

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

Case No: IA-2022-001

In the Matter of the Interest Arbitration between:

County of Burlington,

PUBLIC EMPLOYER

and

Police Benevolent Association, Local 249 (Superiors),

EMPLOYEE ORGANIZATION

**INTEREST ARBITRATION
DECISION AND AWARD**

BEFORE:

**Marc A. Winters
Interest Arbitrator**

APPEARANCES

For the Employee Organization:

**Of Counsel and On The Brief:
David J. DeFillippo, Esquire
Detzky, Hunter & DeFillippo**

For the Public Employer:

**Of Counsel and On The Brief:
Evan H. Crook, Esquire
Malamut and Associates, LLC**

PROCEDURAL HISTORY

On August 13, 2021, the PBA Local 249, filed a Petition to Initiate Compulsory Interest Arbitration (“Petition”) with New Jersey’s Public Employment Relations Commission (“PERC”). By filing the Petition, the Union asked PERC to appoint an interest arbitrator pursuant to the Police and Fire Interest Arbitration Reform Act, *N.J.S.A. 34:13-16(e)(1)* to make an award concerning a successor collective negotiation agreement. (“CNA”) with the County of Burlington. On August 20, 2021, this Arbitrator was appointed, by PERC, to serve as interest arbitrator.

Pursuant to *N.J.S.A. 34:13-16(b)(3)*, on Thursday, October 14, 2021, this Arbitrator conducted a mediation session with the parties to “effect a voluntary resolution of the impasse.” At the conclusion of the October 14, 2021, mediation session, although an agreement was reached on numerous issues it was determined that the impasse, on the remaining issues, should proceed to interest arbitration. An Evidentiary Hearing was scheduled and conducted, in-person, at the County of Burlington Administration Offices on Thursday, October 21, 2021.

At the Hearing David J. DeFillippo, Esquire of Detzky, Hunter & DeFillippo represented the Union. Evan H. Crook, Esquire of Malamut and Associates, LLC, represented the County.

During the hearings, the parties were permitted the opportunity to argue orally, present documentary evidence, and examine and cross-examine witnesses.

This Arbitrator would like to thank both parties for not only the courtesy and cooperation given to this Arbitrator but to each other as well, including the successful efforts to resolve a number of the outstanding issues during both the mediation and hearing.

The parties’ most recent executed contract had a term through December 31, 2018. During the hearing, the Employer waived their ability to pay argument, and confirmed their ability to pay.

In addition, the parties submitted extensive documentary evidence, from various collective negotiations agreements, memorandums of agreement, prior interest arbitration awards, and

financial/economic data. Subsequently, the parties were permitted to submit post-hearing briefs. Ultimately, post-hearing briefs were submitted on and exchanged through this Arbitrator on December 21, 2021, and the record was closed at that time. The evidence provided and the arguments set forth by both parties have been fully considered in preparation and issuance of this Interest Arbitration Decision and Award. The above-mentioned Statutory provisions requires this Arbitrator to issue a written decision within 90 days of the Arbitrator's appointment.¹

PARTIES FINAL OFFERS ON DISRUPTED ISSUES

PBA/SOA FINAL OFFER:

1. Article II – Salaries. Salaries for all Sergeants and Lieutenants shall be increased annually, 2019 – 2023, by 3.25%.
2. Article IV – Health Benefits. Effective January 1, 2022, the premium-sharing contribution for all members shall be reduced from Chapter 78's Tier 4 level to Tier 3 (i.e. 75%).
3. Article X – Holidays.
Paragraph C. This clause shall be revised so as to clarify that the "day" provided to an officer scheduled to work on a holiday shall be 11.50 hours, rather than the current 8 hours.

COUNTY FINAL OFFER:

1. Article II – Salaries. Annual salary increases as follows:
2019: 2%;
2020: 2% plus \$500 not to base 1-time payment;
2021: 2%;
2022: 2%;
2023: 2%.
2. Remaining SOA Proposals. Each rejected by the County.

¹ A waiver/extension of the 90day requirement was issued, to this Arbitrator, by PERC, on October 18, 2021, due to and based on Covid-19 pandemic issues.

BACKGROUND

THE BURLINGTON COUNTY DEPARTMENT OF CORRECTIONS

The Burlington County Corrections Department (“BCDC”) is owned and operated by the Board of Commissioners of Burlington County (“Commissioners”) and consists of the Burlington County Detention Center in Mount Holly, New Jersey (“Jail”). The Corrections Department is tasked with operating the Jail 24 hours per day, 365 days per year. At the time of the present Interest Arbitration proceedings, the BCDC is authorized for a total of 175 corrections officers and has approximately 145 correction officers presently employed. The Superior Officers, which are Sergeants and Lieutenants number 23 at the present time. They are charged with Supervising and overseeing the Corrections Officers in maintaining the safety of the inmates and the security of the facility.

The Corrections Department provides secure custody to approximately 450 or more inmates on any given day, although inmates are committed to and released on a frequent basis so that the number of inmates routinely fluctuates. The Jail in Mt. Holly currently houses all inmates. The inmate population ranges from pre-trial detainees to State-sentenced prisoners (including inmates awaiting transportation to State Correctional Facilities and inmates sentenced to County time). The inmate population includes, from time to time, other types of prisoners such as those in federal custody. The violations committed (or alleged to have been committed) by incarcerated individuals vary from motor vehicle violations and municipal violations to more serious offenses such as armed robbery and murder.

The correction officers’ last Collective Bargaining Agreement for January 1, 2012, through December 31, 2014, has expired. The Parties did reach agreement and executed a Memorandum of Agreement for 2015 through 2018.

POSITION OF THE PARTIES

PBA/SOA POSITION:

BURLINGTON COUNTY IS A LARGE, GROWING AND VIBRANT COMMUNITY

NJSA 34:13A-16(g)(1) requires the Arbitrator to consider the interest and welfare of the public. In order to properly analyze this factor, the Arbitrator must be aware of just “who” constitutes the “public” in Burlington County. In Exhibits D and E, the SOA attached numerous documents defining the “public” in Burlington County. These exhibits illustrated that the County is a large, growing and vibrant area enabling it to achieve the designation as the 8th best County to live in New Jersey. (D-8).

Burlington County is geographically the largest of New Jersey’s 21 counties. (D-1). It consists of 40 municipalities and stretches from the Delaware River to the west to the Atlantic Ocean to the east. (D-1). In 2019, its population exceeded 445,000, 93% of which was located in urban areas. (D-3). Seventy-five percent (75%) of the County’s workforce is in the private sector with only 21% employed in public service. (D-3).

The average cost of single-family new home construction in 2019 was \$174,100 – an increase more than \$35,000 from 2018! (D-6).

Moreover, the County consists of stable family units as well an educated populous. Indeed, in 2019 almost 90% of the families in the County lived in the same house as the previous year. (D-24). Also, more than 93% of its residents possess a high school diploma while nearly 40% have earned a Bachelor’s degree or higher. (D-24).

The County’s median household income is higher than New Jersey’s and 1.4 times higher than the national average. (D-31).

Indeed, the County's 2019 median household income (\$88,797) was more than \$3,000 higher than the state average and more than \$23,000 more than the national average! (E-25). To put this data into proper perspective, the County's 2016 median household income (\$80,254) represented not only a 6% increase over 2015 but placed Burlington as the 8th most affluent County in New Jersey! (E-1 to E-22).

Accordingly, in order for the County to continue to grow and prosper, it is obvious that its law enforcement officers – here, the members of the SOA – must begin to receive fair and competitive wage increases. In this way, the County and its residents, businesses and property owners will benefit from its ability to attract and, more importantly, retain high caliber Correction Sergeants and Lieutenants.

