenues, other than taxation. In addition, the County's unanticipated revenues and other financial data support the contention that the County is not likely to raise taxes to meet its obligation to fund the wage increases sought. Further the PBA notes that the 2011 annual County general tax rate increase allocated to the cost of the Sheriff's department was \$3.32 (Exh. K-4).

In summary, the PBA states that its final Offer does not infringe upon the 2.0% tax levy cap because the County has a large free cash balance and has the ability to continue amassing a large surplus.

* * * * *

As the Supreme Court found in Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 N.J. 71 (1994), and as N.J.S.A. 34:13A-16 specifically provides, the impact on taxpayers, the appropriations caps and the tax levy cap, are all important consideration in the determination of my award.

I find that the there is little doubt that the County was in serious financial difficulty in 2010. No money was budgeted for salary increases for the Sheriff's department as was true

for most other County employees. This was no doubt the basis for the County's insistence on a wage freeze for all of the recently settled negotiations. In this regard, I give significant weight to the County pattern of settlement with its other negotiations units, especially the law enforcement units. Therefore, I intend to rely on the County settlement pattern and impose a wage freeze for this bargaining unit for 2010.

Accordingly, for 2010, the only financial impact of my award will be the payment of employee increments; that is, to move five employees up to the next step on the salary guide. This money has already been appropriated and paid; there is no further economic impact for 2010.

For 2011, I intend to award across-the-board salary increases of 2.25% to all sheriff's officers. The County acknowledges that this increase has been built into the 2011 budget and can be fully funded. In addition, the step increment payments were funded and have already been paid to the employees when due. As this is the County's proposal, I trust that it has accurately calculated the cost of its proposal and is satisfied that it comports with its lawful mandates to stay within the caps. Beyond the salary increase, there is no additional cost associated with my award for 2011. Therefore, there is no additional negative impact on the budget or the tax levy for 2011.

In 2012, I intend to award an across-the-board salary increase of 2.5%, effective July 1, 2012. I am very aware that the County budget is again very tight for 2012. In fact, the County was preparing to lay off an additional 278 employees in June, 2012. It must be noted though that the County is not laying off any employees in this bargaining unit, although 7 positions are unfilled. The Sheriff's Department hired an additional employee in 2012. However, the County will have some additional flexibility in its budget by virtue of Chapter 78: in July, employees' contributions will double as they enter tier 2. Contributions for the first half of 2012 netted a \$2 million savings County-wide. In addition, the prescription plan increases I am awarding today will save the County additional money. Further, I note that at least 4 unit members are retirement eligible. If all 4 employees, who are at top pay retired, and assuming the County replaces them with entry level officers, the savings would net about \$188,000. Additionally, the two-tier wage guide being awarded will mean that the County will better be able to afford these new hires at lower entry rates, savings additional money.

The total cost¹⁷ of the 2.5% across-the-board increases,

¹⁷Certain assumptions have been made in creating these calculations. I have applied the contract provisions that require increment advancement in January or in July, depending upon the employee's anniversary date. I have assumed that these step movements apply to those in senior pay steps 9, 10 and 11 as well. I have assumed that employees still in intermediary steps but starting their benchmark senior pay year (10, 15 or 20th year) receive senior pay and

effective July 1, 2012, is \$104,318. Additionally, the cost of paying the 2012 increments, pro-rated to either January 1 or July 1, pursuant to the requirements of the contract, is \$154,694. Additionally, the cost of providing senior pay to those employees who reached their tenth anniversary but are still in the step guide, is \$2,041. Further, the cost of increasing senior officer pay by \$210 effective January 1, 2012, is \$12,810 ($\$210 \times 61 \text{ employees}$) = \$12,810. Thus, the total cost to the County of the award for 2012 is \$271,863.

In 2013 and 2014, my award of 2.0% across-the-board increases does not exceed the 2% levy cap or the appropriations cap, although I acknowledge that the County will have the added costs of increment payments and a slight increase in the senior officer pay. However, of course, in 2013, and again in July, 2014, the County will experience additional savings from rising employee health care contributions. Therefore, the financial impact on the budget and the taxpayers of Union County will be minimal for 2013 and 2014.

Internal Comparability

The factor of internal comparability, based upon existing agency and court precedent, is a factor that is not only specifically addressed in the statutory criteria [N.J.S.A.

continue to move through the step guide, not automatically jump to step 9. Those still in steps but also receiving longevity has longevity listed separately in the Longevity Amount columns.

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). Id., 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) and County of Passaic, PERC No. 2010-42 and

PERC No. 2011-36 [cites]. See also, County of Essex and PBA Local No. 157, Docket No. IA-87-45, pages 17-8 (Scheinman, 1989).

Not surprisingly, both parties seek to place heavy emphasis on the County settlement pattern with regard to some issues, and seek to distinguish this unit from the County pattern for others. More specifically, the County asks that I follow the pattern by awarding a wage freeze for 2010, as all other employees in the settled contracts, as well as the unrepresented employees, accepted the freeze. The County also asks that I attach significant weight to the fact that the other units have all agreed to the medical premium contribution increases and prescription co-pay concessions. However, the County proposes that I not follow the pattern in granting 2.5% across-the-board increase for 2012, as was done in every other settled contract.

For the most part, I have followed the County pattern. The exception is where I believe that the result, for this unit, would be egregious and not in the best interests of either party or the public.

Terms and Conditions of Employment/Comparables

Based on the foregoing statistical analysis of wages in other jurisdictions, I conclude that this factor of comparable wages, together with the total compensation and benefits

package, is entitled some weight in reaching this award. In addition, it is in the public interest, as well as continuity of employment and the maintenance of employee morale, that employees receive a fair commensurate salary to that of their peers in similar jurisdictions.

The PBA argues that weight should be given to both sheriff's officers in other jurisdictions as well as municipal law enforcement personnel in Union County. The County maintains that neither of these factors is particularly relevant because they fail to consider the geographic and socioeconomic factors.

Comparison to the Private Sector:

I give almost no weight to the component of comparability with the private sector other than to observe that New Jersey's unemployment rate is about 9%, overall wages are virtually stagnated, and any economic recovery for everyone is slow to take root. On the one hand, law enforcement personnel are not subject to the same concerns as both private sector and even public sector civilians in that layoffs are infrequent and furloughs are non-existent. However, there is no particular private sector occupation that is an equitable comparison to sheriff's officers. Sheriff's officers are unique in a variety of ways, including a unique recruitment and training process; the stress and dangers of the job, and the lack of portability

of their skills beyond a certain age and beyond a geographic region. They are frequently required to work evenings, nights and holidays. Unlike the private sector, they do not compete in a global economy, which tends to depress wages.

Cost of Living

I am required to consider the cost of living as a factor in rendering this award. N.J.S.A. 34:13A-16 (g) (7); Borough of Hillsdale. Both parties recognize that the cost of living is climbing. In April 2012, the CPI for all urban consumers remained unchanged from March 2012 (PBA-E-3). As of March 2012, the CPI for All Urban Customers (CPI-U) increased by 2.7% before seasonal adjustment over the last 12 months.

It must be noted that the CPI for 2010 and 2011 was virtually flat, resulting in a zero COLA for Social Security beneficiaries. This is in part the basis for my determination to freeze wages for these employees for 2010. While the employees did begin to contribute to the cost of health care premiums in 2011, this in itself is not a factor leading to necessary salary increases as proposed by the PBA. It was surely not the intention of the legislature in passing Chapter 2 and Chapter 78 to have municipalities reimburse employees through salary increases for the cost of their health care contributions. While it is true that the cost of living is in

fact beginning to climb in 2012, my award takes this fact into consideration and gives employees across the board increases in recognition of this fact.

Stipulations of the Parties

At the arbitration hearing, the parties stipulated to certain facts. These stipulations have been incorporated into the factual findings above.

**Continuity and Stability of
Employment Including Seniority
Rights and Such Other Factors
Traditionally Considered in
Determining Wages and
Employment Conditions: g(8):**

Nothing in this award will negatively impact upon the employee's continuity of employment or the officers' seniority rights. In fact, the raises provided herein will allow the Union County sheriff's officers to maintain pace with the salary and benefits of employees in their geographic area, and with other sheriff's officers state-wide. Additionally, because I have standardized the benefits package (senior pay, minimum call-in time, prescription benefits) between the rank and file officers and the superior officers, internal continuity will be enhanced. To the extent that "area standards" and "prevailing rate" are akin to comparability to other jurisdictions, I have considered these factors above.

**The Interest and Welfare
of the Public: g(1):**

In my view, the interest and welfare of the public is not only a favor to be considered, it is the factor to which the most weight must be given. The public interest, of course includes the amount of property taxes which homeowners and businesses will be required to pay. It is for this reason that Section g(1) specifically references the tax levy cap. This award as a total package will allow the County to comply with the statutory cap mandates and will have a minimal effect on the Sheriff's budget or the tax rate. This is of course in the public interest.

Moreover, it is also in the public interest that the County sheriff's office maintains a high degree of morale and professionalism while performing their duties. I have specifically considered this, both in terms of the wage and benefit package being awarded.

In the bigger picture, it is in the interest of the public that it receives the highest quality of law enforcement protection and security for the most reasonable price. This award allows the Union County Sheriff's office to continue to meet this goal. I will discuss the individual disputed contract terms below.

Contract Duration:

The PBA proposes a five-year agreement covering the period January 1, 2010 through December 31, 2014. The County offers a

three-year agreement that will expire at the end of 2012.

The PBA argues that the public interest is best served by a contract that will foster stable labor relations for more than the next six months. It notes that arbitrators favor longer-term contracts that will foster labor peace and prevent an immediate return to the negotiating table. The PBA cites City of Passaic and Passaic Firefighters Assoc., IA-2002-027

(Mastriani, 2002), wherein the arbitrator recognized the need for a period of stability following contentious negotiations and noted the inherent instability created by awarding a contract which would force an almost immediate return to the bargaining table for a successor agreement. The PBA also cites my award in Borough of Roselle Park, IA-2012-24 and -26 (Osborn 2012). In that matter, I struck a balance between uncertain economic conditions and creating a period of labor stability and awarded a three-year contract through 2014. The Union maintains that the public's interest is clearly fostered by awarding the PBA's proposed five-year contract because it promotes labor stability and peace. Conversely, the public's interest is harmed by parties that are continually engaging in contentious and costly negotiations.

