
In the matter of Compulsory Interest Arbitration
concerning the negotiations impasse

DECISION AND AWARD

between

of

County of Hudson, New Jersey / Hudson
County Prosecutor's Office

Frank A. Mason, Arbitrator

and

PBA Local 232, Investigators

Re: PERC Docket IA-99-74

APPEARANCES

FOR THE PROSECUTOR Shaunna Brown, Esq., Scarinci & Hollenbeck
Robert M. Czech, Esq., Scarinci & Hollenbeck
Fred J. Theemling, Jr., Prosecutor
David Porter, Chief of Staff
Lawrence Henderson, County Personnel Director

FOR THE PBA Richard D. Loccke, Esq., Loccke & Correia
Kevin Wilder, President
Gerard Dargan, Vice President
Kenneth Kolich, Treasurer
John Bigger, State Delegate
Christina Webster & Dan Diaz, Negotiating Committee

INTRODUCTION AND PROCEDURAL BACKGROUND

On February 24, 1999 the Public Employment Relations Commission recorded the filing of a petition to initiate compulsory interest arbitration, Docket IA-99-74, by Kevin Wilder, President, PBA Local 232 concerning negotiations with the Hudson County Prosecutor's

Office for a unit of police employees in the title of Investigator and numbering approximately 63. On April 7, 1999 the Director of Arbitration, confirmed my appointment in accord with the provisions of P. L. 1995, C. 425 to hear and determine the resolution of this impasse. Both parties incorporated certain information as to the issues outstanding at that time of their filing with the commission.

Beginning in May of 1999 there were a series of meetings in which the parties attempted to resolve the open issues with the aid of the arbitrator functioning as mediator. This resulted in a shortened list of items which were not resolvable and which were presented at formal hearings held on October 28, and October 29, 1999. The parties differed as to the mode of the arbitration and the result was that the arbitrator would proceed with conventional authority as opposed to last offer. In this scenario the arbitrator is authorized to resolve each disputed item based on a fair and equitable consideration of the facts presented and application of the statutory criteria. The parties were instructed as to their obligation to address the statutory criteria in their presentations; to identify and explain their views as to the relevance or non-relevance of any of them to this matter; and that I would take the omission or failure to address any criterion as indicative of a position that it was deemed, by that party, to be not relevant.

At these hearings each party had full opportunity to present its case. All of the proceedings were recorded and transcripts made available to the parties. Sworn witnesses were called, examined and cross examined and many exhibits were introduced into evidence. the Employer submitted 140 separate exhibits and the PBA presented 35 documents. In addition there were several joint exhibits placed in the record. This has resulted in a very extensive submission with documents varying from only one or two pages to several hundred.

A schedule was established for the submission of post-hearing briefs. However this schedule had to be modified by an extension of about two months when the attorney for the Employer could not continue and had to be replaced. The submission date for briefs was then moved to February 2, 2000. Another issue was proposed shortly after submission of briefs. There had been a lingering discussion as to the viability of engaging in another mediation session after all of the evidence and argument supporting the parties' positions had been digested. While this was yet undecided there was a request for an alteration of the Employer's last offer based on the proposition that an issue had been overlooked. This was resisted by the PBA and given the ground rules established at the outset of the proceedings I rejected the proposal. There followed a request for reconsideration which was also rejected after the PBA reiterated its objection. This last conflict appeared to have the added effect of dousing the spark of interest which had remained concerning a further attempt at settlement. The result was a closing of the record of the hearing on March 10, 2000.

POSITIONS OF THE PARTIES

FINAL OFFER OF THE PROSECUTOR

ECONOMIC ISSUES

1. WAGES

The wage offer was to give a 4% annual increase in salary to be distributed among the ranks. This meant that some investigators at lower pay levels might receive a larger percentage than those at higher pay rates.

NOTE: At the submission of post hearing brief there was included a five year salary plan which illustrated the annual changes to be made. Its terms exceeded substantially the 4% guideline set forth in the final offer.

A \$1000 one time stipend to be given to each employee holding a Bachelors degree to be paid in 1999.

A proposition that the Employer was not opposed to implementation of a step system within the financial guideline set forth above providing that such was renegotiable at the time of the next round of negotiations for a successor agreement. No automatic step system which would survive the term of this contract.

TERM OF THE AGREEMENT

The Agreement to be in force from January 1, 1999 through December 31, 2003.

WORK INCURRED INJURY

This represented an acknowledgment of acceptance of the tentative accord reached by the parties but which had not been executed by them.