BURLINGTON COUNTY IS FINANCIALLY SOUND AND SECURE

Pursuant to NJSA 34:13A-16(g)(1),(5) and (9), the Arbitrator must analyze the “lawful authority of the employer” in determining whether to award the proposal advanced by the SOA or the meager salary raises pursued by the County. This analysis generally focuses on whether the SOA's economic proposals will create any “cap” difficulties for the County, specifically, the “spending” cap or the “tax levy” cap.

Some points an adversary must concede otherwise risk the loss of credibility. Here, the County wisely stipulated that it possesses the ability to properly fund the SOA's economic proposals! The County's stipulation followed the detailed testimony and accompanying report of the SOA's financial expert, Dr. Raphael J. Caprio. (Exh. K). As per his report, outlined the County's “healthy financial condition” and adroitly noted that a “significant portion of the expired contract period is retrospective” wherein “breakage is a definite factorresulting in significant savings that largely pay for the CNA requested” by the SOA. (K-2). The “tax levy” cap, Dr. Caprio explained, is not a factor in the present matter, as the County has “foregone more than \$6

million is statutory revenue capacity” since 2017.” (K-4 to K-5). As for appropriations, Dr. Caprio illustrated that same increased by a mere 2.3% between 2016 and 2021 and “actually decreased in 2020” by more than 2%. (K-5).

Additionally, the County received substantial economic relief pursuant to the American Rescue Plan Act (ARPA). (Exh. H and L-7). The SOA established that the County will receive a whopping \$86.37 million over the next two years! (H-3). Dr. Caprio informed that the County’s ARPA relief represents the 6th highest sum among New Jersey’s 21 Counties! (K-7). These funds may be utilized for a variety of purposes including “[r]eplacing lost public sector revenue”. (H-15). On this point, Dr. Caprio informed that the County annually collects excess miscellaneous revenues, on average, to the tune of \$1.1 million and predicts that it will quickly recover from 2020’s slight dip quite nicely in 2021. (K-8 to K-10). Moreover, due to the availability of the \$86 million via the ARPA, the County may now re-direct other resources initially ear-marked for non-salary appropriations to fund easily fund the SOA’s economic proposals.

The County also enjoys an extremely healthy Fund Balance. Typically, the Fund Balance is at its lowest on January 1st of a given year as the County appropriates a portion of same toward the new year’s budget and then regenerates its surplus during the ensuing 12 months until attaining its zenith on December 31st of said year. (K-12). Here, Dr. Caprio revealed that the County’s Fund Balance has increased by an incredible \$7.7 million – or 43% - in just the last 5 years! (K-11).

As for the impact on the resident property owners within the County in the event the SOA’s salary proposal is awarded, Dr. Caprio informed that – with breakage - same would be “virtually non-existent”. (K-18). Even discounting breakage, Dr. Caprio revealed that “the

average cumulative cost” of the SOA’s proposal would be just “\$1.86 over five years for each residential property owner in the County!” (K-18).

In light of the above analysis, it is obvious that the County’s decision to stipulate its ability to fund the SOA’s proposal was well-informed.

NEW JERSEY PRIVATE SECTOR WAGES INCREASED BY AN ASTOUNDING 10.5% IN 2020

NJSA 34:13A-16(g) mandates a comparison of wages, salaries as hours and conditions of employment for employees in both the public and private sector. As discussed below, this factor heavily favors the award of the SOA’s wage proposal.

The SOA established that New Jersey’s total private sector wages increased an incredible 10.5% in 2020! (F-8). Employees in Utilities (6.7%); Construction (4.4%); Manufacturing (5.7%); Wholesale Trade (4.6%); Retail Trade (9.8%); Information (11.2%); Finance/Insurance (7.9%); Real Estate (9.7%); and Professional/Technical Services (8%), among other private sector industries, experienced lucrative increases in 2020. (F-8).

The 2020 gains in New Jersey’s private sector did not exclude the hard-working men and women of Burlington County. Rather, the SOA proved that their wages grew by 11.5% - or 1.5% higher than the State average! (F-9). 2020 represented the second time in three years (2018-2020) in which the County’s average wage increase exceeded the State average. (F-9’ F-14; and F-17).

The SOA also demonstrated that 2020’s wage increases were not limited to the private sector but also extended to State and local government employees. (F-8). While State workers earned a 2.9% increase, those employed in local government service – such as the SOA’s membership – reaped a whopping 7.2% salary raise! (F-8). Moreover, law enforcement officers actually fared well in interest arbitration. In 2019, the average annual salary increases in interest arbitration award, where the “2% CAP” was (as here) not applicable, was 3.62%! (F-4). Moreover, those law enforcement groups which did not have to resort to the interest arbitration

process have fared quite well in recent years. The SOA highlighted that “[t]he average annual salary increases in non-IA settlements 3.89% in 2018; and 4.26% in 2019”. (F-5).

NJSA 34:13A-16(g)(7) requires the Arbitrator to consider the cost of living. The SOA established that the Consumer Price Index (CPI) for all items rose by 5.4% between September 2020 and September 2021. (G-1A). The costs for such items as Food (4.6%); New vehicles (8.7%; Apparel (3.4%); and Shelter (3.2%), the cost for Energy (24.8%) has exploded in the last 12 months! (G-1A). Closer to home, the SOA proved that the cost of living in Burlington County is actually 13.5% higher than the national average! (G-1D). Indeed, New Jersey has “one of the highest residential home markets in the country”, with Burlington’s housing costs estimated at 3.4% above the national average. (G-1E and G-1F).

Respectfully, the above data not only demonstrates that the wage increases proposed by the SOA are not only in line with the raises other workers have recently enjoyed in both the private and public sector but are necessary for its members to keep current with the ever-rising cost of living in Burlington County.

THE MEMBERS OF THE SOA HAVE AN EXTREMELY DANGEROUS AND DEMANDING PROFESSION

Although the Arbitrator is required, pursuant to NJSA 34:13A-16(g)(2), to compare the salary and wages of the SOA membership with other wage earners in both the private and public sector, we cannot escape one significant and immutable fact: law enforcement is one of the most dangerous and stressful occupations in America. The dedicated and hardworking members of the SOA must be properly compensated to ensure that the County will continue to attract – and, just as important, retain – high caliber, experienced supervisors to safeguard the residents and property owners in Burlington.

The County Jail, unlike all other County offices and departments, operates 24 hours a day, 7 days a week. Many of the Jail's Lieutenants and Sergeants are assigned to serve as Floor Staff personnel while others are directed to perform Administrative duties.

Like all penal institutions, the Jail typically houses the worst offenders our society has to offer. As Lt. Williams testified, assaults committed by inmates upon staff personnel is commonplace. It is no wonder that law enforcement, and in particular, corrections, has been rated among the most stressful occupations in America. (I-7, I-16 and I-24). Sadly, "suicide rates among correctional officers are 39% higher than those of the general public"! (I-4, I-28 to 37). Also, the life expectancy of law enforcement officers is much lower than that of the general public. (I-2 to I-5).

The challenges law enforcement officers face daily have only intensified since the outbreak of the C-19 pandemic. In October 2021, it was reported that officers are 5 times more likely to die from the virus than gunfire. (I-1 to I-1B). Indeed, several New Jersey correctional officers have already perished after contracting the virus. (J-12 to J-18).

Despite all of the risks, dangers and personal sacrifices, the SOA membership has continued to report for duty and maintain order within the Jail. Indeed, while other County employees were either excused – with pay – from reporting for duty or otherwise permitted to work from home during the C-19 pandemic, our members showed up for work and, somehow, kept the virus from wreaking havoc throughout the facility. Numerous staff members did, in fact, contract the C-19 virus and once recovered, resumed their duties. Tragically, as Lt. Williams recounted, one officer succumbed to the deadly virus.