The County asserts that its three-year contract is the far more reasonable option in light of the unstable economic environment.

There are several competing concerns to be considered in deciding the contract term. It is true that the economic future of the State and Union County is filled with uncertainty and lack of predictability. Whether the County's budget woes will improve over the next few years or further deteriorate, is beyond speculation. While several of the recently settled contracts will expire in 2012, some other contracts expired in 2011. These successor contracts will likely have a termination date sometime beyond 2012. Therefore, while the County might prefer to have all of its law enforcement contracts expiring simultaneously, this is already not the case.

The parties have been in negotiations for this agreement for two and a half years. If I award the County's proposal, the parties will be returning to the bargaining table almost immediately for a successor agreement. Labor negotiations are costly, time consuming and stressful to the parties' relationship. I believe that labor relations stability will be enhanced by proving a contract with a longer term. Therefore, I intend to award a 5-year agreement covering the period 2010 through 2014. I have kept the salary increases for the final two years low in recognition of the uncertain future in the County's budget.

Wages:

The PBA seeks increases of 3%, 3%, 3%, 2% and 2%.

The County proposes a zero increase for 2010, a 2.25% increase for 2011, and a zero increase for 2012.

For 2010, I award the wage freeze as proposed by the County. In this regard I rely on 2 factors: the impact on the taxpayers and the County pattern among other bargaining units. As previously explained, the County simply does not have the money in the budget for wage increases beyond the increments paid for 2010. More importantly, the County has already settled with a significant number of its bargaining units, including 4 law enforcement groups. Each of these settlements, including the Hundley Interest Arbitration Award for sheriff's superior officers, has included the 2010 wage freeze. Accordingly, I choose not to deviate from the established pattern and I award a wage freeze for 2010.

For 2011, I award the County's proposal of 2.25% salary increases. This amount has already been budgeted and it conforms to the County pattern with other bargaining units.

2012 presents more of a dilemma. The County argues that the Sheriff's superior officers unit (represented by FOP Lodge 103) was awarded 2.5% by the Interest Arbitrator. It asks that I note that at the time of that Interest Arbitration, the County did not have the data that is now available to demonstrate the extent of the economic crisis, including the 2012 budget and two layoffs.

While I believe it important to the morale of the employees

to follow the County pattern, and award 2.5% increases as was done in the other bargaining units, I am somewhat constrained by the financial difficulties posed by the County's 2012 budget. While the PBA asserts that the County will have no difficulty in paying salary increases for 2012 because it has funds left in surpluses and revenues from other than tax resources, I note that the County's surpluses are rapidly dwindling. Therefore, my award of 2.5% salary increases for 2012 will be effective July 1, 2012. This delay in implementing the raise by 6 months will save the County half of the dollar value of the increases in its 2012 budget and still allow the unit employees to keep pace with other county bargaining units. I note that in comparing the maximum 2012 pay of other Union County law enforcement groups; this award puts sheriff's officers at \$82,974 - still somewhat below top pay for county police and correction officers. However, it puts them slightly above the average top pay for sheriff's officers State-wide.

For 2013 and 2014, I award a modest 2.0% increase as proposed by the PBA. This increase will allow employees to keep pace with other sheriff's officers throughout the State and at the same time provide the County with the ability to control costs going forward.

2-Tier Wage Proposal:

In addition, the County proposes a new, lower salary guide for employees hired after this award issues as follows:

STEP	2012
1	\$32,643
2	\$37,393
3	\$42,143
4	\$46,893
5	\$51,643
6	\$56,393
7	\$61,143
8	\$65,893
9	\$70,643
10	\$75,393

While it appeared at first glance that the proposed second-tier guide expands the steps from the current 8 step to 10, I do not believe this was the County's intent. Rather, I believe that they simply numbered the starting pay as "step 1" and the academy graduation rate as "step 2".

The County points to the 2010-12 contract it negotiated with the County corrections officers, which included a new salary guide for new hires which is approximately 10% lower than the old guide. It notes that, given the high turnover rate among

corrections officers, the County will save millions of dollars over the next ten (10) years simply through attrition in the corrections group.

The PBA argues that a new salary guide would create a large disparity in pay between currently employed officers and those employees hired after the date of the award. It will, the PBA states, create a class of "haves," those hired before the date of the award, and "have nots," or those hired after the date of the award. Such a division, it asserts, is bad for morale and thus, bad for the interest and welfare of the public.¹⁸

Believing that the proposal actually sought to expand the guide from 10 steps to 12, the PBA cites Monmouth County Sheriff and PBA Local 314, IA-2002-061 (Mastriani, 2003), in which the arbitrator found that salary guide compression, not expansion, fosters the interest and welfare of the public.

Further, the PBA avers that the proposed new-hire salary guide will deter qualified candidates for the job. Undersheriff Cryan acknowledged that Sheriff's Officers become Sheriff's Officers to one day be at the top of the pay scale, and there is a point at which pay becomes a deterrent to hiring qualified candidates (TR-196). Thus, the PBA maintains, the proposal is not in the interest and welfare of the public.

¹⁸ The PBA argues that I should not credit Cryan's assertion that PBA members are professionals that do not care what their fellow officers are earning. (T. 157-158). It is indeed human nature to consider what one's coworkers are earning for performing the same work.

With regard to the County's reliance on the new pay scale in the corrections officers' contract, the PBA asserts that

Corrections officers received pay increases well beyond what the County has offered to this unit. Therefore, if the Arbitrator is inclined to award this proposal, she must also award the increased pay above the "pattern" that was negotiated with the Corrections Officers represented by PBA 199.

I award a new salary guide for employees hired after July 1, 2012, as follows:

STEP	2012
Start	\$32,772
Academy	\$37,772
1	\$45,981
2	\$50,981
3	\$55,981
4	\$60,981
5	\$65,981
6	\$70,981
7	\$75,981
8	\$82,974

This new salary guide grants the County's request for a lower starting salary. The record shows that there were more than 1,000 qualified applicants on the civil service list for the last vacancy. This is a strong indication that the County does not need such a high rate of starting pay to attract qualified

applicants. I have set the starting rate at \$32,772 which is about \$2,000 less than the starting salary in the expired contract and \$3,678 less than the salary as provided for in this award.

Thereafter, I have provided increments in even amounts of \$5,000 between most of the steps with a significant increment after the academy, after graduation and between step 7 and 8. The top step of the guide matches the top 2012 salary in the old guide. The net effect of this guide is that the County will save money for newly hired employees going forward at every step of the salary guide except top pay, where the guides converge. At the same time, it provides all employees, including new hires, with an equal target at top pay.

Health Benefits:

Health benefit plans available for Union County employees include: Horizon PPO (replaced by Direct Access in 2006) [OAP 5/OAP 6], Direct Access [OAP/OAP 3], HealthNet [OAP 1] and Aetna Healthcare [OAP 1]. The 2011-12 rates for each class of coverage are as follows:

Plan	Single	Family	2 Adults	Parent/Child
Horizon PPO	7,706	21,158	20,509	20,173
Direct Access	6,997	19,211	18,623	18,317
HealthNet	6,409	18,235	17,041	17,434

Aetna Healthcare	6,409	18,235	17,041	17,434
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*These rates are in effect through June 30, 2012

As to the cost impact on the employee, one first would have to start with their statutorily required contributions.

Pursuant to Chapter 78, P.L. 2011, effective June 28, 2011 or as soon thereafter as could be locally implemented, public employees are required to contribute to the cost of their health insurance premiums at a rate of 1.5% of base salary, or a percentage of the premium, as set by statute - whichever is higher. This percentage of premium contribution rate is phased in over four years and reaches a maximum of 35% of the premiums by the fourth year. Newly hired employees immediately start contributing at the full contribution rate (Tier 4). The employees in this unit will advance to Tier 2 on July 1, 2012. The following chart is an excerpt of the contribution rates as set forth in Ch. 78:

Single Coverage:

Salary Range	Tier 1 (Current)	Tier 2 (7/12)	Tier 3 (7/13)	Tier 4 (7/14)
50,000-54,999	5.0%	10.0%	15.0%	20.0%
55,000-59,999	5.75%	11.5%	17.25	23.0%
60,000-64,999	6.75%	13.5%	20.25%	27.00%
65,000-69,999	7.25%	14.5%	21.75%	29.0%
70,000-74,999	8.0%	16.0%	24.%	32.0%

75,000-79,999	8.25%	16.5%	24.75%	33.0%
80,000-94,999	8.5%	17.0%	25.5%	34.0%
95,000 up	8.75%	17.5%	26.25%	35.0%

Family Coverage:

Salary Range	Tier 1 (Current)	Tier 2 (7/12)	Tier 3 (7/13)	Tier 4 (7/14)
50,000-54,999	3.0%	6.0%	9.0%	12.0%
55,000-59,999	3.5%	7.0%	10.5%	14.0%
60,000-64,999	4.25%	8.5%	12.75%	17.00%
65,000-69,999	4.75%	9.5%	14.25%	19.0%
70,000-74,999	5.5%	11.0%	16.5%	22.0%
75,000-79,999	5.75%	11.5%	17.25%	23.0%
80,000-84,999	6.0%	12.0%	18.0%	24.0%
85,000-89,999	6.5%	13.0%	19.5%	26.0%
90,000-94,499	7.0%	14.0%	21.0%	28.0%
95,000-99,999	7.25%	14.5%	21.75%	29.0%
100,000-109,999	8.0%	16.0%	24.0%	32.0%
110,000 up	8.75%	17.5%	26.75%	35.0%

For 2012, the following chart shows a sample comparison between the employer's proposals of what employees would pay as a percentage of salary versus the Chapter 78 contributions:

Single				Horizon PPO		Direct Access		Aetna/HealthNet	
7/2012	Salary	2% of Salary	Ch. 78 Contrib Rate	Prem	Ch. 78 Contrib	Prem	Ch. 78 Contrib	Prem	Ch. 78 Contrib
	\$50,000	\$1,000	20%	\$7,706	\$1,541	\$6,997	\$1,399	\$6,409	\$1,282
Step 4	\$64,196	\$1,284	27%	\$7,706	\$2,080	\$6,997	\$1,889	\$6,409	\$1,730
Step 8	\$82,974	\$1,659	34%	\$7,706	\$2,620	\$6,997	\$2,379	\$6,409	\$2,179
Family				Horizon PPO		Direct Access		Aetna/HealthNet	
7/2012	Salary	3% of Salary	Ch. 78 Contrib Rate	Prem	Ch. 78 Contrib	Prem	Ch. 78 Contrib	Prem	Ch. 78 Contrib
	\$50,000	\$1,500	12%	\$21,158	\$2,539	\$19,211	\$2,305	\$18,235	\$2,188
Step 4	\$64,196	\$1,926	17%	\$21,158	\$3,597	\$19,211	\$2,305	\$18,235	\$3,100
Step 8	\$82,974	\$2,489	24%	\$21,158	\$5,078	\$19,211	\$4,611	\$18,235	\$4,376

**The above salaries are based upon the 2.25% increase being awarded for 2011 and the 2.5% increase for 2012.

As can be seen from the above, the County's proposal to charge employees the greater of 2% to 3% of their salaries or a Chapter 78 contribution for health benefits would essentially have no meaning for new employees, as new employees begin contribution rates at the full percentage (Tier 4). There is no percentage of salary contribution which exceeds the Chapter 78 percentage of premium rate for these employees.