DIRECT DEPOSIT

This is a proposal to provide direct deposit of pay checks to an employee bank account. It is offered on the basis of individual voluntary acceptance but with the proviso that the offer be accompanied by the excision of the contractual agreement and past practice of allowing early release of paychecks for any reason.

VACATION PAYOUT AT RETIREMENT

Vacation credit in the year of retirement be prorated on a monthly basis. In addition the practice of fronting vacation pay prior to taking vacation cease.

NON-ECONOMIC ISSUES

There were none proposed.

FINAL OFFER OF THE PBA

ECONOMIC ISSUES

1. WAGES

The PBA proposed a 5% increase at each wage position and pay rate in existence in the final year [1998] of the previous Agreement to be implemented on January 1, 1999 and the same increase for each year of the contract.

The second part of the proposal was that an annual automatic step movement be implemented in addition to the above adjustment of the salary guide so that an employee would be moved from step to step until reaching the maximum pay level in the guide.

2. TERM OF AGREEMENT

The PBA seeks to limit the new Agreement to a term of three years beginning January 1, 1999 and ending December 31, 2001.

3. OVERTIME

Overtime to be defined as time and a half payment for all work performed in excess of eight hours in a day or forty hours in a week. The effect of this is to delete the current exclusions in overtime calculations for holidays, personal and union business, or any other form of paid leaves.

3. ON CALL

The PBA proposes that assigned on-call time be compensated at 25% in compensatory time off but that the compensatory time bank not exceed Federal limits [480 hours].

NON-ECONOMIC ISSUES

There were none proposed but it was anticipated that all agreements reached in these negotiations would be incorporated in the Agreement as would all other terms of the prior Agreement which terminated on December 31, 1998.

PRELIMINARY DISCUSSION

Almost the entire focus of this proceeding was on the economic aspects of a new agreement. The County took the position that this was a matter under its jurisdiction acting as the employer. This was disputed by the PBA which claimed the Prosecutor was

the lawful employer and that it was with the Prosecutor that negotiations should be consummated. Notwithstanding this conflict the proceedings went forward without any initiative to litigate the issue. I have set it aside in favor of concentrating on the merits of the parties' positions. However, it became clear that the reasoning of the County in its pursuit of control of the negotiations and of this interest arbitration proceeding had to do with concerns as to the financial consequences which would be a product of same. The Prosecutor did not acknowledge a relinquishment of his statutory role but neither did he assert any resistance to the County's involvement.

The final offer of the Employer, as then set forth in its post-hearing brief, differs substantially from that which was incorporated in the record at the outset of the hearings. It had indicated it wanted to contain the costs of salary adjustments to 4% per year of a five year contract without necessarily defining the way in which the 4% would be applied to the salary guide and conveyed a willingness to have step increases and/or varying amounts applied to salary rates with greater value applied to lower paid employees but with the caveat that any such application of step increases not be construed as permanent automatic increments. The PBA offer was to improve the salary structure in existence in 1998 by 5% in each year of a three year contract and that there be incorporated a permanent automatic annual increment in the form of movement from a step to the next higher step in the range each January until the employee arrive at the maximum of the range.

The very substantial gap between these proposals, in the sense of cost, was somewhat reduced when the Employer laid out a proposition concerning the salary treatment of all employees for the proposed five year period in its post-hearing brief. That proposal established a nominal 3% improvement of the pay at maximum step each year and substantial variations of salary treatment for employees at lower levels. It maintained the entry level, which had the effect of widening the range each year, and made several quite different adjustments to individual salary rates ranging to upwards of 20% in one year in one instance. The cost of the plan was calculated based on the assumption that the current employees would remain on the payroll for the entire period. The annual cost increases ranged from 3.9% to 5.3% and were compounded for the five years at 26.3% of payroll, a level substantially above the 4% per year limit earlier proposed.

There are 37 employees in the four highest paid steps of the structure who would receive 3% increases in each of the five years. This number includes 24 employees who were at the top of the range in 1998 and another 13 in the next three lower steps. In the 5th year of the proposed agreement each of those 13 employees would have remained at the step occupied in 1998; none would have moved to the top step. There would have been a consolidation of certain steps in the middle of the range and an increase in the number of steps between new entry levels and the mid range to continue the eleven step configuration present in 1998. The minimum salary would remain at \$24,638 throughout the term of the contract and the maximum would become \$63,275 in 2003, up from \$54,582 in 1998. This proposal will be dealt with in greater detail below.