Accordingly, it is respectfully submitted that the members of the SOA deserve to be properly and fairly compensated for the vital services they provide each and every day.

COUNTY POSITION:

The County's Final Offer should be awarded since the testimony, analyses, and documentary evidence presented by the County at hearing:

Proves that the County's Final Offer to increase salaries by 2.00% per year, with a one-time not-to-base payment of \$500.00 for 2020 is fair and reasonable and is consistent with the proper comparable County union contract (CWA) and recent post-CAP Interest Arbitration Awards.

Proves that the union's Final Offer Number 3 to reduce the Chapter 78 contributions would result in PBA 249 SO being the only group of County employees paying less than the Tier 4 contribution level, would be contrary to established PERC law, and significantly increase the County's total financial obligation to fund Health Benefits for this unit and all other County units.

The Union's Final Offer Number 4 regarding Holidays has already been the subject of a prior Arbitration dealing with this exact issue which found that this issue was without merit. Further, the Union's proposal is contrary to the public interest as it will have the effect of increasing the already generous time off enjoyed by the Union's officers.

STATUTOR REQUIREMENTS

This Arbitrator is required to make a reasonable determination of the issues, giving due weight to the statutory criteria set forth in N.J.S.A. 34:13A-16(g). 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 for this Award, this Arbitrator has concluded that all the Statutory factors are relevant but not all are entitled to equal weight.

This Arbitrator, however, is required to make a reasonable determination of the issues with a reasoned explanation for the decision and award, indicating which statutory factors are deemed relevant, the due weight that was given to each factor, and which factors, if any, are deemed to be irrelevant. The criteria also provide this Arbitrator with the authority to consider other such factors not confined to those specifically stated which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment. [*N.J.S.A.* 34:13A-16(g)(8)].

Having reviewed all the Statutory criteria, this Arbitrator, has determined the following to be the most significant criteria to be applied for this decision. That being: The interests and welfare of the public. The interests and welfare of the public grasps and envelops many other factors and recognizes the interconnection and correlation among all the statutory criteria.

Those factors and criteria that interconnect and correlate with the interest and welfare of the public and should be accorded more weight, in this case, are the public sector comparisons, and the financial impact on the governing unit, its residents, and taxpayers.

This Arbitrator has also given due weight to the fact that this Award will not require the County to exceed its lawful authority or any statutory restrictions. The party seeking a change or to modify an existing term or condition of employment bears the burden of justifying the proposed change.

The decision, hereunder, is to award or deny any individual issue in dispute as part of the overall terms that have been awarded, along with the continuation of contract terms and benefits that are not in dispute.

The parties argue that the statutory criteria must be applied in comportment to and aligned with their respective final offers.

The parties, in this case have submitted extensive amounts of documentation as exhibits as well as comprehensive closing arguments addressing their positions along with the statutory criteria.

This Arbitrator can assure both parties that all submission have been thoroughly reviewed and considered when determining the merits of each final offer.

Each issue in dispute will be discussed and analyzed below, and will include, in this decision, to award or deny thereby resolving each issue. The totality of the issues awarded will be set forth in the Awards Section of this decision at the end.

ARBITRATOR'S FINDINGS/ANALYSIS/AWARD

ARTICLE II - SALARIES:

For the reasons set forth below and after careful consideration of the facts developed from the submissions presented by the parties (the record), this Arbitrator has concluded the following:

First, that the County is well funded and does not have an ability to pay issue as stipulated to by the County and corroborated by the expert testimony of Dr. Raphael Caprio: The analysis performed by Dr. Caprio clearly demonstrates that the County enjoys an extremely healthy Fund Balance. Dr. Caprio testified that the County's Fund Balance has increased by an incredible \$7.7 million or 43% in just the last 5 years! The County has the ability to regenerate surplus, continues to have excess budget appropriations that are placed back into the fund balance. Dr. Caprio explained the "tax levy" cap, is not a factor in the present matter, as the County has foregone more than \$6 million in statutory revenue capacity since 2017.

Dr. Caprio further testified that the County's healthy financial condition and noted that a significant portion of the expired contract period is retrospective wherein breakage is a definite factorresulting in significant savings that could largely pay for the CNA requested by the SOA.

Additionally, the County received substantial economic relief pursuant to the American Rescue Plan Act (ARPA). Dr. Caprio informed that the County's ARPA relief represents the 6th highest sum among New Jersey's 21 Counties! These funds may be utilized for a variety of purposes including "[r]eplacing lost public sector revenue". On this point, Dr. Caprio testified that the County annually collects excess miscellaneous revenues, on average, to the tune of \$1.1 million and predicts that it will quickly recover from 2020's slight dip quite nicely in 2021. Moreover, due to the availability of the \$86 million via the ARPA, the County may now re-direct other resources initially ear-marked for non-salary appropriations to fund easily fund the SOA's economic proposals.

All of these factors are indicative of the County's sound financial condition even with the loss of revenue that can be attributed to the Covid-19 Pandemic.

Second, even with acknowledging that the previous hard cap and chapter 78 contributions may have contributed to a decline in the PBA/SOA members compensation and earnings, the PBA/SOA members are still well compensated when compared to other County employees.

The seminal issue in almost every interest arbitration proceeding usually revolves around the wage proposals of the parties. This case is no different.

The PBA/SOA has proposed the following Salary Proposal

Article II – Salaries. Salaries for all Sergeants and Lieutenants shall be increased annually, 2019 – 2023, by 3.25%.

The County has proposed the following Salary Proposal

Article II – Salaries. Annual salary increases as follows:

2019: 2%;
2020: 2% plus \$500 not to base 1-time payment;
2021: 2%;
2022: 2%;
2023: 2%.

The PBA/SOA argue the following in defense of their salary proposal:

THE SOA’S SALARY PROPOSAL MUST BE AWARDED IN ORDER FOR THE COUNTY TO CONTINUE TO ATTRACT AND RETAIN HIGH CALIBER SUPERVISORS

NJSA 34:13A-16(G)(2) mandates that the Arbitrator conduct a comparison of salaries with other employees “in the public sector in the same or similar comparable jurisdiction” and with other employees “in public and private employment in general”. Here, the SOA proposes annual wage increases of 3.25% for the duration of the CNA while the County has advanced a mere 2% wage increase.

As detailed herein, the SOA's membership are, by far, the lowest paid Correction Sergeants and Lieutenants in the State! Indeed, our members will continue to be the worst paid in New Jersey even if the SOA's wage proposal is awarded!

If the SOA's proposal is awarded, the salary 2019–2023 salary guide will be as follows:

<u>Rank</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Sergeant	\$85,529	\$88,309	\$91,179	\$94,142	\$97,202
Lieutenant	\$96,032	\$99,153	\$102,375	\$105,702	\$109,138

The SOA's exhibits proved that the highest paid 2019 Correction Sergeants in New Jersey were employed by Bergen County (\$138, 039)- or approximately \$53,000 more than what the Burlington County Sergeants will earn if awarded the proposed 3.25% wage increase. Indeed, our members will still earn approximately \$8,000 then the next-lowest paid Correction Sergeants in 2019 – Salem County (\$93,100). This unfortunate patter will continue in 2020; 2021; 2022; and 2023: Burlington County Correction Sergeants will continue to be the worst paid – by far – in all of New Jersey!