Based upon the foregoing, I do not award the County's proposal for increasing the employee premiums on health care for new hires. I do award the PBA's proposal to reform the contract language under Article V to conform to Chapter 78's requirements.

Prescription Drug Coverage (Article V):

The County proposes the following changes to the terms of the prescription/drug coverage found in Article V:

-Retail Co-Pays (up to 30 days)

Effective 1 month after award, increase co-pays as follows:

Retail

\$6 - generic

\$15 - brand (no generic available or physician required)

\$20 - brand (generic available)

Mail Order (90-day supply)

\$5 - generic

\$10 -brand (no generic available or physician required)

\$15 - brand (generic available)

-Drug Utilization Plan

d. Enhanced concurrent drug utilization review

e. Preferred drug step therapy limited to PPI, SSRI and Intranasal steroid drugs

f. Clinical Intervention (MD Statement of medical necessity) limited to Anti-narcoleptic agents, weight less and anti-neoplastic agents.

-Continue restriction on flow through of prescription copays to major medical.

-Officers who receive fully paid retirement benefits under the 2005 through 2009 CNA shall be provided with the Medco Rx or an equivalent plan. This plan shall provide for free mail order prescriptions and 30% co-pay for retail. The plan shall provide for free mail order prescriptions and 30% co-pay for retail. It is understood that in order to provide the Medco Rx plan, the base health plan will be converted from CIGNA ROAP7 to CIGNA ROAP3.

-Effective January 1, 2011, the Third Party Administrator, will be eliminated and the County will no longer reimburse employees for any out-of-network charges.

-Effective January 1, 2011, emergency room co-pays shall be

\$25.00 per visit (to be waived if admitted).

I award the County's proposal in its entirety. This is the same proposal as was recently awarded by Arbitrator Hundley for the sheriff's superior officers and the same concessions as was agreed to by the other settled law enforcement groups.

Following the existing settlement patterns is particularly important in health benefit issues as it provides consistently among employees' health benefits and also cost efficiency to the employer. The proposal is awarded.

Senior Officer Pay:

The PBA seeks to increase the amount of senior officer pay by \$210. It also asked that the term senior officer be eliminated from the contract language. The County asks that the senior officer pay be eliminated altogether.

"Senior Officer Pay" is really a form of longevity and has been included in the sheriff's officers' contract since at least 1995 (J-1, p.5). Pursuant to the expired contract, employees receive the following compensation as senior officer pay:

Employees starting 10th year of service \$1,365.

Employees starting 10th year of service \$2,365.

Employees starting 10th year of service \$2,865.

This longevity payment is added to the employees' base pay, but is not compounded by any annual percentage increases except the 20-year longevity payment, which is compounded. The following

chart shows the County's current cost of longevity for this bargaining unit:

Years of Service	# of EES	Seniority Pay Amt.	Total
10th	17	\$1,365	\$23,205
15th	12	\$2,365	\$28,380
20th	32	\$2,865	<u>\$91,680</u>
		Total Cost	\$143,265

The County argues that there is no additional money to fund the PBA's requested economic increases. Further, it contends that without any corresponding "give backs" the PBA proposal to increase Senior Officer pay should be rejected.

It is noted that the County agreed to increase the senior officer pay for the County police, the County police superiors, and the corrections local. Further, the interest arbitrator recently awarded the Sheriff's superiors the same \$210 increase in senior officer pay. A pattern of settlement is an important criterion in this regard, and I give it significant weight.

The cost of the PBA proposal at \$210 for each of the 60 employees currently receiving senior officer pay would be \$12,600 per year. While the PBA puts no effective date on its proposal, if the increase were granted retroactively to the beginning of the contract, the aggregate cost over the life of the contract would be \$50,400 (\$12,600 x 4 years). In weighing the cost together with due consideration for the County internal pattern, I award

the senior officer pay increase by \$210 at each level effective January 1, 2012.

The County seeks to eliminate senior officer pay for all new hires. There is of course, no immediate cost benefit to the employer for this proposal, and no savings will be realized for the next ten years. The employer has not provided any comparative data, either among County employees, or from external data that this proposal follows a trend. Nor has it provided any specific rationale for its proposal. The proposal is denied.

Pay Check Distribution:

The current contract permits the County to change the pay day from Thursday to Friday based on the County's administrative needs.

The County proposes to amend Article IV, Section 4 to say,

In order to maintain a bi-weekly basis for paycheck distribution, effective on the date of the award, a rotating bi-weekly pay day schedule shall be implemented whereby the pay day will be changed in each successive year as follows:

2012: Friday
 2013: Monday
 2014: Tuesday
 2015: Wednesday
 2016: Thursday

This cycle will continue every five years. When payday occurs on a holiday, paychecks or direct deposits will be issued on the day prior to the holiday.

-The PBA will not object to or challenge the County's decision to change to a bi-monthly paycheck distribution from a bi-weekly paycheck distribution.

The County explains that its proposal is designed to address the fact that every nine to ten years there are 27 payrolls as opposed to 26 payrolls. The result of this is that in that odd year with the 27 paydays, employees receive a smaller amount in each paycheck because their annual pay is divided differently. The County asserts that sliding the payday back by one day each year will eliminate this problem and maintain consistency in the payroll process. It notes that each other bargaining unit has accepted this concept. The County avers that in the absence of this provision for this unit, it would have to set up an entirely new payroll just for this unit.

The PBA asserts these changes can be disruptive to officer's personal lives in that changing the day of the week an officer is paid can have an effect on automatic pay deductions for child support, mortgages or credit card bills. Moreover, if the pay date changes each year, at some point PBA members will end up working without being paid. It maintains,

Such a provision will not increase the morale of the bargaining unit and is thus not in the interest and welfare of the County. Further, the County has not met its burden and justified any change in the pay schedule. See Borough of Roselle Park, IA-2012-024, IA-2012-026 (Osborn, 2012).

I note that this proposal was agreed to by every other unit with which the County has recently settled. Further, it was awarded by the Interest Arbitrator for the Sheriff's superior

officers in Union County, I.A. Docket No. 2010-118 (Hundley, 2012). This proposal is awarded as to the annual backwards shifting of the bi-weekly pay days. However, I decline to award the language concerning the PBA's waiver of rights for a possible shift to bi-monthly pays.

EMT Certification:

The PBA proposes that the County pay for the cost of EMT certification and recertification and to provide employees with release time to attend the necessary courses. The County contends that the PBA presented no evidence to support this demand. The County asserts that Sheriff's Officers are not required to obtain or maintain an EMT certification; therefore, there is no basis to award the PBA's proposal. There is no stipulation or evidence in the record about whether sheriff's officers are require to maintain an EMT certification, how many employee are so certified, or what specific value this brings to the sheriff's office. Accordingly, the PBA's demand concerning the cost and time for EMT certifications is denied.

Lockers:

The PBA proposes a new Section 8 under Article XX (Miscellaneous), as follows:

Lockers. The employer shall provide to the bargaining unit members, the exclusive use of a sanitary and safe locker room. Each officer shall be assigned a locker (with a lock) that is large enough to store his uniforms and equipment.

The PBA contends that officers currently do not have any place large enough to store their uniforms. It asserts that this proposal is just matter of "common courtesy" and should be awarded. The County asserts the officers currently have lockers, and that the PBA's proposal is problematic because "large enough to store his uniforms and equipment" could potentially be a very big locker. The County points out that the PBA has offered absolutely no evidence with respect to the lockers.

The party seeking the change bears the burden of demonstrating that the change is necessary or appropriate. Here, the PBA has not provided sufficient information to allow adequate consideration of its proposal. The proposal is denied.

Changes in Orders:

The PBA has proposed changes to Article XXXII, PBA and Employee Rights. The PBA seeks to be provided with copies of newly issued or amended Orders, Rules or Regulations at least five working days prior to their effective date. The County contends that there is absolutely no limitation in the proposed language about the nature or scope of the rules that would be affected by this provision. Therefore, it argues that this proposal is overly broad and unclear and thus it cannot be awarded.

I am inclined to award this proposal. Such a contractual

requirement will provide the PBA with a "heads up" about proposed changes affecting its membership. This, in turn, will allow the PBA to communicate any concerns with the Sheriff prior to implementation and will tend to avoid the necessity of formal grievances once the order is issued. I award this proposal.

Attorney General Guidelines:

In addition, the PBA seeks to require that all interviews be conducted in accordance with the Attorney General Guidelines on Internal Affairs. The PBA notes that N.J.S.A. 40A:14-181 (2012) requires that the Attorney General's Guidelines be adopted by every New Jersey law enforcement agency. The PBA argues that simply memorializing the County's obligation to utilize the Attorney General Guidelines has no effect on the County. The PBA maintains that this provision will raise the morale of the unit by providing a finite manner in which to handle Internal Affairs investigations. The interest and welfare of the public is best served by providing officers with a uniform and consistent level of due process in internal affairs investigations.

Undersheriff Cryan testified that the Sheriff's Department already follows the Attorney General's Guidelines. The County notes that the Attorney General's Guidelines are guidelines and may not be applicable to each and every situation. The County argues that incorporating this language as a broad contractual

right is not acceptable.

I find that this proposal is unnecessary language to be added to the contract. These guidelines are statutorily mandated and the County acknowledges that the guidelines are already being followed; therefore, nothing further of value would be added by placing such a requirement into the contract. This proposal is denied.