The PBA proposal of 5% plus an incremental move to next higher step in the range would produce substantially higher overall costs. As a comparison, compounding of the 5% proposal would produce a payroll increase of 27.6% during five years without accounting for the effects of increment payments. When increments, which would be paid under the PBA proposal, are calculated the effect is to increase the payroll by a total of 61.4% in five years. The Employer's proposal, as set forth in its post hearing brief, would result in a total payroll increase from \$2,723,299 in 1998 to \$3,439,178 in the year 2003, or an increase of 26.3%. The PBA proposal, which I have extended to five years for comparison purposes, would result in the payroll being increased to \$4,395,986 or 61.4% higher in 2003. Thus the focal point in this dispute is obvious and significant. In the analysis which follows I intend to demonstrate the application of the statutory criteria to the determination of a just award.

This impasse is directly related to the financial circumstances of Hudson County. The very presence of County officers acting in the role of employer demonstrates the intensity of interest the County has concerning the outcome of these negotiations. While the PBA has registered an objection to the Prosecutor relinquishing his statutory role I am confronted with the fact that the County has taken the cloak of employer in this matter. The reasons for this adoption of role are many and almost all of them stem from concerns about the cost outcome and the impact of the money-related terms of the agreement on other County negotiations units. This, in part, reflects the fact that only economic elements of impasse remain to be resolved. Although all of the criteria imposed by law relating to these proceedings will be considered it is noteworthy that the primary common denominator in evaluating each of them, from the County's expressed perspective, should be the financial impact. This viewpoint has been reflected in virtually every element of the County's case presentation and to avoid having to reexamine its basic tenets in my examination of each criterion I will summarize the County's financial situation at this point.

PROFILE OF THE COUNTY

Hudson County administration has experienced a long and difficult period in its attempt to manage and balance the annual budget. That has been accomplished only by taking extraordinary steps in most of the last ten years. To illustrate this the County has offered into this record extensive testimony and a great deal of information in the form of exhibits. Some of this material was presented as if it reflected the current status of conditions in the County. However, upon careful review of certain documents, I have found that elements of those materials were either self serving or inadvertently misleading. For example the Deputy Director of Finance testified as to the relative poverty of the County's residents and indicated the per capita income was \$14,480. I understood this to be presented as a means to demonstrate the impact of the tax burden on the citizens. Only after a review of some of the facts detailed in exhibits did it become obvious that the statistic offered was reflective of the circumstance in the year 1989, some ten years ago. Other details suggesting the paucity of per capita net valuations or information as to persons in poverty are equally misleading and/or outdated without explanation.

There were other data offered in testimony which I find to have been inaccurate or incomplete. For example the County proffered a comparison of its offer of salary improvement to that of other employers. In doing so no accounting was made or credit given for the fact that other employers incorporated incremental step movements along with across the board increases in their salary package despite the headline of the County exhibit indicating that base salary, increments and/or wage increases were being displayed. Those incremental increases being ignored understated the value of the salary improvement plans by as much as several percentage points and in some cases considerably more, a meaningful difference when the claim is that the average rate of improvement for 1999 was under 3.8% as stated by the Personnel Director. For example the Union County increase was reported to be 3.5% each year but the salary schedule provides increments for those employees below the maximum of the range which have a value of from 3.3% to more than 21%. Another example is Bergen County which has an Agreement extending through 2003 and was reported to include increases of between 1.07% and 1.89% in each of the four years of the contract. Those numbers were not accurate as the rate of increase varied at different steps in the salary guide, but more significantly the employees who are entitled to increments actually receive between 13% and 17.6% in any year. With the limited information provided I can not determine the average increase. To do this would require knowledge of the placement of every employee on the steps and to compute the individual movement throughout the contract period. Suffice it to say that there are some persons in the steps of those ranges and it is obvious that the increment plans in effect would have a marked impact on salary rate movement and payroll increase. In the case of Bergen County, perhaps the highest paid Prosecutor's staff, a person at a salary of \$37,500 in 1999, would achieve maximum pay in six additional steps at the rate of \$79,000. By 2003 the individual at \$37,500 in 1999 would have moved to \$70,500 at which point he would have been two years from the then maximum of \$91,000. During the contract term he would have enjoyed a compounded increase of just over 17% per year. The specialists in narcotics have a different contract but annual structural increases range from about 2.4% to 3.3% and those employees entitled to increments experience annual increases ranging from about 15.5% to 17.5%. The employee at \$38,000 in 1999 would reach \$68,400 in year 2003, four years later and would have progressed at an annual compounded rate of just under 16%, a far cry from the County assertion of under 2% per year.