The projections are just as grim for our Correction Lieutenants even if they are awarded the 3.25% annual increases advanced by the SOA. For instance, in 2019 and 2020, Burlington Lieutenants will be the only supervisors holding said rank earning less than \$100,000 in the state! Moreover, in 2021, Burlington Lieutenants will earn nearly \$60,000 less that the state's top paid Lieutenants: Monmouth County (\$161,298).

The news is almost as bad when the SOA's Sergeants and Lieutenants are compared to municipal law enforcement officers within the County. Even under the SOA's proposal, a Burlington County Correction Sergeant would earn only \$85,529 in 2019 – or \$43,000 less than Medford Township Sergeants!

The proposed 2020 salary of \$88,309 would not only constitute the 3rd lowest in the County but trail Mt. Laurel Sergeants (135,500) by nearly \$50,000! (W-3). The Correction Lieutenants' 2018 salary (\$93,008) was the worst when compared to their municipal colleagues. The SOA's proposed 2019 salary (\$96,032) would trail the next-lowest municipal Lieutenants (West Hampton - \$122,817) by more than \$36,000! (W-8). The years 2020-2023 would be much the same: with our Lieutenants earning significantly less than those holding the same rank employed by Burlington County municipalities!

Also, Sergeants and Lieutenants employed the Burlington County Prosecutor's Office will also continue to receive much higher salaries even if the SOA's proposal is granted.

In short, the SOA's members are extremely hard working professionals who deserve to receive the modest salary increases contained in its final offer. This is especially true in light of the County's strong financial position and the obvious need to continue to attract – and retain – high caliber supervisors in the future.

The County argues the following in defense of their salary proposal:

THE RELEVANT STATUTORY CRITERIA AND THE INTERESTS OF THE TAXPAYERS/PUBLIC, MANDATE THAT THE COUNTY'S SALARY FINAL OFFER SHOULD BE AWARDED

The County does not argue as to its 'ability to pay'; however, it respectfully submits that N.J.S.A. 34:13A-16(g) requires the Arbitrator to consider the "lawful authority" of the County and the impact on the parties of the Arbitrator's Award. N.J.S.A. 34:13A-16(g)(6) specifically requires the Arbitrator to consider the financial impact of the parties' offers on the governing unit, its residents, and its taxpayers. In PBA Local 207 v. the Borough of Hillsdale, 137 N.J. 71 (1994), the Appellate Division held that the financial impact

requirement in the statute does not equate with a governmental entities' ability to pay. Id. at 188. In fact, the Supreme Court stated in Hillsdale that a governmental entity does not have to prove that it is not financially able to afford a Union's Final Offer. 137 N.J. at 86. Arbitrators have recognized this fact as well. Arbitrator Barbara Zausner analyzed this issue In the Matter of Interest Arbitration between Borough of Oakland and Oakland PBA Local 164, I.A.-93-069 (1994) noting that "[T]he affordability of the respective package is not, in my view, a very weighty factor unless the more reasonable package is also the more expensive. The question of whether the Borough can afford the PBA's offer is not dispositive in this case." The financial impact criterion requires the Arbitrator to consider how awarding the IAFF's offer will impact on the City's other employees and upon the entire budget.

In the instant matter, the final offers of the parties vary significantly as it pertains to salary. The County's Final Salary Offer (C-1, Article 2, Salary Offer) is as follows:

1. Effective and retroactive to January 1, 2019, each officer's base salary shall be increased by 2.00%.
2. Effective January 1, 2020, each officer's base salary shall be increased by 2.00%, plus a one-time not-to-base payment of \$500.00.
3. Effective January 1, 2021, each officer's base salary shall be increased by 2.00%.
4. Effective January 1, 2022, each officer's base salary shall be increased by 2.00%.
5. Effective January 1, 2022, each officer's base salary shall be increased by 2.00%.

Although not completely reflective of actual costs, for the purposes of attempting an “apples to apples” comparison, the following analysis utilizes the Union Expert’s Base total base salary costs for 2018 (\$2,059,292.00) as indicated on page 22 of Union Exhibit K (Caprio Report). The County’s Final Offer of 2.00% increases to each officer’s base salary per year, plus the one-time not-to-base payment of \$500.00, represents a total expenditure of \$271,912.00 over the proposed five (5) year life of the Agreement. [Base 2018 salary costs of \$2,059,292.00 times/compounded by 2.00% per year equals \$258,912.00; plus 500.00 not-to-base one-time payment of \$13,000.00 (26 present Superior Officers in 2020 times \$500.00); equals \$271,912.00]. As such, the County’s Final Offer represents a total percentage increase over the 2018 base salary amount of 13.20% over five (5) years, or an average of 2.64% per year [$\$258,912$ divided by $\$2,059,292.00$ equals .1320 (13.20%); divided by 5 equals .0264 (2,64%).

In contrast, the union salary Final Offer is:

1. Effective January 1, 2019, each step on the salary guide shall be increased by 3.25%.
2. Effective January 1, 2020, each step on the salary guide shall be increased by 3.25%.
3. Effective January 1, 2021, each step on the salary guide shall be increased by 3.25%.
4. Effective January 1, 2022, each step on the salary guide shall be increased by 3.25%.
5. Effective January 1, 2023, each step on the salary guide shall be increased by 3.25%.

Again, for the purposes of attempting an “apples to apples” comparison, the following analysis utilizes the Union Expert’s Base total base salary costs for 2018 (\$2,059,292.00) as indicated on page 22 of Union Exhibit K (Caprio Report). The Union’s Final Offer of 3.25%

increases to each officer's base salary per year represents a total expenditure of \$357,104.00 over the proposed five (5) year life of the Agreement. [Base 2018 salary costs of \$2,059,292.00 times/compounded by 3.25% per year equals \$357,104.00]. As such, the Union's Final Offer represents a total percentage increase over the 2018 base salary amount of 17.34% over five (5) years, or an average of 3.47% per year [$\$357,104.00$ divided by $\$2,059,292.00$ equals .1734 (17.34%); divided by 5 equals .0347 (3.47%)].

In reviewing the relative percentage increases, it is clear that the Union's Final Salary Offer is well in excess of an appropriate range of salary increases. In contrast, the County's Final Offer is consistent with the proper comparable other County union contract (CWA) and recent post-CAP Interest Arbitration Awards.

A. COMPARABLE COUNTY CONTRACTS/SALARIES:

In terms of analysis of relevant Burlington County union contracts, in evidence as Union Exhibit Y is the applicable contract with the Communications Workers of America, Local 1036 (CWA) for the years 2020-2022. As indicated in the relevant section of that contract (Union Y, Article 3, Salaries, subparagraph B), the County and CWA agreed to salary increases as follows: 1% increase to base salary plus a one-time (not to base) payment of \$500.00 for 2020; and 1.95% increases to base salary for 2021 and 2022. CWA represents the majority of the county employees (approximately 650 employees). Further, County Administrative and non-represented employees have or will receive the same as CWA employees for 2020, 2021 and 2022.

It is anticipated that the Union may rely upon the Prosecutor's Assistant Prosecutors contracts, the Prosecutor's Sergeants/Lieutenants contract as well as the Sheriff's Officers contracts. The union's reliance on these contracts as appropriate comparables is misplaced. These contracts are not relevant and should not be considered by the Interest Arbitrator in this matter.