Critical Incidents:

Further, the PBA proposes contract language that provides,

If an officer is involved in a critical incident, he shall be removed from the area and provided medical attention if requested. In addition, the officer shall not be required to respond to questions or supply any written statement until he or she is released by a medical professional.

The PBA asserts that the proposed critical incident language will increase the morale of the department by providing officers with a grace period following a critical incident. Officers will take comfort in knowing that after they are involved in a traumatic event, they will not be bombarded with interviews and questions prior to receiving medical treatment. The PBA states that this further provides a level of consistency and uniform application of the rules to officers. Moreover, it protects the County because an officer will have the opportunity to regain his composure prior to making a statement or writing a report. Accordingly, these proposals will increase employee morale and protect the County are therefore in the interest and

welfare of the public.

The County asserts that the proposed critical incident language is not part of the Attorney General's Guidelines. Undersheriff Cryan testified in a critical incident, his first concern is everyone's safety and second to make sure that the officer is represented. He stated that it may not be advisable in every situation to remove an officer from the scene immediately after an incident.

I award this proposal in part. The contract will include the following provision:

When an officer is involved in a critical incident, such as a shooting, motor vehicle accident or physical altercation, said officer shall not be required to respond to any questions or supply any statement or written reports until he is released by the evaluating physician or other medical professional. Such delay shall not exceed two business days unless the officer is physically or mentally incapacitated.

Union Leave Time:

The PBA seeks to make the following changes to Article XVI,
PBA Delegate:

Change title of Article to "PBA Business."

Section 1:

- Increase the amount of leave days for the PBA Delegate from 19 to 30 days annually;
- make these days exclusive of conventions; delete reference to leave being dependent upon 'adequate staffing requirements';

-add a provision allowing the PBA President to receive an additional leave day with pay every month.

Sheriff's Office Schmidt, the PBA State Delegate for this unit, testified at the hearing that union leave actually helps both parties by nipping problems in the bud. Tr. 171-172. The County avers that there is a limit, however, as to how much leave for union business is appropriate and should be borne by taxpayers. The County cites the State Commission on Investigation's May 2012 report, "Union Work - Public Pay, The Taxpayer Cost of Compensation and Benefits for Public-Employee Union Leave":

In defense of union-leave arrangements, it is argued that, by devoting time and attention to labor matters during regular work hours, union representatives provide an in-house vehicle for addressing contentious issues that could otherwise become protracted. And to the extent that these individuals work with management to resolve workplace complaints and other problematic personnel issues before a lengthy grievance process or litigation is triggered, those efficiencies can be demonstrable. Beneficial as that may be, however, it does not erase the fact that union representatives, first and foremost, are in the business of promoting the interests of private entities and their dues-paying members, not those of the taxpayers.

During the course of this inquiry, elected and appointed officials in charge of administering various government bodies on behalf of the public expressed frustration with paid union leave in that it requires taxpayers to carry select personnel on a diminishing public payroll without receiving work and/or service in return. ...

The fundamental issue at hand here, however, is not about labor rights but rather one of fairness: the propriety of burdening taxpayers with the cost of activity conducted on behalf of a private entity. This matter is particularly compelling given the current backdrop of severe economic and budgetary pressures that demand scrutiny of all public spending (County Exhibit I-C, pp. 4-5.

The County argues that the PBA already has more than adequate leave time to conduct union business. It notes that no evidence was produced to suggest that the parties have an acrimonious or litigious relationship that would require the PBA President's excessive devotion of time. Further, it argues, the proposed deletion of the language regarding "adequate staffing requirements" is outrageous.

The current contract language provides,

Article XVI, PBA Delegate.

The PBA Delegate shall be given reasonable time off (not to exceed 19 days during the year inclusive of the New Jersey State PBA conventions) and with prior approval from the Sheriff and consistent with adequate staffing requirements, to attend State PBA meetings, conventions and committee meetings. In addition, the parties agree that the President of PBA Local 108, upon receiving prior approval from the Sheriff, or from either of the Undersheriffs, shall be given reasonable time off to handle grievances, negotiations and other PBA business during normal working hours.

In addition, Article XXXVII provides that,

The PBA negotiations team, consisting of one member, in addition to the President and Vice-President, shall be allowed reasonable time off with pay to prepare for

contract negotiations in the year that the collective bargaining agreement expires.

The Union has not identified any particular problem with the sufficiency of the time off its leadership has to tend to the contractual enforcement issues of the unit as well as negotiation issues. The Delegate is now getting 19 days; the president gets a reasonable, but uncapped number of days, and 3 unit employees have time off with pay for negotiations preparation. Neither party has demonstrated a need for changes to this time allotment off with pay. This proposal is denied.

Honor Guard:

The PBA seeks an annual uniform maintenance allowance for members of the Honor Guard in the amount of \$250.

The current contract language provides at Section 5, Effective January 1, 2006, Honor Guard members shall receive a one-time clothing and maintenance allowance of \$250.00.

The Sheriff's website provides: "[t]he Honor Guard performs at various civic and ceremonial functions." The Honor Guard performs at parades and political events (TR-52-53.) They also represent the Sheriff's Office to pay respect to fallen officers (TR-52). The Honor Guard typically appears at more than twenty (20) events per year (TR-56). Members of PBA Local 108 are proud to serve on the Honor Guard; they are compensated for some events with compensatory time, and other events they are not

compensated at all (TR-53-54).

The PBA proposes a contract provision that,

Honor Guard members shall be released from duty without loss of pay as follows:

Death of an Officer from outside Union County: 2 officers

Death of an officer from within Union County: 4 officers

Death of an Officer in the Sheriff's Department: Full Honor Guard

The County asserts that the PBA should not dictate how and when the Honor Guard is deployed. Additionally, it argues that the demand is too broad and unclear. For example, it notes that the PBA proposes that two Honor Guard members be released for the death of an officer outside Union County. There is no language regarding the nature of the death or any geographical limitation. In other words, two officers could be released to attend a service for an officer in Maryland who died of natural causes.

I agree with the County that the Sheriff has a management right to decide how and when to deploy the members of the honor guard. However, the right to do so comes with the obligation to provide some form of compensation to the Honor Guard members for their service. At the same time, I respect the fact that Honor Guard members take pride in that activity and are gracious enough to volunteer their time to represent the County Sheriff's office to the law enforcement community, as well as put out their own

money to replace uniform pieces as they are needed. I therefore award the following:

The County shall maintain the right to deploy the Honor Guard as the Sheriff deems appropriate. The County shall provide a one-time stipend for each member of the Honor Guard who has served continuously for the last six months on the guard in the amount of \$250 to cover the cost of uniform upkeep and maintenance. An employee performing with the Honor Guard will be given release time from work or, if off duty, will be given equal comp time for their time in such service.

Line of Duty Death Leave:

The PBA proposes a new provision for Line of Duty Death Leave:

The PBA President or his designee and the State Delegate shall be allowed to attend the funeral of any law enforcement officer in the State of New Jersey who is killed in the line of duty. Such attendance shall be without loss of pay or time. If available, the attendees shall be allowed to travel to and from the funeral and participate in the procession in a marked patrol unit.

The PBA argues that PBA members have a kinship with law enforcement officers throughout the State, and it is appropriate that the unit be represented during funerals to show support for law enforcement. It contends that this proposal must be awarded as it will increase the unit morale, as each officer will know that he or she is represented by the President and State Delegate at such important times.

The County states that it does not object if either the PBA President or State Delegate attends the funeral of an officer

killed in the line of duty in New Jersey, but that the attendance of two officers is unnecessary. It objects to the use of a marked patrol car.

I award this proposal in part. The contract will provide,

The PBA President or his designee shall be allowed to attend the funeral of any law enforcement officer in the State of New Jersey who is killed in the line of duty. Such attendance shall be without loss of pay or time.

Sick Leave Increments:

The PBA has made several proposals concerning Article XXV, Sick Leave. The current contract provides,

Section 3: Sick Leave is earned in the following manner:

...(b) after the initial month of employment and up to the end of the first calendar year, employees shall be credited with one (1) working day for each month of service. Thereafter, at the beginning of each calendar year, in anticipation of continued employment, employees shall be credited with fifteen (15) working days.

...(g) Employees taking sick days shall be charged for actual time used in full or half-day increments.

Section 6: Commencing January 1, 2007, employees shall be entitled to a sick leave incentive bonus equal to one day's pay for each calendar year quarter (January 1-March 30; April 1-June 30; July 1-September 30; October 1-December 30) during which time they do not utilize any sick days. Employees who do not utilize any sick days during an entire calendar year will receive an additional bonus equal to one (1) days' pay for a total bonus of five (5) days' pay. Employees who utilize more than four (4) sick days in any calendar quarter will not be eligible for a sick leave bonus in the succeeding quarter except where the sick leave days were utilized due to the employee's serious health condition as defined in the Federal

Family Leave and Medical Act ("FMLA")...

The PBA proposes a change in Section 3(g) to permit officers to take sick leave in one-hour increments. It asserts that such a provision would allow officers, for example, to attend doctor's appointments or to attend to a sick child for a small amount of time, and allow the employee to return to work.

Officer Heller testified for the PBA. He explained that there have been instances in which he would have taken less than half of a sick day if permitted to do so. He testified: "I had...a pediatric appointment in the morning with my child. The appointment only lasted an hour, so by the time I was done, I dropped the baby off and basically had the rest of the day or half a day to myself" (TR-113). When asked why this was a problem, Officer Heller explained: "With us being as shorthanded as we are, I mean, if I was able to take, say, an hour of sick time, I could have made the appointment...and been back to work by 10:00, 10:30" (TR-113-114).

PBA Local 108 members are obviously aware of the toll their absences take on their fellow unit members. Indeed, the officers take pains not to inconvenience fellow officers. This is a testament to their professionalism. There is no question that when an officer calls out sick, other officers are affected. Officer Heller testified that either unit members are reassigned or there is a shortage when officers call out sick

(TR-114). Either way, officers are inconvenienced.

The PBA contends that, by allowing officers to take sick leave in hour increments, fewer officers will be reassigned or otherwise inconvenienced. This will result in increased morale. The PBA claims that this proposal will create more consistent working conditions, and will therefore increase morale.

The County opposes this proposal. Undersheriff Cryan testified that the existing policy of charging in half or full day increments is more manageable than officers taking hours off here and there (TR-172-176). No change is warranted or necessary.