To be fair, the Employer was not alone in the provision of misleading information. In its post hearing brief the PBA pointed out that the average investigator's salary in Hudson County was some 35.5% below that of nine other County Prosecutor's offices and suggested the PBA's proposal was much short of remedying that gap. What was not stated was that the average salary in Hudson was being compared with the average of the top steps of the other counties, hardly an enlightening or persuasive statistic as the top step for Hudson County was actually just 13% lower than that average.

There are numerous facts which were introduced which provide an overview of the County. It is the smallest County in New Jersey and the most densely populated. There are 12 municipalities in the County, the largest of which is Jersey City. The County is

bounded on the east by the Hudson River and New York City while to the west lies Newark/Essex County. Jersey City has a population of over 225,000 of the approximately 550,000 residents of Hudson County. While I have some difficulty with many of the actual figures submitted concerning the social makeup; records of ten years ago are suspect as to accuracy in a relative or factual sense; I do conclude some of the basic elements presented haven't changed much. The County average income is among the lowest of the 21 counties in New Jersey and the rate of unemployment has consistently been among the highest ranging upwards of 8% even as some counties have dropped to less than half of that level. Like many urbanized centers there are many signs of decay and the departure of industrial jobs has necessitated radical changes in the employment picture.

The State Office of Management and Budget maintains a Municipal Distress Index in which they list the 100 most distressed municipalities in New Jersey. The basis for the listing is focused on several characteristics which include; a combination of unemployment and low per capita income; evidence of physical infrastructure deterioration, especially presence of older and substandard housing; social measurements which includes the proportion of children dependent on welfare as well as population change; a review of average equalized tax rates over a period of four years, equalized valuations per capita and relevant changes in the assessed valuation of real properties. These measures are applied to all municipalities. In Hudson County, of the twelve municipalities ten are on the list of the 100 most distressed in New Jersey of the statewide total of 567. The combined population of these 10 includes over 95% of the County population. The distressed municipalities are ranked from 1 to 100 and three, Jersey City, West New York and Union City are within the top 9 most distressed and represent 60% of the County population.

An examination of the fiscal data presented illustrates the recent financial condition of Hudson County. During the years from 1991 through 1999 the spending budget has varied very little around a figure of \$300 million. The very consistency of this number provides evidence of the constraints undertaken to limit budget expansion. During this time period there has been a dramatic reduction of County employment and the reliance on special devices such as State aid and grants as well as one time measures to balance those budgets. One of the singular conditions of those budgets has been the required increase in the proportion of the total required to be raised by tax levy. That amount has risen from \$128.7 million in 1991 to over \$174 million in 1999. This dependence has been reflected in sharply increased tax rates over the decade which amounted to more than a 30% increase in the last five years. During those same five years the County has managed to slash its cost of employment relative to the total budget from 37% in 1994 to 29.4% in 1995 and to stabilize that percentage at near 30% until 1999 when it moved up to 30.7%. Of course this has been the effect of limited improvements in wages and benefits combined with reduction in payroll numbers. The bottom line is that these measures represent a continuing effort to reduce budget enlargement during a period when the dependence on tax revenues was necessarily expanded. The record is replete with historic newspaper articles which demonstrate the public outcry concerning these tax increases. In part this has been punctuated by very substantial numbers of tax appeals although these numbers have been growing smaller in most of the last five years and are now less than \$70 million

as compared to a high of over \$450 million of appeals in 1988. The incidence and success of the large number of tax appeals is a reflection of the declining value of real estate holdings which coincides with the disinclination of people to live in some of these municipalities coupled with decline of commercial viability. Demand or lack thereof is the driving force which influences real estate prices and thus value base for taxing purposes. The social climate coupled with economic circumstance together comprise the broad base for that demand level. On both of these indices the County has been experiencing a climate of near depression for many years. But there are signs that this is now changing.

To a degree the problem of tax support for the County needs has been exacerbated by the economic stagnation of its municipalities and their attempts to garner new investment to jump start the economy and doing so by offering abatements to developers which do not produce revenue for the County. The perceived need of the municipalities is to turn things around and to offer incentives as the grease to the wheels of progress. Jersey City has been successful in this quest but at the expense of lost tax revenues. The City's contribution to the County is only about 80% of what it would be had abatements not been granted; assuming of course that the abatements played no role in decisions to invest in City property development, a question of considerable debate. The improvements have led to higher levels of employment and derivative economic activity which looks promising, especially for the municipalities. It has also had an impact on the County where increased needs for services are felt but where for the first time in many years the County has publicly indicated it expected an increase of \$1 billion in ratables during 1999. This would mark a reversal of the trend over the prior ten years. 1999 was also a year in which the budget for the County, cast at just under \$300 million, was one in which the rate of tax levy was reduced for the first time in the decade.