Both the Prosecutor and Sheriff are Constitutionally authorized offices which are independent appointing authorities, legally separate and apart from the County Commissioners. Although the County Commissioners have a right to review and approve salary increases proposed by the Prosecutor and Sheriff, it does so in the capacity of the “funding agency”. With respect to the Prosecutors agreements with the Assistants and Detectives, the Prosecutor presented the Commissioners with salary proposals that exceeded the 1.95% established in the County/CWA contract; however, as testified to by CFO Havlick, the Prosecutor also submitted an overall budget that stayed within the Office’s overall 2% statutory budget CAP. The same fact situation would apply to the Sheriff. The Commissioner’s function is to act as a check to ensure the Prosecutor and Sheriff remain within the overall 2% statutory budget CAP. Pursuant to P.L. 2015, c. 249, signed into law on January 19, 2016, Constitutional offices, such as the Prosecutor’s and Sheriff’s Offices, shall limit any increase in that portion of its budget request to 2.0% of the previous year’s budget request. The discretion to distribute funds, including the allocation of salaries within the 2% budget CAP, remains solely within the Prosecutor’s or Sheriff’s discretion.

B. RECENT INTEREST ARBITRATION SALARY AWARDS.

PERC’s website includes the most recent salary increase analysis for interest arbitration awards for calendar years 2012 through 2019. The average increase for all awards in 2018 was 2.01%, and 3.36% in 2019. The average increase for interest arbitration voluntary settlements in 2018 was 1.75% and 1.64% in 2019. The union’s Final Salary offer in this matter, when corrected for the missing fourteen officers, represents a 24.42% increase over the four (4) years, or an annual average increase of 6.11% per year, which is far in excess of the averages for Post CAPIA Awards as demonstrated by the PERC data. Even the uncorrected cost out submitted by the union equates

to an increase of 17.30%, for an average increase of 4.325% per year, well above the average PERC Post CAP IA Awards.

A review of the most recent relevant Interest Arbitration awards issued post-expiration of the Interest Arbitration Salary CAP do not support the exorbitant steps, and excessive percentage increases to steps being proposed by the union. Specifically, the following Awards were entered:

1. City of Perth Amboy and IAFF Local 4070. IA-2021-018, Arbitrator Kronick, August 2021: 1.5% per year to base salaries, with step movement. The four (4) year increase in the salary totals 8.5% or 2.125% per year.
2. Borough of Old Tappan and Old Tappan Police Benevolent Association, LOCAL 206. IA-2021-001, Arbitrator Winters, June 17, 2021. Step movement and Salary increases of 1%-1%, effective January 1, and July 1, 2019; 2%, effective January 1, 2020; 2%, effective January 1, 2021; 2% effective January 1, 2022; (which makes year one 1.5%) for officers who are not on the 2015 step guide.
3. Township of Stafford and PBA Local 297 and 297 Superior Officers. IA-2021-013 and 2021-014, Arbitrator Gifford. Effective and retroactive to January 1, 2021, across-the-board increases of 2.0%. with starting salary Step adjustments. Effective 2022, 2023 and 2024, step advancement plus across-the- board increases of 2.0%.

4. Passaic County Sheriff and PBA, Local 286. IA-2021-004. Arbitrator Winters. Contract years 2019 to 2023, Employees move one (1) step on the Salary Guide and the top step of the salary guide shall be increased by (2%). For all employees “off guide”, each employee shall receive a (2%) cost of living increase in his/her salaries.
5. Hopewell Twp & PBA Loc 342, IA-2019-016, Arbitrator Osborn 2019 appealed, affirmed by Commission P.E.R.C. No. 2020-11 (8/15/19). Starting salary frozen for 2019 through 2021, increased all other steps on the 2019 guide by 2.2%, increased the top step by 2%, added one (1) step, and froze all other steps in 2020, and for 2021 increased all steps (except starting salary) by 1.8%. Step advancement was provided in each year of the contract
6. Bedminster Twp & PBA Loc 366, IA-2019-017 Arbitrator Kronick 2019 appealed but affirmed by Commission P.E.R.C. No. 2020-10 (8/15/19). Froze the salary guide for 2019 except the top step which was increased by 2%. The Arbitrator then awarded across-the-board increases of 2% in 2019, 2% in 2020, and 2% in 2021. Step advancement was provided in each year of the contract.
7. W Windsor Twp & PBA Local 271, IA-2009-014 (Mastriani 2019). Across-the-board increases of 2% in 2019, across the-board increases of 2% in 2020, across-the-board increases 2.25% in 2021, and across-the board increases of 2.25% in 2022. Step advancement

was provided in each year of the contract.

8. Boonton & PBA Loc 212, IA-2019-021 (Kronick). Across-the-board increases of 2.25% plus a \$1,000 adjustment at the top step in 2019, across-the-board increases of 2.25% plus a \$1,000 adjustment at the top 40 step in 2020, and across-the-board increases 2.25% plus a \$1,000 adjustment at the top step in 2021. Step advancement was provided in each year of the contract.

In summary, the range of recent relevant “Post-CAP” IA Awards has between 1.85% to 2.25% per year, with step movement. In stark contrast, the union in this matter is demanding:

- 1) Year One (2021) step adjustments, well in excess of 3%, by throwing out the existing step system and establishing a new step system (with some officers moving 2 steps); and
- 2) Increasing all steps every year of the contract by 4% with each officer receiving yearly step movement.

Clearly, the Union’s Final Salary Proposal must be rejected by this Arbitrator as it is exorbitant and excessive when considered against the County comparable salary agreements, and far in excess of the ranges of current NJ Interest Arbitration Awards.

It is anticipated the union will make arguments regarding alleged salary increases given by alleged “comparable” governmental units. The County would point out that simply analyzing the step systems set forth in other governmental units’ contracts in isolation, without an analysis of the actual demographics of how many employees fall on any given step and how the subject employees move through the step system, can be misleading and lead to inaccurate and incorrect

conclusions. Therefore, the County respectfully requests that the Arbitrator be circumspect in considering the arguments made by PBA in regard to the alleged salary increases in other governmental units.

Based upon the foregoing, and in light of the statutory factors requiring consideration and analysis, the County's salary proposal should be awarded. The County respectfully submits that its Final Salary Offer is fair, reasonable and is warranted under the requisite statutory criteria of the Interest Arbitration statutes, and therefore, should be awarded by the Arbitrator.

ARBITRATOR DECISION:

To make a determination this Arbitrator has taken into consideration the following statutory criteria.

Comparison of wages, salaries, hours, and conditions of employment (in private employment, public employment generally and public employment in the same sector.

External and Internal comparables, arguments and considerations.

The SOA provided evidence suggest that their members are the lowest paid Correction Sergeants and Lieutenants in the State.

In defense of their position they provide that for the Correction Sergeants, the highest paid being in Bergen County making about \$53,000 more than Burlington Correction Sergeants and the next lowest to Burlington being Salem County Correction Sergeant earning about \$8,000 more than Burlington Correction Sergeant.

For the Correction Lieutenants the SOA provides evidence of Monmouth County being the top paid in the State making about \$60,000 more than Burlington Correction Lieutenants.

Additionally, the SOA argues that the Sergeants and Lieutenants as compared to municipal law enforcement officers within the County are less paid.

The SOA argues that even under the SOA's proposal, a Burlington County Correction Sergeant would earn in 2019, \$43,000 less than Medford Township Sergeants. The proposed 2020 salary would trail Mt. Laurel Sergeants by nearly \$50,000.

As for the Correction Lieutenants, the SOA argues that the 2018 salary was the worst when compared to their municipal colleagues. The SOA's proposed 2019 salary would trail the next-lowest municipal Lieutenants in West Hampton by more than \$36,000. The years 2020-2023 would be much the same: with our Lieutenants earning significantly less than those holding the same rank employed by Burlington County municipalities.

The SOA further argues that Sergeants and Lieutenants employed the Burlington County Prosecutor's Office will continue to receive much higher salaries even if the SOA's proposal is granted.

The SOA also argued using PERC's 2020 Biennial Report to show: State workers earned a 2.9% increase, those employed in local government service earned 7.2%.