Sick Leave Bonus Payments

The PBA has also proposed that the quarterly bonus for officers that do not use any sick leave be paid in the first pay period following the applicable quarter in which it is earned and that the annual bonus be paid in the first pay period in the subsequent January. The PBA contends that this will provide consistency in payment to the officers, and will therefore improve morale.

The County contends that this proposal creates a practical problem in that the bonus may not be calculated in time to be included in the first paycheck in quarters when paycheck comes early in the month. As Ms. Taylor's Certification states, the County cannot commit to paying the Sick Leave Incentive Bonus by the first pay period in January (Taylor Cert., ¶25).

I find that while the County claims that awarding this proposal creates an administrative possibility, nevertheless, it is important that employees be able to predict with some certainty, when compensation payments will be made. I therefore, award the following: sick leave bonus payments will be made by not later than the second pay period in January, following the year in which they are earned.

Sick Leave Conversion to PL time:

The PBA has also proposed that employees be permitted to convert up to five (5) sick days per year to personal time. To be eligible for this conversion, employees must have at least forty-five (45) days of sick leave left in their bank after the converted amount. The converted personal time must be used within two years.

The current contract provides at Article XXVI that officers may cash out accumulated sick leave upon retirement. The payout ranges between \$10,000 and \$18,000 depending upon the sick time accrued.

The PBA maintains that providing officers with this option is in the interest and welfare of the public. It argues that unit members will more likely, in the initial stages of their careers, to not take sick days for minor illnesses in order to build up the forty-five (45) day maximum. This, it asserts, is in the interest and welfare of the public.

The PBA also contends that this proposal is in the interest and welfare of the public because it allows conversion of a benefit that is currently paid for at retirement. Officer's accrued sick leave will be reduced, causing the County to pay out less money at retirement. Moreover, the converted personal days expire after two years, and if the employee has not taken them, they are forever lost. The County will likely reduce spending on accumulated sick leave benefits pursuant to this proposal. Therefore it is in the interest and welfare of the public. Moreover, it argues, employee morale will undoubtedly improve if officers are provided additional days off. This, the PBA contends, is a win-win for both the County and the PBA, and therefore must be awarded.

The County opposes this proposal. It argues that no other unit in the County has the ability to convert unused sick leave time to personal time (Taylor Cert., ¶25) and therefore, this award should follow the County-wide pattern.

I do not award this proposal. I rely on the County pattern particularly noting that if awarded this would be the only bargaining unit to enjoy this benefit. Moreover, employees already receive cash compensation for unused sick leave. Awarding an additional incentive for employees not to use leave time is unwarranted.

OJI Leave:

The PBA also seeks an increase in the amount of time officers receive full pay pursuant to Article XXIV, On the Job Injury. Currently, PBA Local 108 members that are injured receive full pay up to the first 180 calendar days if the injury or illness is deliberately inflicted on the employee by any third party arising out of their employment or 90 days if the injury or illness is not inflicted by a third party. After the first 180 or 90 days, the officer may retain Worker's Compensation and no additional monies, or he or she may take sick leave.

The PBA proposes that the 180 and 90 day provisions be replaced with "up to one year." PBA 73/73A, the FOP and PBA 199 unit members all receive this benefit. Moreover, this proposal will increase the morale of the unit by providing assurances to bargaining unit members that they will receive their full salary for one year if they are injured at work. Accordingly, this proposal is in the interest and welfare of the public, and must be awarded by the Arbitrator.

The County makes no argument in its brief concerning on-the-job injury leave.

Employees legitimately injured on the job deserve adequate time off to recover from those injuries with full compensation. This conforms with the pattern set by the County in its other

negotiations units. I award this proposal.

Uniforms:

The PBA has proposed that when the County elects to change all or part of their member's uniforms that the County pay for the cost of the change (PBA-A-2). Current policy requires officers to pay for any new uniform requirements issued by the Sheriff's Office (TR-57-60).

The PBA asserts that in April of 2012, a uniform change became effective costing unit members a significant amount of money. Union Vice-President Halpin testified that the new uniforms cost members \$500 or \$600 for short and long sleeve shirts, hats, pants, jackets and all of the other accoutrements the County required (TR-59). Halpin testified that she had to purchase several uniforms in order to look presentable (TR-59). The approved shirts only came in a man's size which required the female officers to have their shirts tailored extensively in order to fit (TR-80). Halpin further explained that many officers had difficulty paying for the uniform change (TR78). Indeed, the Union asked the County for an extension of the imposition of the uniform allowance because officers could not pay for the uniform change. Officer Halpin testified: "Monetarily, our officers are having a lot of problems paying for it" (TR-78). Moreover, the uniforms have to be dry-cleaned, which imposes costs over and above just the cost of purchase (TR-80).

The PBA argues that the morale of the Department will improve if this proposal is awarded. Officers will not have to put out large sums of money for a set of new uniforms whenever the County seeks to change the uniform style. Further the PBA notes that the uniform issue has been a source of contention between the Union and the County. The PBA asserts that awarding this proposal will increase the morale of the unit, end a longstanding point of contention between the parties and further the public interest.

The 2005-2009 contract contained a uniform allowance which, by 2007, was payable in an amount of \$650.00 annually. However, effective January 1, 2008, the contract eliminated a separate uniform allowance altogether and added that money into employee's base pay. The changes in the uniform were developed over a two-year period beginning in 2010 and were part of an effort by the Sheriff's Department to require CALEA certification.

In June 2011, the Employer announced that the uniform change would become effective January 1, 2012. The PBA immediately filed a grievance contending by past practice the County was obligated to pay for the costs of the new uniforms. On December 15, 2011, Arbitrator Lawrence Henderson denied the grievance finding that there was insufficient proof to establish the existence of such a past practice. Thereafter, the County

agreed to delay implementation of the new uniform requirements until April of 2012 (Er-III, A-G).

The County argues that the clothing allowance, which was rolled into base pay in 2008, continues nevertheless, to be a benefit to Sheriff's Officers. Therefore, the County asserts that the officers continue to be paid year after year for the cost of their uniforms. The PBA counters that this uniform payment was intended for uniform maintenance not the purchase of new uniforms.

I find that there is insufficient basis to resurrect a separate clothing allowance. Employees continue to receive an allowance which can be used for the purpose of clothing maintenance and/or purchase, which is built into their base pay. Further, this amount compounds as base pay increases by across-the-board adjustments. While I appreciate the PBA's concern that its members were required to allocate significant personal resources for a full set of new uniforms all at one time, it does not appear from the parties' history that uniform changes are frequent - before this, the last change was made sometime prior to 2003 (Er-III-A-G). Further, the County provided the Sheriff's Officers with more than a year's notice of the impending change. Had the uniform style change not been made, presumably officers would be periodically replacing uniform components in any event. This proposal is not awarded.

Work Hours

Both the PBA and the County have proposed changes to the work schedule provisions of the contract. The PBA seeks to codify the current schedule and reduce the workweek by one hour. The County seeks an increase to the workweek of one hour and a contractual right to change work schedules as it deems appropriate.

Currently, the employees work a 41-hour workweek which consists of five days, eight hours and 12 minutes per day.

The PBA is not offering a pay reduction in exchange for the one-hour workweek decrease proposed. Similarly, the County has not offered to increase pay in exchange for the one-hour workweek increase it proposes. The PBA contends that this reduction in hours will improve officer morale and allow PBA Local 108 members to work hours that are on par with the other County law enforcement units. For example, a 40 hour workweek is commensurate with the hours worked by the County Corrections Officers. In addition, the County Police (PBA 73) and the County Police Superiors (PBA 73A) have their overtime calculated as if they worked 2080 hours per year (or 40-hours per week). The County argues that the PBA's proposal,

To reduce the number of hours worked per week without a corresponding reduction in wages would be giving the PBA something for nothing and certainly is not in the interests and welfare of the public and should be rejected.

I am inclined to grant neither proposal. On the one hand, I specifically consider an internal pattern of comparability with other County law enforcement bargaining units. However, neither party has adequately explained the ramifications of such a workweek reduction nor workweek increase in terms of the impact on operational needs and the potential liability for overtime pay for what could be an additional 12 minutes a day. I find that neither party has justified its proposed change from the current 41 hour per week schedule. The proposals are denied.

Work Schedule

The PBA proposes to add the following language:

The regular workweek shall be Monday through Friday. All work performed on Saturday or Sunday shall be considered overtime and be paid at the overtime rate, subject to any minimum call back. The hours of work for each unit shall consist of an eight (8) hour day between the following hours:

ID/Crime Scene:	0648-1630
Day Warrants:	0618-1630
Night Warrants:	1518-2330
Process:	0748-1600 plus 1 flex day a week
Security/Doors:	0648-1630
Slap:	0648-1530

Transportation:

First shift 0618-1600

Second shift 1148-2000

Third shift 1518-2330

K-9:

First shift 0648-1600

Second shift 1448-2300

Courts: 0818-1630

The PBA has proposed modifying the schedule so that officers work an eight-hour day between the hours set forth above. Undersheriff Cryan admits that, for the most part, the hours set forth in the PBA's schedule proposal are, in fact, the hours that PBA Local 108 unit members work.¹⁹

The PBA emphasizes that it is not proposing a change in the existing work schedules. Rather, it is seeking to codify the operational hours for each work assignment within the Sheriff's Department.

Further, the PBA seeks to require the Employer to give the employee five days' notice of a schedule change, and to prevent the Sheriff from changing schedules solely to avoid overtime

¹⁹ The only exception noted by Undersheriff Cryan is that individuals that work "Security/Doors" work from 0648 through 1700, and not 1630 as set forth in the proposal (TR-140:10-19).

payments. It proposes to revise Article X (Hours of Work) to include the following this language:

The hours and days of work shall not be changed to avoid overtime. If operational needs, other than overtime avoidance, necessitate the changing of hours, an officer must receive 5 work days' notice of any change in his hours or days of work, except in cases of emergencies. For each day or partial day that the officer receives less than 5 work days' notice, he shall be paid overtime for such shifts.

The PBA's explains that its proposal would allow officers ample time to adjust their lives to accommodate shift changes, which would, in turn, improve Department morale.