One of the factors which is indicative of the social climate and which negatively influences the overall desirability of living in the municipalities of Hudson County and thus both economic growth and real estate [and tax] values is the relative level of criminal activity. The actual level of criminal activity is not readily measured due to several factors such as non-reporting of incidents and in cases, such as drug sales, the hiding of the facts, however, Hudson County ranks 7th among the 21 counties in New Jersey in the ratio of arrests to population. Within the statistical data concerning criminal activity provided in the 1998 Uniform Crime Report I find that there were 35,000 arrests in Hudson County in 1998 and that the County ranked second behind the much more populous Essex County. Of those arrests 5600 were for major crimes including rape, murder, assault, robbery and larceny, making Hudson the #2 county in that category. Hudson was also ranked 3rd in the category arrests for drug offenses and 5th in offenses against family and children among the 21 counties in New Jersey.

These crime figures become even more meaningful when the arrests are related to the numbers of incidents in each category of offense. Only half of rape cases result in an arrest, one third in robbery, two thirds in aggravated assault, twenty percent in larceny, 5 percent in car theft and eighty percent in murder cases. This makes it apparent that there is need for a vigilant and dedicated law enforcement program if the sanctity of the

community is to be protected. In a recent move precipitated by need for cost reductions Hudson County disbanded its Police function. This has led to more pressure on the municipalities to provide protection and has resulted in greater dependence on the Prosecutor's staff to take the lead in many of the more complex criminal investigations. Where a case involves homicide or suspicious death or sex crimes or child abuse the investigators of the Prosecutor's office are called to the scene and take charge of the proceedings. The Prosecutor being the top law enforcement officer in the county propels his investigator to an in-charge position in such cases. The Prosecutor also provides functional assistance in those situations calling for special skills such as drug and complex forensic expertise. The investigators provide such assistance even when they are off duty but on call to respond as needed. Additionally the Prosecutor's staff performs formal training for other police and provides some services, such as polygraph expertise and exclusive responsibility for bomb and fraud cases for the entire county.

Given the crime incidence rate in the county there is great need for effective prosecution where arrests are made to assure that criminals are aware of the prospects of serving time for offenses against the public. Testimony suggested that this Prosecutor's staff has compiled a record of success and respect from the municipalities in the county but the incidence of criminal activity clearly points to the need for even greater diligence. I translate this to mean that the Prosecutor's staff needs to be stabilized and given incentive to perform at the highest level of professional efficiency.

EVALUATION OF STATUTORY CRITERIA

At the outset I must point out that the issue at bar is almost exclusively the length of a contract and the adjustment of wages during the contract period. There are no extraneous issues of great moment and the focus of my analysis is going to be on those two items. To a significant extent the County's offer during the hearings has been modified in the proposal incorporated in its post hearing brief. The testimonial part of this matter closed with the County having indicated an absolute resistance to any salary program which cost more than a total of 4% in each year of a proposed five year contract. In the brief submitted after the hearing the County modified its position such that four of the five years contained total cost increases greater than 4%, ranging from 4.5 to 5.3% and the remaining year was 3.9%. This new offer also directed substantial portions of the added money being funnelled into the pay of employees in the middle portion of the salary guide, assertedly in response to the PBA argument that change was necessary in that area to help stop the exodus of investigators with a few years of experience to other employment at higher pay. The County continued its resistance to the implementation of an automatic increment system which PBA has indicated to be imperative. Thus the magnitude of the difference between the parties positions was changed and the concepts of delivering a pay program seemed to become somewhat more philosophically aligned. In arriving at what I believe will be a reasonable compromise on these issues I have given each criterion consideration as described below.