In 2019, for law enforcement groups, the average annual salary increases in interest arbitration awards, where the "2% CAP" was not applicable, was 3.62%! and those law enforcement groups which did not have to resort to the interest arbitration process the average annual salary increases in non-IA settlements 3.89% in 2018; and 4.26% in 2019".

The SOA argues that that New Jersey's total private sector wages increased 10.5% in 2020 and in Burlington County by 11.5%.

Employees in Utilities (6.7%); Construction (4.4%); Manufacturing (5.7%); Wholesale Trade (4.6%); Retail Trade (9.8%); Information (11.2%); Finance/Insurance (7.9%); Real Estate

(9.7%); and Professional/Technical Services (8%), among other private sector industries, experienced lucrative increases in 2020.

The County, on the other hand, argues that its final salary offer to the PBA/SOA is consistent with the proper comparable County union contract (CWA). The County argues that the Burlington County union contract with the Communications Workers of America, Local 1036 (CWA) for the years 2020-2022 have agreed to salary increases as follows: 1% increase to base salary plus a one-time (not to base) payment of \$500.00 for 2020; and 1.95% increases to base salary for 2021 and 2022. The county further argues that the CWA represents the majority of the county employees (approximately 650 employees). Further, County asserts the Administrative and non-represented employees have or will receive the same as CWA employees for 2020, 2021 and 2022.

With respect to the SOA's reliance upon the Prosecutor's Assistant Prosecutors contracts the Prosecutor's Sergeants/Lieutenants contract as well as the Sheriff's Officers contracts, the County argues that the union's reliance on those contracts as appropriate comparables is misplaced.

County argues that those contracts are not relevant and should not be considered by the Interest Arbitrator in this matter. Both the Prosecutor and Sheriff are Constitutionally authorized offices which are independent appointing authorities, legally separate and apart from the County Commissioners. Although the County Commissioners have a right to review and approve salary increases proposed by the Prosecutor and Sheriff, it does so in the capacity of the "funding agency". With respect to the Prosecutors agreements with the Assistants and Detectives, the Prosecutor presented the Commissioners with salary proposals that exceeded the 1.95%

established in the County/CWA contract; however, as testified to by CFO Havlick, the Prosecutor also submitted an overall budget that stayed within the Office's overall 2% statutory budget CAP. The same fact situation would apply to the Sheriff. The Commissioner's function is to act as a check to ensure the Prosecutor and Sheriff remain within the overall 2% statutory budget CAP. Pursuant to P.L. 2015, c. 249, signed into law on January 19, 2016, Constitutional offices, such as the Prosecutor's and Sheriff's Offices, shall limit any increase in that portion of its budget request to 2.0% of the previous year's budget request. The discretion to distribute funds, including the allocation of salaries within the 2% budget CAP, remains solely within the Prosecutor's or Sheriff's discretion

Additionally, the County argues that the union arguments regarding alleged salary increases given by alleged "comparable" governmental units is misplaced and incorrect.

The County would point out that simply analyzing the step systems set forth in other governmental units' contracts in isolation, without an analysis of the actual demographics of how many employees fall on any given step and how the subject employees move through the step system, can be misleading and lead to inaccurate and incorrect conclusions. Therefore, the County respectfully requests that the Arbitrator be circumspect in considering the arguments made by PBA in regard to the alleged salary increases in other governmental units.

RECENT INTEREST ARBITRATION SALARY AWARDS.

PERC's website includes the most recent salary increase analysis for interest arbitration awards for calendar years 2012 through 2019. The average increase for all awards in 2018 was 2.01%, and 3.36% in 2019. The average increase for interest arbitration voluntary settlements in 2018 was 1.75% and 1.64% in 2019.

A review of the most recent relevant Interest Arbitration awards issued post-expiration of the Interest Arbitration Salary CAP do not support the exorbitant steps, and excessive percentage increases to steps being proposed by the union. Specifically, the following Awards were entered:

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2. **Borough of Old Tappan and Old Tappan Police Benevolent Association, LOCAL 206.** IA-2021-001, Arbitrator Winters, June 17, 2021. Step movement and Salary increases of 1%-1%, effective January 1, and July 1, 2019; 2%, effective January 1, 2020; 2%, effective January 1, 2021; 2% effective January 1, 2022; (which makes year one 1.5%) for officers who are not on the 2015 step guide.
3. **Township of Stafford and PBA Local 297 and 297 Superior Officers.** IA-2021-013 and 2021-014, Arbitrator Gifford. Effective and retroactive to January 1, 2021, across-the-board increases of 2.0%. with starting salary Step adjustments. Effective 2022, 2023 and 2024, step advancement plus across-the- board increases of 2.0%.
4. **Passaic County Sheriff and PBA, Local 286.** IA-2021-004. Arbitrator Winters. Contract years 2019 to 2023, Employees move

one (1) step on the Salary Guide and the top step of the salary guide shall be increased by (2%). For all employees “off guide”, each employee shall receive a (2%) cost of living increase in his/her salaries.

5. **Hopewell Twp & PBA Loc 342**, IA-2019-016, Arbitrator Osborn 2019 appealed, affirmed by Commission P.E.R.C. No. 2020-11 (8/15/19). Starting salary frozen for 2019 through 2021, increased all other steps on the 2019 guide by 2.2%, increased the top step by 2%, added one (1) step, and froze all other steps in 2020, and for 2021 increased all steps (except starting salary) by 1.8%. Step advancement was provided in each year of the contract
6. **Bedminster Twp & PBA Loc 366**, IA-2019-017 Arbitrator Kronick 2019 appealed but affirmed by Commission P.E.R.C. No. 2020-10 (8/15/19). Froze the salary guide for 2019 except the top step which was increased by 2%. The Arbitrator then awarded across-the-board increases of 2% in 2019, 2% in 2020, and 2% in 2021. Step advancement was provided in each year of the contract.
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In summary, the range of recent relevant “Post-CAP” IA Awards has between 1.85% to 2.25% per year, with step movement.

CPI AND COST FO LIVING

The PBA/SOA have provided through their exhibits that the Consumer Price Index (CPI) for all items rose by 5.4% between September 2020 and September 2021. The costs for such items as Food (4.6%); New vehicles (8.7%; Apparel (3.4%); and Shelter (3.2%), the cost for Energy (24.8%) has exploded in the last 12 months. Closer to home, Burlington housing costs estimated at 3.4% above the national average. The cost of living in Burlington County is actually 13.5% higher than the national average and the cost of living is 1.5% higher, in Burlington County than a year ago.

CONTINUITY OF SERVICE

The PBA/SOA argue that in order for the County to continue to grow and prosper, it is obvious that its law enforcement officers, here, the members of the SOA must begin to receive fair and competitive wage increases. In this way, the County and its residents, businesses and

property owners will benefit from its ability to attract and, more importantly, retain high caliber Correction Sergeants and Lieutenants.

DECISION:

After a thorough review, of all the evidence submitted in relationship to the internal and external comparables, Taking into consideration the PERC Stats, the CPI info, and continuity of service argument this Arbitrator finds that the internal comparable evidence provided by the County, as to the consistent and even handed salary administration for all County employees to be the stronger evidence of comparison and more persuasive on what the appropriate salary increases, here, should be. Which would not only be in the best interests of the public but all County employees as well.

Likewise, this Arbitrator finds that PERC Stats on recent settlements, as listed, above, to be more convincing and more reasonable, in terms of the appropriate salary increases, than the external comparable information and the CPI data as provided by the PBA/SOA.

As to the PBA/SOA argument on continuity of service, although they believe their salary proposal would help attract and retain high caliber Sergeants and Lieutenants, the evidence does not show any significant deviation in the number of SOA members.