Officer Halpin testified:

Yes, we've had many instances where, for several reasons, the administration will change an officer's hours, do a shift change to alleviate manpower in courts or overtime or whatever the situation might be. And they'll tell an officer, you have to report to - let's say for instance, domestic violence unit, they work 3:30 to 11:30 at night. They'll tell that officer, tonight, you have to go work in courts tomorrow, show up for work at 8:30 in the morning... (TR-43)

Officer Halpin further testified about the impact these last minute shift changes have on the PBA's members:

...many of our officers have childcare, where they have to now switch their childcare around. You have anything as simple as a doctor's appointment scheduled for after work, because you know you are getting off of work at 4:00 so you schedule it for 4:30. Now you have to change that. Some doctor's offices will charge you for changing it last minute. You have, I mean, there's numerous things that could affect your daily life afterwards. (TR-43-44)

The PBA's argues that its proposal will improve the morale of the department by ensuring that officers have a consistent and steady schedule and are not forced to alter childcare arrangements or doctor's appointments because of last minute schedule changes. Moreover, the public benefits from having Sheriff's Officers that are not forced to work night shifts immediately preceding day shifts. Work schedule changes, without adequate notice, may impair an officer's capability to perform his/her assigned duties and may impact critical decisions because officers are overly fatigued.

The PBA emphasizes that while the proposed language would prohibit schedule changes to avoid overtime compensation, it still gives management discretion to change the work hours upon notice, except in cases of emergencies. The PBA has included the requirement to pay overtime where there is no five-day notice as a deterrent for violating the five-day provision.

Undersheriff Cryan admitted that schedules are sometimes changed at the last minute (TR-140-142). He offered that the reason that officers are sometimes given short notice of a schedule change is that the Sheriff is changing shifts to accommodate other officers' requests for leave time. Cryan explained that as a standard practice, he gives consideration in filling needed shifts to those officers who wish to work that shift (TR-142-143.)

Cryan testified about the reasons why he considers the PBA's proposal to be problematic. If the Department were constrained to a five-day notice requirement and positions needed to be staffed, officers' request for vacation or personal time would have to be denied. Additionally, the fundamental needs of the Department, such as those of the Identification Unit or the Service Unit, require changes because "the bad guys don't just work day shifts." (TR-145) In the courtrooms, the individual judges sometimes make daily decisions about the length of the court day (TR-146-148.)

The County argues that the PBA's proposal is impracticable, unworkable, and not in the interest of the department. It counters with its own proposal concerning scheduling, which would be a revision of the Management Rights Clause, Article II, Section 2, to provide as follows:

Notwithstanding any other provision in this Agreement, the Sheriff shall have the right to (1) determine the duties, responsibilities and assignment of all employees and (2) **vary the daily or weekly work schedules, including, but not limited to, the implementation of shift work and/or weekend duty, consistent with the needs of the Department.**

The County asserts that the Sherriff has the managerial prerogative to establish shifts and weekend duty.²⁰ The County argues:

²⁰ The Sheriff's Office has filed a scope of negotiations petition with PERC on this issue contending that this issue is a managerial prerogative. However, the County asserts that if it is determined that this subject is mandatorily negotiable, the PBA's proposal should be denied. The PBA argues that changing officers work schedules is a mandatorily negotiable subject of bargaining,

...Sheriff's Office needs the flexibility to establish shift work and weekend duty because criminals do not confine their activities to a neat Monday to Friday workweek. The PBA is aware of the possibility of shift work and weekend duty and it wants to ensure premium pay for this work. There is no money for additional overtime. If the PBA's proposal is granted, it will severely and negatively impact the efficiency of the Sheriff's Office. Rather, the County's proposal to revise the Management Rights Clause is more reasonable and should be awarded.

I have considered both sides of this issue. On the one hand, The Sheriff's officers' desire for a stable work schedule which brings predictability to their lives is understandable. Frequent swings in shift times, especially from day shift to an evening shift, have all of the potential to wreak havoc with officers' personal lives and impacts such issues as family time, child care issues, and other outside pursuits. However, it is evident that, to the extent that short-notice schedule changes must be made, either for operational needs or to cover the shift of an employee who took leave time, Cryan does his best to minimize the impact on employees. The record does not contain any specifics with regard to the frequency of these occurrences: do they happen weekly? Sporadically? A few times a year? Additionally, the record does not speak to the financial impact of imposing such a change.

The Sheriff, of course, must meet its operational needs.

If a crime scene needs the investigations unit a Sunday, obviously the Employer will require the officers to work. Nothing in PBA's proposal would prevent the Employer from making staffing assignments to fill its operational needs. Rather, the issue is purely economic: if the PBA's proposal for a five-day workweek were granted, all weekend work would be overtime. If the Employer were constrained by contract provisions from changing shifts to avoid overtime liability and/or changing shifts without five-days' notice, the assignment could still be made, but overtime costs would result. Because the record does not address the frequency of sheriff's officers working weekends or having their shifts changed with short notice, I am at a loss to predict the possible cost impact of the PBA's proposal.

The County's proposed change to the Management Rights clause is broad and comprehensive. It would give the Employer the right to change shifts anytime for any reason or no reason. It appears that Cryan has developed a good working relationship, based upon mutual respect, with the Sheriff's officers and tries to accommodate officers' needs while satisfying the Department's staffing needs. The County's proposal is overkill, and unnecessary. Therefore, both the PBA's proposal concerning schedule changes and the County's proposal concerning revisions to the Management Rights clause are denied.

Post Bidding

The PBA proposes that be shifts be open for bid each November for the succeeding January shifts be selected by Department seniority. The PBA also proposes an addition to Article XXVIII, Seniority, which would state, "[w]hen a Court or Door security post is vacated, it shall be posted and filled by seniority. If there are no bidders, the officer with the least seniority assigned to Courts shall receive the post." The contract currently contains no provision for officers to select their work shift or post. Officer Halpin testified while seniority within the work unit is given some consideration in shift assignment, it is not an absolute (TR-69). Halpin explained that periodically employees are given an opportunity to submit a "dream sheet" listing their top three choices of assignment (TR-33, 68).

The PBA argues that its proposal would provide senior officers with the benefit of choosing which hours they want to work and give them some control over their work schedules. Therefore, awarding this proposal would improve morale and would be in the public interest.

The County opposes these proposals, particularly the proposal concerning assignment to door security. Cryan testified that it is important that he have the ability to assign a senior officer

to the entranceways of the County complex. (TR-185-189) Cryan emphasized that,

The doors ... they may not enjoy that position. But the way I see it is that is the entrance to the people of Union County into this facility, and that is their first impression. . . .I want a senior officer there, if it's possible, to make that right impression. We talked here about the amount of weapons that are seized that come through the doors. And they have new officers who we rotate, and generally new officers end up there. But I would love a senior person with them to give them the experience that's there. This courthouse complex receives two to three million visits per year. I want experienced people that can show that young officer the professional way to manage and have the public understand the services that we provide as they enter this complex. I think that's incredibly important (TR-186-187).

I am inclined to award this proposal in a more limited version.

Clearly, management needs to consider operational needs, special skills and experience in making assignments. However, these needs must be balanced against traditional principals of employee seniority. Therefore, I award:

The parties recognize that certain posts may require special skills. The Sheriff or his designee shall have sole discretion in deciding which posts require special skills. All posts not requiring special skills shall be annually posted for bid in November for the subsequent calendar year. Employees shall be permitted to bid on positions and work shifts based upon departmental seniority. The Sheriff or his designee shall retain the authority to reassign employees from their bidded position for training purposes or to cover a vacant shift.

Holidays

The County proposes changes to Article XIII, Holidays. The expired contract provides for 14 paid holidays annually. It

further provides that officers called in to work on a holiday shall be paid for the holiday plus time actually worked. The County proposes to modify this section to read,

-If an employee is called into work on a regularly scheduled holiday, he/she shall be paid for the time worked and shall be eligible to receive four hours of compensatory time in lieu of the holiday.

The PBA believes that what the County is seeking is to eliminate the holiday pay and instead, providing a half day in compensatory time. It argues that officers called in to work on a holiday must spend the holiday away from their families. It avers that forcing officers to work on a holiday and not paying them holiday pay will lower employee morale. It asserts that a half day's comp time is not a sufficient substitute for losing a day of pay.

The County's proposal in this regard is unclear. Taken at face value, it appears that the County is proposing that an employee be (a) paid the regular day's pay for the holiday (which would be the case if they had the day off); and (b) would be paid for the hours actually worked; and (c) would be given 4 hours comp time. This would be an enhancement to the existing benefit, and I do not believe it likely that is what the County proposed. If, on the other hand, the County intends to substitute four hours comp time in lieu of cash payment for the hours actually worked, then this proposal must be rejected. This leads to the possibility that an employee could be called

in to work and compensated, in comp time, for fewer hours than actually worked. I do not award this proposal.

In addition, the County seeks to eliminate the day after Thanksgiving and Lincoln's birthday as holidays for employees assigned to the Courts. Undersheriff Cryan testified that both are days when the court is open; therefore, the County is currently paying court employees double time for each of these holidays. The County proposes to compensate employees who work on those days with four (4) hours of compensatory time. The County's brief provides no specific argument concerning this proposal.

This bargaining unit enjoys a generous holiday schedule. In addition to the 14 declared holidays, sheriff's officers also receive time off with pay during a "recess period" at Christmas or a recess period during New Year's week when the courts are closed.²¹ I award the following:

All unit employees will be given either Lincoln's birthday or the day after Thanksgiving as a paid holiday, but not both. One-half of the employees covered by this agreement shall receive Lincoln's birthday off as a paid holiday and the other half shall receive the day after Thanksgiving off as a paid holiday. In the event that such a scheme does not produce sufficient staffing, then the employer may require employees to work on their designated holiday. Employees who work on their designated holiday off will be compensated with holiday pay for the hours

²¹ The benefit is not limited to officers assigned to the Court, but applies to the entire unit. Article XIII, Section 3 provides that the unit personnel are divided into 2 lists: one group is given off Christmas recess, while the other is off New Year's recess. If an Easter recess is also declared, the recess period is divided in the same way.

actually worked.

Call-In Time

Both parties have proposed changes to Article XII, Call-In Time. Currently, PBA members that are called in to duty receive a minimum of three hours of pay at the overtime rate. The PBA has proposes to increase minimum call out pay to four hours and to make this payment retroactive to January 1, 2010. The PBA's argues that increasing the guaranteed number of hours when work disrupts an officer's off-duty time will improve morale. It notes that an arbitrator recently awarded the four-hour minimum call-in pay to the sheriff's superior officers who share the Department's overtime call-ins. The PBA contends that morale will suffer if unit members are not afforded the same call-in minimum afforded to Sheriff's superior officers. Accordingly, the PBA asserts that the proposal is in the interest and welfare of the public.