THE INTERESTS AND WELFARE OF THE PUBLIC

The first element of consideration as to this criterion has been to relate the resolution being awarded to the statutory limitations imposed upon the Employer under N. J. S. A. 40A:4-45.1 et seq., the so called 'Cap Law' which limits the flexibility of the public employer as to increases in the annual budget. Neither party has indicated that the proposals on the table if incorporated in a new contract would by themselves threaten those limits. The 1.5% imposed limit was considered in budget preparation and a less than 1% program was adopted. There is every reason to believe that the award being made will have little impact on the 1999 budget and because the proposals of the Employer are assumed to have been offered within its known expectations as to future needs I will address any future year differences in the discussion of the value of my determined economic plan. While I see this criterion as a potentially relevant consideration I do not believe this award will negatively impact the Employer's capacity to remain within its limitations.

A second part of this criterion has to do with the impact of the arbitrator's award as it may affect services provided. Both parties have emphasized this dimension of this matter and are generally in agreement as to the excellent quality of performance of the employees in this unit. The PBA has asserted that there is far too high a level of turnover and that this is having a heavy impact on the overall performance of the unit. PBA attributes this to low salary levels and to the fact that employees who are becoming fully qualified to perform the broad spectrum of duties incurred do so at a time when they have many alternative employment options and that they take them because there is a great financial incentive to do so. In part those employees consider the fact that Hudson County has resisted the implementation of an automatic increment program, a feature of most public sector employment and one available in the large majority of police organizations, even those in the municipalities of Hudson County and in other employment with the County itself. The PBA introduced testimony by several persons who had left the Prosecutor's office because of this consideration. They all went to jobs paying very significantly higher salaries and knew they were moving to positions where there was reasonable certainty of movement through the salary range to its maximum step. Each of those offering testimony indicated they had been happy at Hudson County and would have stayed had there been greater assurance of financial growth. There is no provision for salary step movement in this Prosecutor's office and this is quite obvious when employee's positions in the salary range are compared to their greater number of years of service.

My review of records submitted at hearing illustrate the basis for this concern about financial growth as reflected by movement through the salary range toward maximum pay. Excluding those at maximum the remaining staff have made substantially less step movement than their years of service. The difference is not small in pay. For example an employee with 13 years of service is, in 1998, is at the 8th step of the hire rate plus 10 step range. This carries a salary of \$47133 whereas the maximum is \$54586; another with 11 years service is at step 6 and paid \$40706 whereas in other employment he too would be at maximum; there are several employees at step 1 being paid \$27851 who have 2 to 5 years service and would be paid \$30529 to \$38028 if an automatic step plan existed.

Altogether there are about 35 staff members whose pay rate is between 1 and 4 salary steps below what an increment plan would likely provide. Thus there is the unfortunate circumstance of being in the most prestigious and demanding police position in Hudson County and finding virtually all of the municipal police in salary ranges where they do get annual incremental movement in addition to across the board changes and reach the maximum pay in between 5 and 7 years with a pay rate at the top of their range averaging \$53750 in those communities which include more than 81% of the county population. None of these 35 employees of the Prosecutor are paid as much as that average paid to the municipal police and 14 with 7 or more years of service, enough generally to command the maximum pay in a municipality, are paid between \$35885 and \$47133, which means they would have to receive raises of between 14% and 50% to catch up.

The most important testimony presented at hearing was that of the Prosecutor who was asked about his staff and problems he was experiencing as the head of the office. He indicated that he was very proud of his staff and felt they were trying very hard to perform the wide latitude of complex tasks associated with the office. He went on to say that although they were well educated and trained that his Assistant Prosecutors were complaining that the staff had too little experience to handle many of the demanding job elements. He explained that, "...it takes four or five years to gain the experience for a lot of these individuals to do a lot of the work that they should be doing. We just have too many inexperienced investigators." He explained that his work force was informally divided into very experienced, many at the bottom level and not many at the mid-level where there is a sufficiency of experience. He stated, "I am just losing too many investigators after three or four years...when they really have gotten a feel for the type of work, enough experience to do the job that they're capable of doing." When asked if they were overworked his reply was that the problem is not with the quantity of work but rather the lack of experience and went on to say, "...when they have that comfort level and they have that experience, we really start to be productive, they're leaving my department..".

The Prosecutor explained that it was his view that the type of work performed in his office was not like that of patrol type training of a police officer or sheriff's officer, that the people he employs are fully trained as police but they need additional three to five years experience before becoming fully productive. He said that he hired the persons with the most potential and requires them to agree to a three year employment commitment. For an example of his problem he said, "I have just recently hired two young ladies with masters degrees starting them out at just under \$25000 a year, which I don't find a problem with while they're training for their first year. I will be able to keep them for another two years, but by that time they would be making 28 and change and the starting salary in other prosecutor's offices are in the 30's, 34, 35. That's low. Some of the starting salaries are in the 40's. So now I have them trained for a year, I have them with two years' experience when they're just starting to really understand their job, and they're going to another agency for a lot more money and I can't keep them, and that's the problem."