In weighing all the evidence and conforming to the applicable statutory criteria, including the financial impact criteria, just because the County can afford the PBA/SOA salary offer, this Arbitrator must balance not whether the County can afford the PBA/SOA's offer in this case but how their offer will impact the County's other larger bargaining unit, CWA, and other County employees and then upon the entire budget.

Although not completely reflective of actual costs, for the purposes of attempting an “apples to apples” comparison, the following analysis utilizes Dr. Caprio’s Report showing total base salary costs for 2018 (\$2,059,292.00).

The County’s Final Offer of 2.00% increases to each officer’s base salary per year, plus the one-time not-to-base payment of \$500.00, represents a total expenditure of \$271,912.00 over the proposed five (5) year life of the Agreement. [Base 2018 salary costs of \$2,059,292.00 times/compounded by 2.00% per year equals \$258,912.00; plus 500.00 not-to-base one-time payment of \$13,000.00 (26 present Superior Officers in 2020 times \$500.00); equals \$271,912.00]. As such, the County’s Final Offer represents a total percentage increase over the 2018 base salary amount of 13.20% over five (5) years, or an average of 2.64% per year [$\$258,912$ divided by $\$2,059,292.00$ equals .1320 (13.20%); divided by 5 equals .0264 (2,64%)].

The Union’s Final Offer of 3.25% increases to each officer’s base salary per year represents a total expenditure of \$357,104.00 over the proposed five (5) year life of the Agreement. [Base 2018 salary costs of \$2,059,292.00 times/compounded by 3.25% per year equals \$357,104.00]. As such, the Union’s Final Offer represents a total percentage increase over the 2018 base salary amount of 17.34% over five (5) years, or an average of 3.47% per year [$\$357,104.00$ divided by $\$2,059,292.00$ equals .1734 (17.34%); divided by 5 equals .0347 (3.47%)].

The salary proposal submitted by the PBA/SOA, in its final offer, is a little too high and is not supported by the evidence submitted into the record nor when applying the statutory criteria. The salary proposal submitted by the County, in its final offer, on the other hand, is a little more appropriate, however, falling still short and somewhat insufficient, of the PBA/SOA goals when considering or addressing the statutory criteria.

The PBA/SOA's argument with respect to being at the very low end when compared to similarly situated bargaining units needs to be addressed. Some movement needs to be made for them to advance and not remain stagnant within the hierarchy of their external comparables.

To achieve that movement, there needs to be a slight increase over what other County employees receive. Such a salary deviation from the CWA increases would move to improve the morale of the PBA/SOA yet not be so significant to erode the morale of the CWA or other County employees.

In balancing all the evidence in conjunction with the statutory criteria, the salary award below will permit the County to maintain its fiscal responsibility/stability to their taxpayers while providing the PBA/SOA members with a fair and reasonable wage/salary increase which comports to be in the best interest of the public.

Salary Award:

- Effective January 1, 2019, 2% increase to base salary.
- Effective January 1, 2020, 2% increase to base salary and \$500 not to base one-time payment.
- Effective January 1, 2021, 2% increase to base salary and \$500 not to base one-time payment.
- Effective January 1, 2022, 2.25% increase to base salary.
- Effective January 1, 2023, 2.25% increase to base salary.

This Salary Award for this Agreement totals \$329,138.12 or 16.48% which averages out to be 3.30% yearly for the life of the Agreement.

ACTUAL COST FOR ACTIVE MEMBERS

2018	1,875,023.72		
2019	1,944,253.82	69,230.10	3.69%

2020	2,058,620.76	114,366.94	5.88%	
2021	2,107,130.75	48,509.99	2.36%	
2022	2,155,659.50	48,528.75	2.30%	
2023	2,204,161.84	48,502.34	2.25%	
Total		329,138.12	16.48%	3.30%

ARTICLE IV – HEALTH BENEFITS:

The PBA/SOA has proposed lowering their Chapter 78 contributions from Tier 4 by 25% to Tier 3.

Effective January 1, 2022, the premium-sharing contribution for all members shall be reduced from Chapter 78’s Tier 4 level to Tier 3.

The County has opposed any change to the Chapter 78 contribution.

The PBA/SOA argue that currently, SOA members contribute toward the premium costs of their health benefits pursuant to the “Tier 4” level. Lt. Williams testified, since the Sergeants’ 2018 salary was \$82,837, each was required to pay a whopping 24% toward the cost of family coverage. Lieutenants contributed 28% of the cost of such family coverage, given their 2018 salary of \$93,009. Those Sergeants and Lieutenants who opted for individual coverage contributed 34% of the cost of coverage while those electing member and child or spousal coverage, the Sergeants paid 28% while Lieutenants assumed 30% of the cost of coverage.

The PBA/SOA further argue that any salary increases will also increase the health care contributions of its members. If the Chapter 78 obligations remain at Tier 4, any gains achieved for both the County and the SOA by an award of the annual raises advanced by the union will be negated or otherwise offset by the concomitant increase in premium contributions.

This 25% reduction in in health care premium contributions, as Lt. Williams testified, would represent a significant step in enabling the County to attract and just as important retain high caliber officers and supervisors even though they will continue to be the lowest paid in the State!

PBA/SOA also argue that Interest arbitrators have recognized the propriety of reducing employee Chapter 78 contributions in two recent awards: Township of Little Egg Harbor and Borough of Bergenfield. Also, at least one Burlington County municipality has also agreed to significantly reduced premium contributions from their law enforcement officers. Specifically, Bordentown City police officers contributed just \$1,500 in 2020 toward the cost of their medical and prescription benefits.

The PBA/SOA continue to argue that the County's chief opposition to the SOA's proposal - as confirmed during Ms. Havlick's testimony was that, if awarded, same would trigger "me too" clauses in its collective negotiation agreements with other employee groups. However, as the SOA pointed out on cross-examination, PERC has declared that such "me too" parity clauses are non-negotiable and, thus, unenforceable. See City of Plainfield, PERC No. 78-87 (1978).

The County argues that, on the other hand, that the Union proposes to change the contractual employee contribution rate toward health benefit premiums. The County argues that they followed the requirements of Chapter 78, and subsequent to the expiration of statutorily mandated Tier 4 contributions the County has negotiated contracts with all unions, including PBA 249, that have continued health care premium employee contributions at the Tier 4 level. Further, the County's Administrative and non-represented employees also contribute at the Tier 4 level.

The County further states that New Jersey law dictates that employee healthcare contributions must be consistent with levels set forth at N.J.S.A. 52:14-17.28c. PERC rules and regulations speak to identifying “a pattern of salary and benefit changes,” among an employer’s bargaining units. N.J.A.C. 19:16-5.14(c). Further, PERC has recognized the importance of maintaining a pattern of settlement among bargaining units of the same employer. County of Union, IA-2001-46, 28 NJPER 459, 461 (2002). “[P]attern is an important labor relations concept that is relied on by both labor and management,” and “interest arbitrators have traditionally recognized that deviation from the settlement pattern can affect the continuity and stability of employment by discouraging future settlements and undermining employee morale in other units.” To that end, the County has endeavored to foster a harmonious relationship with all labor units by promoting continuity in the benefits offered employee wide.

CFO Havlick testified at the Hearing that a change in the contractual level of healthcare health premium contributions for this union would have significant fiscal consequences for the County. Specifically, Ms. Havlick testified as to County Exhibit C- which sets forth the estimated cost of to the County if all represented and non-represented employees’ healthcare contribution to health benefits premiums were reduced to the levels being proposed by PBA 249. As indicated on C-5, the total cost to the County per year would be an estimated \$1,061,889.58 per year. Clearly, this amount represents a significant increased expenditure to the County budget, and ultimately paid for by County taxpayers and not in the best interests of the public.