The County contends out that it cannot afford this proposal. The County proposes that, effective July 1, 2012, PBA members should be compensated only for actual hours worked and should receive no minimum call-in guarantee.

The County has not produced sufficient evidence, namely, cost-outs, to demonstrate that the existing call-in pay is unjustified or that the proposed change is unaffordable. I give substantial weight to the factor of internal comparables

concerning this issue. Internal consistency, especially rank-and-file to superiors in the same department, is in the public interest. I agree with the PBA that in light of the sheriff's superiors being awarded a four-hour minimum, it would be demoralizing to the PBA members if they are working an overtime duty side-by-side with superiors who enjoy a better benefit of call-in time. The proposal is awarded.

On-Call Pay

Article XII pertains to on-call pay. It currently provides that employees required to be available by beeper are paid \$100 a week for the time they are on call, except that if they are called to duty, they receive the call-in pay instead of the payment for being on call. The PBA points out that beepers are no longer actually used, as on-call employees are now contacted by cell phones.

The PBA seeks to increase the amount officers are paid when they are on call to \$200. The County seeks to eliminate payment for officers required to be on call.

The PBA argues that officers on call are severely restricted in what they can and cannot do because they may be called in to duty at any time. On call pay compensates them for the time waiting to work. Officer morale, the PBA asserts, will be improved if officers required to wear a beeper or be available by cell phone have their payments increased to \$200;

conversely, morale will decrease if this payment is eliminated, as officers would be uncompensated for the restrictions on their off-duty time. The employer argues that the PBA offers no justification for the proposed increase which the County cannot afford.

The PBA's sole argument for the increase in on-call pay rests on its impact on employee morale. While every form of increased compensation no doubt makes employees a little happier, that, by itself is insufficient justification for granting the proposal. The PBA has relied on any internal settlement pattern which has included this benefit at the \$200 level, no has any data been provided with regard to how frequently employees are required to be on call nor how often they are actually called to duty. The County has not justified its proposed elimination of on-call pay. Both of the proposals are denied. I will however, update the contract language to refer to on-call pay rather than beeper pay.

The PBA also seeks to include the phrase: "[a]n officer shall be deemed 'on duty' when he is contacted by the employer for the call-in and is required to report to work." With regard to this latter proposal, the County contends that the determination of whether or not an officer is "on duty" is a legal status governed by workers' injury law, insurance law (and probably insurance policies as well), and tort law.

In light of my awarded increase in the guaranteed minimum call-in time, additional compensation for travel time is unnecessary. This proposal is denied.

Vacations (Article 6:3)

- Vacation selection by department seniority.
- Five-day vacations shall be given priority over floating days. The current contract provides, Vacations will be taken in five (5) day minimum periods. Lesser amounts may be taken when used in conjunction with a holiday week to complete a five (5) day period (Monday-Friday) if taken from October through May. Vacation time shall be charged in full day increments. Lesser amounts may also be taken in an emergency subject to approval by the Sheriff.

The PBA's proposal gives recognition to the principals of employee's seniority and thus undoubtedly improves morale. While the current contract language implies that five day vacations have priority over single days, it does not specifically state that. I award the following:

Vacation selections shall be by departmental seniority. The Employer retains the right to decide how many employees may be on vacation in any work unit at any time. Employees shall first select vacations in increments of five days or more before floating days are selected.

Overtime

Both parties have proposed changes to Article XI, Overtime. The PBA has proposed that all overtime payments be made in cash and not compensatory time, and that overtime opportunities be equitably distributed. The County has proposed awarding

overtime after forty-two (42) hours of work in a given week.

Article XI of the current contract provides in part,

Section 2. Employees covered by this Agreement shall be paid overtime at the rate of time and one half his or her regular rate of pay for all hours worked in excess of forty (41) hours of work per week. . .

Section 3: All overtime shall be paid in the pay period after it accrues or is earned.

The PBA seeks contract language that provides for overtime payments in cash, not compensatory time. It notes that the current language does not expressly authorize the payment of overtime in compensatory time. It notes that the Fair Labor Standards Act ("FLSA") only permits overtime compensation in the form of compensatory time pursuant to a negotiated agreement. 29 U.S.C. §207(o) (2012). The PBA asserts that, because this contract does not authorize compensatory time, the County is violating the FLSA when it provides compensatory time to its employees. The PBA seeks compliance with the FLSA provisions by requiring all overtime to be paid in cash. The PBA also seeks to have employees' current compensatory time banks cashed out in two installments in 2013.

The PBA contends that paying overtime in cash and liquidating the employees' compensatory time will both improve Departmental morale by providing PBA members with cash before the summer and before the holidays, and thus is in the public interest.

The County argues that the elimination of compensatory time would eliminate the sheriff's officers' flexibility to choose the appropriate overtime payment option for their individual circumstances and should not be granted.

Apparently, some Sheriff's officers do take advantage of the opportunity to be compensated for overtime in the form of compensatory time. Undersheriff Cryan testified,

...officers have the opportunity to choose comp time. For example, last week they chose 57 hours of comp time. Officers use comp time considerably. . . For example, I've got officers that have built up time for family leave, officers that have built up time to try to make sure that they can accommodate, for example, in one officer's case a sick mother who we know is going through medical care. And the other part of comp time, and there are a lot of officers that do this, is the ability to have comp time so that they can in fact earn a sick leave bonus at the end of the year, is also another use of comp time. So there are in fact cases where the officers desire and do use the comp time on a voluntary basis, and this office tries to accommodate them. (TR-170)

Thus, the County contends that the present method of permitting officers to choose overtime reimbursement in the form of cash or compensatory time should continue.

The present contract language does not specifically authorize payment for overtime in the form of compensatory time off. However, the record shows that is the current practice. The record does not show that employees are being coerced into opting for one payment form over another. Further, there is no evidence that officers have having difficulty being permitted to take their

earned comp time off. Similar to employees' desire for overtime assignments, some employees may prefer the extra money; some might prefer time off. I believe that the choice to be reimbursed for overtime I best left to the individual employee and not restricted by contract.

The PBA's proposal to limit overtime compensation to cash payments is denied. However, the contract language is reformed to provide that the employee has the right to opt for overtime compensation to be paid in cash or compensatory time off.

As to the parties competing demands to change the benchmark for overtime eligible from the current 41 to 40 (PBA) or to 42 (County), both proposals are denied in light of my award maintaining the standard work week of 41 hours.

Overtime Assignments

The PBA proposes to change the way overtime is apportioned among the members of the bargaining unit. Currently, overtime is equally distributed among officers within their assigned units, except for court overtime, hospital prisoner security assignments and specialized assignments (Article XI, Sections 5, 6 and 7). The PBA proposes that all overtime, including hospital prisoner security assignments and court overtime, be offered to all off-duty officers in rotating seniority order, and that the overtime opportunities be equalized on an annual basis to the extent possible. The PBA avers that the

equalization of overtime will increase the morale of the department as overtime opportunities for all assignments will be provided on an equal basis, and will not be given to only a few individuals.

When an overtime assignment requires special skill, the PBA proposes that the Sheriff choose the most senior officer with the special skill, and that this overtime count towards the overall overtime equalization. The PBA emphasizes that the proposal would not infringe on the Sheriff's discretion to assign overtime based on special skills.

The PBA's proposal also includes a procedure for overtime refusals: any refusal will count as overtime worked for equalization purposes. Officers on leave time would be called for overtime, but if these officers decline to work overtime, it would not count as a refusal. In addition, the PBA proposes that its President be provided with the overtime hours accumulated at the beginning of each month.

The PBA maintains that its overtime proposal will increase the morale of the unit and will result in the even dissemination of overtime opportunities based on seniority. It notes that such overtime assignment provisions are commonly found in law enforcement contracts and still allow management the flexibility to cover posts and recognize special skills. It asserts that the interest and welfare of the public is fostered because no one

officer or group of officers will be forced to work too many overtime hours, which could result in fatigue and loss of focus. The County asserts that the procedure proposed here by the PBA is overly cumbersome and would unnecessarily complicate assignments. It contends that there has never been a problem of fairness with respect to the assignment of side jobs or overtime. With respect to overtime in court security, Halpin testified that the Department is flexible and tries to assign overtime by "whoever is available and willing to stay later than their normal shift..." (TR-70).

Cryan testified, about a third of the sheriff's officers refuse all overtime. He explained the overtime assignment process as follows:

CRYAN: We try to accommodate the officer, and in the best interest, we think, of all our personnel, is we have a sign-up sheet in the morning, generally two to three officers [in the courts] who sign up that are available for overtime each day. . . We don't do it first-come, first-served or willy-nilly. . . we try to equalize it each week because we think that's the appropriate way to manage. But remember, what we're trying to do here is provide the officer the courtesy of being able to leave, should the judge choose to stay. ..

We do go off list. As a matter of fact, I've been complimented from the PBA in terms of going off list uniformly for overtime details, such as hospitals. We do assign the first shift in the hospital, and then we go off overtime. . . So we do go through a list each and every time. There is a short list for the emergency situations, but as a general practice, we go through a list.

Q: So is it your opinion that the PBA's proposals would eliminate that flexibility?

CRYAN: In my opinion, yes. The flexibility -- we've had numerous shift changes. And if you want a recent one, we've changed shifts for folks so they could study for exams, the sergeant exams and lieutenant exams within the last two months. That certainly would be prohibited by this as an example (TR133-136).

The County argues that the PBA's proposal would create less flexibility and would impair the Sheriff's ability to honor officers' leave requests. The County asserts that the Sheriff's Office bends over backwards to meet officers' need for leave, to equalize overtime opportunities, and keep costs down so that jobs can be saved.

The PBA has not convinced me that there is a need to disturb the present overtime assignment scheme. More specifically, it has not demonstrated that overtime is disproportionately assigned. With regard to the court overtime being limited to those sheriff's officers assigned to the courts (about half the bargaining unit), there is likely a continuity in holding over a court officer to stay overtime rather than bringing in someone from another unit. Further, I specific rationale has been advanced for integrating the hospital security detail overtime list with other overtime assignments. Surely, there was some purpose the parties sought to achieve in creating the separate list for this assignment in the first instance.