It must be remembered that the Prosecutor is a distinctly separate employer from the County but dependent on the County for funding. His dilemma as to the loss of promising staff is, according to his testimony and that of others who have already resigned, a matter of money. The PBA probably could not have found an expert more able to succinctly describe the problem than did the Prosecutor. The question which emerges as a conundrum is how do you solve the Prosecutor's problem without compromising the position of the County. My answer to that question is that it can't be done, but that a compromise must be directed in order that the vital responsibility of the Prosecutor's office be effectively performed at a cost which is not intolerable to the County.

One of the investigators who had resigned indicated he had nine years service with the Prosecutor and he felt very proud of his work and enjoyed it. He said he left to join the Union County Prosecutor's office because of the lack of a career path as to salary; that his salary was \$38000 [which is step 5 in the range] and that he received a raise to \$53000 which is to become \$57000 under the terms of a new agreement there. This is a person who possessed an undergraduate degree from Boston University and a law degree from Seton Hall and who is a member of the New Jersey Bar. Another prior investigator who had joined the Prosecutor's office from the Sheriff's office in Hudson County stayed less than a year at the pay of \$24638 but left to become a patrol officer at Guttenberg Police Department at a salary of \$30087 with annual pay increments, the first of which took him to \$34729 on November 1st, 1999, with maximum achieved in six additional steps paying a known \$61061, an opportunity he felt he could not pass up if he wanted to marry and be in a position to consider starting a family with the assurance of salary growth within the foreseeable future. An investigator, a native of Hudson County, with ten years service who possessed a masters degree in criminal justice, was fluent in Spanish and who had been assigned to homicide investigations left for a job of like nature in a next door county because she was still earning only \$35500 and was offered a 29% increase in pay and the opportunity to proceed through the salary steps there on an annual incremental basis.

While these anecdotes are meaningful, the real consideration to be made by me has to do with the interest of the public. I find it hard to discern how the public's interests can be better served than by having a stable, proficient prosecutorial staff even if that means some incremental cost must be borne. To a considerable extent the current system, which includes extensive training and several years of salary payment costs but fails to offer sufficient assurance of future earnings growth, represents an investment, the benefits of which are never realized due to departures to other employment, and is therefore not consistent with the interests of the public. It entails great expense and the time of more senior staff members for training and development but fails to produce employees who can justify remaining with the Prosecutor because of much more enticing opportunities elsewhere. The County has the means to correct this and I will present a salary plan aimed at accomplishing that objective but which is also affordable to the Employer.

As I noted earlier, the information presented by the Employer concerning pay improvements for police and investigators in a variety of municipalities and other County

Prosecutor's offices all carefully avoided incorporation of the values of the increment systems in the comparisons drawn to the County's offer in these negotiations. It is also interesting to note that even back in 1994 the County had a minimum pay for plumbers, painters and other crafts persons of \$30000. That number has been improved to \$31750 and it represents the bottom of the salary range. Given that bit of information how does the Prosecutor justify a hiring rate of under \$25000 to candidates with college degrees and qualifications beyond the bachelors level? Certainly the prospect of paying \$28000 in three years isn't going to guarantee anything more than their coming for the training and experience and likely departure when their three year obligation expires. Thus an investment in the development of such staff is largely wasted because they leave at near the time when they are expected to begin performing proficiently.

COMPARISON OF SALARIES BOTH PUBLIC AND PRIVATE

I believe this is an area of considerable importance. However I have already addressed much of the issue of comparability to other public employment. To reiterate I do not find evidence to suggest that these employees are more generously compensated in any of the volumes of related detail provided by either party. The salary range in effect in 1998 was not more generous than 90% of other County Prosecutor's investigators and considerably below most of them. Coupled with this the plan did not provide for mobility within the salary guide to reflect an individual's growing contribution and experience attained. The result was many employees fell well behind other comparably trained persons who had achieved higher salary rewards due to a plan which addressed the increasing value which attends years of service. Thus even in situations where the salary structure was near that of Hudson County these individuals were not keeping pace with others of comparable service.