ARBITRATOR DECISION:

In this decision, this Arbitrator does not award the PBA/SOA’s proposal to reduce the Chapter 78 contributions by 25% to Tier 3.

This Arbitrator is not convinced that the PBA/SOA has met its burden of proof to demonstrate that their proposal is necessary and advisable at this time.

The internal comparability evidence, provided by the County above, convincingly outweighs the external comparability evidence provided by the PBA/SOA. The evidence and arguments provided by the PBA/SOA, in this Arbitrator's mind, failed to justify its proposal.

For this Arbitrator to do anything different would not be in the interest and welfare of the public.

ARTICLE X – HOLIDAYS:

The PBA/SOA proposes to revise Paragraph C so as to clarify that the "day" provided to an officer scheduled to work on a holiday shall be 11.50 hours, rather than the current 8 hours.

The County opposes the PBA/SOA's proposal

PBA/SOA argue that currently, SOA members are afforded fifteen (15) separate holidays with Juneteenth added in 2021 to compliment the fourteen (14) recognized in Article X. Lt. Williams testified, the "holiday" benefit is comprised of 8-hour blocks of paid leave which must be utilized during that calendar year notwithstanding the fact that the supervisors have worked 12-hour tours of duty (with a ½ hour unpaid break) since July 2013.

The SOA proposes to modify Paragraph C so as to provide that if a supervisor is schedule to work on a designated holiday, he/she will be provided another "day" off which shall 11 ½ hours (or 11.5)in duration instead of the current (and insufficient) 8 hours off. As Lt. Williams explained,

this proposed change would only affect those holidays where the supervisor is scheduled to work those holidays where he/she is scheduled off would remain at 8 hours.

The County argues that the issue raised by this “Final Offer” has been repeatedly brought up by the Rank and File, and the Superior Officers PBA Locals 249 ever since Arbitrator Osborn awarded the Modified Pitman 12 Hour Shift Schedule in 2013. The Union argument will presumably claim that “a day is a day” and if you work a Holiday, the time off you get off in return should be 12 hours per day. However, when the conversion to 12-hour shifts was awarded, there was no intent on the part of the Parties, or the Arbitrator to increase Holiday time off (or any other contractual time off) by allotting an additional 4 hours per day (the differential between a 12-hour day and an eight (8) hour day). The net effect of such an adjustment would result in an additional 56 hours, or seven (7) days of time off for the officers (12 hours minus 8 hours equals 4 hours; 4 hours times 14 Holidays equals 56 hours). The very issues raised in union Final Offer were duly submitted to binding Arbitration and heard by Arbitrator Osborn on October 31, 2013. After full hearing and oral argument on behalf of the parties, Arbitrator Osborn issued her binding decision on November 13, 2013, finding that in the implementation of the 12-hour shifts, all contractual leave time, including Holiday time, was to be calculated and converted utilizing 112 hours, based on eight-hour days. The Opinion clearly lays out all of the valid reasons why the Union’s request in this matter was not appropriate back in 2013, as it is not appropriate now. This binding Opinion and Award must be recognized and enforced by this Arbitrator.

ARBITRATORS DECISION:

This Arbitrator does not award this proposal in absence of sufficient evidence justifying the change as requested by the PBA/SOA.

STIPULATIONS

1. Duration. The new CNA shall cover the period of January 1, 2019, through December 31, 2023.
2. Article II – Salaries. All retroactive compensation shall not be subjected to adjusted Chapter 78 contributions. Additionally, said retroactive compensation shall be applicable, on a pro-rated basis, to any SOA member who retired or was promoted out of the unit subsequent to January 1, 2019.
3. Article III – Uniform Allowance. Paragraph D. The \$800 annual allowance shall be increased to \$1,000, retroactive to January 1, 2019. Moreover, the reference to July 1st shall be replaced with January 1st.
4. Article V – Sick Leave. Sick Leave Verification Policy 1081. The requirement for a landline phone shall be amended so as to permit members to be contacted via cell phone. Moreover, officers shall not be required to remain available for phone calls when sick until he/she has exhausted 120 hours of sick leave in said year (unless reasonable suspicion exists that the officer is abusing sick leave).
5. Donated Sick Leave. Members shall be permitted to participate in Civil Service Donated Sick Leave Program, consistent with NJAC 4A:4-6-1.22. The specific language of the provision shall be agreed to between the parties.
6. Article XII – Overtime.
Paragraph A. Officers shall be permitted to accrue Compensatory time to a maximum of 180 hours. Moreover, as long as same will not adversely affect the Jail's minimum staffing level, an officer shall be permitted to utilize said compensatory time as long as said officer provides a minimum advance notice of two (2) hours.

Paragraph E. Replace existing verbiage with the following:
Effective 2021, all Administrative Supervisors shall receive an annual lump sum stipend of \$2,500, payable in the first pay period in December.
7. Shape Up Time. Effective January 1, 2021, all Floor Staff Personnel shall be compensated an additional 15 minutes at straight time, per shift, for work performed in advance of and in preparation for said shift.

APPLICATION OF THE STATUTORY CRITERIA

This award is in the public interest because it will allow the County to continue to maintain its fiscal responsibility to the taxpayers. This award provides a fair and reasonable increase which is in the public interest since it will boost the morale of the PBA/SOA membership.

This Award also serves the interests and welfare of the public through a thorough weighing of all statutory criteria as discussed throughout this decision.

Since this Arbitrator is primarily adopting the County's salary proposal, with some slight modification and deviation, it will not have an adverse impact on the County, its taxpayers, and residents and it will not prohibit the County from meeting its statutory obligations or cause the County to exceed its lawful authority.

This award also meets with the statutory criteria related to internal and external comparables. This Arbitrator has compared the salary and benefits to those of other County employees/bargaining unit and where possible or appropriate similarly situated Correction Superior Officers.

This Arbitrator's decision will allow the PBA members to keep pace with the cost of living.

The issue of continuity of employment as well as any stipulations were discussed and/or presented throughout this decision.

The issue of overall compensation was not considered since neither party provided any evidence nor did they rely on such compensations in arguing their respective positions on wages/salaries.

Based upon the above, this Arbitrator, hereby awards the following:

DETAILED SUMMARY OF THE AWARD

ARTICLE II - SALARIES:

Effective January 1, 2019, 2% increase to base salary.

Effective January 1, 2020, 2% increase to base salary and \$500 not to base one-time payment.

Effective January 1, 2021, 2% increase to base salary and \$500 not to base one-time payment.

Effective January 1, 2022, 2.25% increase to base salary.

Effective January 1, 2023, 2.25% increase to base salary.

All proposals by the Policemen's Benevolent Association, SOA and Burlington County not awarded or discussed herein are considered denied and dismissed as there was insufficient evidence to award or discuss. All provisions of the existing Collectively Negotiated Agreements set forth in the 2015-2018 M.O.A. and 2012-2014 C.N.A. shall be carried forward except for those which have been modified by the terms of this Award and any prior agreements and stipulations between the parties.

The testimony given and the evidence provided at the Hearings as well as contained in the post-hearing briefs supports the above conclusions.

CERTIFICATION

This Arbitrator has given due weight to the statutory criteria set forth in *N.J.S.A.* 34:13A-16(g) and have conclude that the terms of this Award represent a reasonable determination of the issues as justified by the evidence and testimony provided.

Marc A. Winters
Interest Arbitrator

January 14, 2022
Seven Fields, Pennsylvania

State of Pennsylvania

County of Butler:

On this day of 2022, before me personally came and appeared Marc A. Winters to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.