Moreover, if employees are permitted to bid on assignments, those that are most interested in overtime work will naturally gravitate to those units where overtime opportunities can be maximized. I do not award this proposal, except to the extent that the Employer will supply the PBA president with a list of overtime assignments on a monthly basis.

Both parties seek to change the number of hours a PBA unit member must work before becoming eligible for overtime pay. As I have not awarded the either party's proposed change in the workweek, there is no reason to disturb the number of hours for overtime calculation. These proposals are denied.

Acting Pay:

The PBA proposes to add a new section, Article 4:8, which would provide for payment to sheriff's officers who perform the duties of a higher title and pay "officers-in-charge" sergeant's rate for time acting in that capacity.

The record shows that there are occasions when some courtrooms do not have a sergeant assigned to them. (TR139) In such circumstances, the most senior officer is "in charge." It appears that the PBA is seeking by this proposal to compensate those officers with acting sergeant's pay.

The County argues that this proposal is without limitation as to how long the duties would be performed before acting pay would be triggered. The PBA's proposal states that officers

would be paid for "all time performing in that capacity ... if he is responsible for officers of the same rank in the absence of a Sergeant." The County argues that this proposal would subject the County to an unnecessary financial burden without any corresponding need for the coverage.

Without more specific information about how frequently this occurs, what additional responsibilities, if any, are entailed with being the senior officer "in charge", and the attendant financial impact, this proposal has not been justified and must be denied.

Retroactive Pay:

The County has proposed that only employees employed on the date of the Award be entitled to retroactive pay. The PBA argues that this proposal is "simply a slap in the face to the brave men and women who have served their entire careers with the Sheriff's Department and retired prior to the issuance of the Award." Moreover, the PBA argues that such a provision deters employees from retiring until the contract is settled, costing the County money for as long as the contract is unsettled.

The expired contract contains no specific reference to the application of retroactive increases for retirees. Nor did the recent award for the Sheriff's superior officers mention retro pay for employees retired or separated from service. I find

that this issue is generally governed by local custom and practice. See Morris County Prosecutor's Office, Docket No. IA-2012-32 (Osborn 2012). Unfortunately, neither party provided me with any information concerning the parties' historical treatment of recent retirees' entitlement to retroactive pay increases. The cost is not significant: only five employees retired since January, 2010. Assuming they retired at step 11 salary of \$82,034, the per retiree retroactivity cost would be, at most, \$9,229. ($\$82,034 \times .0225$ --even assuming they worked all of 2011- equals \$1846. x 5 employees). In the absence of more specific information, however, this proposal cannot be granted. The parties will follow their own past practice in this regard.

AWARD

Contract Duration:

January 1, 2010 through December 31, 2014.

Salaries:

2010 - Wage freeze.

2011 - Effective January 1, 2011, across the board salary increases of 2.25% for all unit employees.

2012 - Effective January 1, 2012, across the board salary increases of 2.5% for all unit employees.

2013 - Effective January 1, 2013, across the board salary increases of 2.0% for all unit employees.

2014 - Effective January 1, 2014, across the board salary increases of 2.0% for all unit employees.

Employees hired prior to July 1, 2012, shall be compensated pursuant to the following salary guide:

	2010 (0% ATB)	2011 (2.25% ATB)	7/2012 (2.5% ATB)	2013 (2.0% ATB)	2014 (2.0% ATB)
Start	34,778	\$35,561	\$36,450	\$37,179	\$37,922
Acad	40,457	\$41,367	\$42,401	\$43,249	\$44,114
1	49,122	\$50,227	\$51,483	\$52,513	\$53,563
2	53,163	\$54,359	\$55,718	\$56,832	\$57,970
3	57,207	\$58,494	\$59,957	\$61,156	\$62,379
4	61,252	\$62,630	\$64,196	\$65,480	\$66,790
5	65,294	\$66,763	\$68,432	\$69,801	\$71,197
6	68,556	\$70,099	\$71,851	\$73,288	\$74,754
7	72,674	\$74,309	\$76,167	\$77,690	\$79,244
8	79,169	\$80,950	\$82,974	\$84,633	\$86,326
9	80,534	\$82,315	\$84,549	\$86,208	\$87,901
10	81,534	\$83,315	\$85,549	\$87,208	\$88,901
11*	82,034	\$83,879	\$86,191	\$87,915	\$89,673

*Compounded pursuant to contract.

Employees hired after July 1, 2012, shall be paid pursuant to the following wage scale:

STEP	2012
Start	\$32,772
Academy	\$37,772
1	\$45,981
2	\$50,981
3	\$55,981
4	\$60,981
5	\$65,981
6	\$70,981
7	\$75,981
8	\$82,974

Effective January 1, 2012 senior officer pay shall be increased by \$210 at each step.

Health Benefits:

Modify the contract language under Article V to conform to Chapter 78's requirements.

Prescription Drug Coverage:

Effective July 1, 2012, the following changes in prescription copayments shall be implemented:

Retail Co-Pays (up to 30 days)

Retail

\$6 - generic

\$15 - brand (no generic available or physician required)

\$20 - brand (generic available)

Mail Order (90-day supply)

\$5 - generic

\$10 -brand (no generic available or physician required)

\$15 - brand (generic available)

Drug Utilization Plan

- a. Enhanced concurrent drug utilization review
- b. Preferred drug step therapy limited to PPI, SSRI and Intranasal steroid drugs
- c. Clinical Intervention (MD Statement of medical necessity) limited to Anti-narcoleptic agents, weight less and anti-neoplastic agents.

Continue restriction on flow through of prescription copays to major medical.

Officers who receive fully paid retirement benefits under the 2005 through 2009 CNA shall be provided with the Medco

Rx or an equivalent plan. This plan shall provide for free mail order prescriptions and 30% co-pay for retail. The plan shall provide for free mail order prescriptions and 30% co-pay for retail. It is understood that in order to provide the Medco Rx plan, the base health plan will be converted from CIGNA ROAP7 to CIGNA ROAP3.

Effective July 1, 2012, the Third Party Administrator, will be eliminated and the County will no longer reimburse employees for any out-of-network charges.

Effective July 1, 2012, emergency room co-pays shall be \$25.00 per visit (to be waived if admitted).

Pay Check Distribution:

In order to maintain a bi-weekly basis for paycheck distribution, effective on the date of the award, a rotating bi-weekly pay day schedule shall be implemented whereby the pay day will be changed in each successive year as follows:

2012: Friday

2013: Monday

2014: Tuesday

2015: Wednesday

2016: Thursday

This cycle will continue every five years. When payday occurs on a holiday, paychecks or direct deposits will be issued on the day prior to the holiday.

Changes in Orders:

Article XXXII shall be modified to add:

The County shall provide the PBA President with a copy of any newly issued or amended Orders, Rules or Regulations at least five working days prior to their effective date.

Critical Incidents:

Article XXXII shall be modified to add:

When an officer is involved in a critical incident, such as a shooting, motor vehicle accident or physical altercation, said officer shall not be required to respond to any questions or supply any statement or written reports until he is released by the evaluating physician or other medical professional. Such delay shall not exceed two business days unless the officer is physically or mentally incapacitated.

Honor Guard:

The contract Article XX shall be modified to add the following language:

The County shall maintain the right to deploy the Honor Guard as the Sheriff deems appropriate. The County shall provide a one-time stipend for each member of the Honor Guard who has served continuously for the last six months on the guard in the amount of \$250 to cover the cost of uniform upkeep and maintenance. An employee performing with the Honor Guard will be given release time from work or, if off duty, will be given equal comp time for their time in such service.

Line of Duty Death Leave

Article XX shall be modified to add the following:

The PBA President or his designee shall be allowed to attend the funeral of any law enforcement officer in the State of New Jersey who is killed in the line of duty. Such attendance shall be without loss of pay or time.

Sick Leave Bonus Payments:

Article XXV shall be modified to add the following:
Sick leave bonus payments will be made by not later than the second pay period in January, following the year in which they are earned.

On-the Job Injury Leave:

Replace the 180 and 90 day provisions with
"up to one year."

Post/Shift Bidding:

Article X shall be modified to add the following:
The parties recognize that certain posts may require special skills. The Sheriff or his designee shall have sole discretion in deciding which posts require special skills. All posts not requiring special skills shall be annually posted for bid in November for the subsequent calendar year. Employees shall be permitted to bid on positions and work shifts based upon departmental seniority. The Sheriff or his designee shall retain the authority to reassign employees from their bidded position for training purposes or to cover a vacant shift.

Holiday Pay:

Article XIII shall be modified to add the following:
All unit employees will be given either Lincoln's

birthday or the day after Thanksgiving as a paid holiday, but not both. One-half of the employees covered by this agreement shall receive Lincoln's birthday off as a paid holiday and the other half shall receive the day after Thanksgiving off as a paid holiday. In the event that such a scheme does not produce sufficient staffing, then the employer may require employees to work on their designated holiday. Employees who work on their designated holiday off will be compensated with holiday pay for the hours actually worked.

Call-In Time

Article XII shall be modified as follows:

Effective July 1, 2012, increase minimum call out pay to four hours.

Vacations:

Article VI shall be modified to add the following:

Vacation selections shall be by departmental seniority. The Employer retains the right to decide how many employees may be on vacation in any work unit at any time. Employees shall first select vacations in increments of five days or more before floating days are selected.

Overtime Payments:

The contract language in Article XI is reformed to provide that the employee has the right to opt for overtime compensation to be paid in cash or compensatory time off.

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.

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 determination.

Susan W Osborn
Susan W. Osborn
Interest Arbitrator

Dated: June 11, 2012 _____
Trenton, New Jersey

On this 11th day of June, 2012, 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.

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.

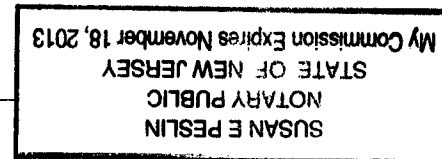
Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken the statutory limitation imposed on the local tax levy cap into account in making the award. My Award also explains how the statutory criteria factored into my final determination.

Susan W. Osborn

Susan W. Osborn
Interest Arbitrator

Dated: June 11, 2012
Trenton, New Jersey

Susan E. Peslin



On this 11th day of June, 2012, 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.