Neither side entered information concerning the relevance of private sector service except to note the general level of annual increases. The County made a strong case to demonstrate that its offer was generally at a higher percentage than was experienced in the private sector which has generally been less than 4% per year. In addition the Employer emphasizes that the great majority of County employees have been held to 3% per year [from 1999 through 2001] improvements both in contractual units and otherwise. I acknowledge that this pattern has been established and does indeed warrant serious consideration. I also note that when the entire case of both parties was concluded the Employer, in post hearing brief, made a surprisingly substantial alteration in its salary proposal and indicated it was crafted to. "...adjust the salary schedule of the prior contract in a manner that would address the testimony and primary concerns of the Union that investigators are leaving after two years." At which point there was a reiteration of an open mindedness as to the concept of incremental movement during the contract period but with the stipulation that any salary plan so crafted would not provide a method which survived the term of the Agreement. The Employer described the plan as providing an average increase of 4.8%.

My reading of the amount of salary change offered is that the County has, to a degree, abandoned its previously stated position that a pattern of settlements should be the standard for the arbitrator's consideration in this dispute and, further, that it reflects the now clearly stated concerns of the Prosecutor as to the adequacy of the salary program to support the objectives of his office and the needs of the public. The plan I will award will be carefully crafted to accomplish that objective. In setting a new plan in place I will do so with the intention that it be a continuing plan to be modified only by future negotiations; but I will not include wording which would be interpreted to mean that the plan is terminated at the end of the contract period. To do so would suggest a lack of conviction as to the reasons to set such a plan in place. Additionally it is not extraordinary for the negotiations for a new Agreement to continue well beyond the expiration date of a contract, as is the case here. In my opinion the relationship of the parties and the interests of the public are best served by the provision of an Agreement the basic concepts of which are seen as a continuing condition of employment during such periods. Such logic is supported by cases involving legislative intent on this very issue. If the future presents conditions which suggest otherwise that would be the proper time to consider them.

CONSIDERATION OF OVERALL COMPENSATION

The scope of this matter is largely limited to salary, length of contract period, overtime payment formula and on-call compensation. Because of this limited scope I do not see any reason to delve into the benefits or extra elements of compensation in any depth. My perception is that the employees involved enjoy substantial and adequate benefits which are not unlike most employees similarly situated in related employment. Had this not been the case the PBA would have trained its guns on those targets it felt important. Instead it has focused on the salary plan and to a lesser degree the formula for overtime and on-call payments. Because I will have given all necessary attention to these matters under some of the other criteria considerations and because the Employer has tacitly acknowledged the necessity of setting such aside I do not find this criterion to be particularly relevant.

STIPULATIONS OF PARTIES AND LAWFUL AUTHORITY OF EMPLOYER

There have been no stipulations made by the parties which would be of concern in this proceeding. In fact the one area of contention which might have been relieved by a stipulation if one could have been reached would have to do with the County taking the role of Employer in these proceedings. This was resisted by the PBA but no effort was made to demonstrate the condescension of the Prosecutor or acknowledgment by the PBA.

As mentioned above the parties have not raised an issue related to the Cap Law and I am confident my award will not provoke any contention that it conflicts with that law either. I therefore do not place any substantial relevance on either of these criteria.

THE COST OF LIVING

The official rendition of the cost of living for 1999 was that it increased 2.1% and that it was expected to rise to 2.4% in 2000. As we are looking at an extended term for this contract it may be appropriate to attempt looking at the more distant horizon. This is a temptation which is carefully avoided even by the Federal Reserve. However, the economic horizon seems to suggest that the likeliest direction of COL will inevitably be upward. I have considered that possibility in crafting an award for years into the future. All of the salary modifications by both parties are substantially higher than the figures above. And the information gleaned from exhibits submitted at hearing would suggest that just about every sector, public and private, has been settling on contract terms which exceed these figures. In general they range from 3 to 4% across the board increases per year. These do not account for the incremental increases which are built in for most public sector employment where there are ranges for positions and the usually annual movement from one step to another at higher salary each year until the maximum is attained; and sometimes for levels beyond maximum. The COL appears to have value primarily as a guide to economic change whereas the vast majority of employers have adopted a tolerance, I resist the temptation to say enthusiasm, for the concept that the economic condition of its employees may justifiably be improved by providing wage increases beyond the level of COL change as contrasted to that condition remaining constant as would be the case by matching wage increases with COL. This is not to assert that the underlying motivation is such but in the reality of the current economic climate it is what is happening.

In this case I am aware of the COL and respect the historical attention given it in the field of labor relations but the days of COL riders in labor contracts seem to have passed and the utility of that indicator has changed. Here the parties appear to have set it aside as an absolutely limiting factor and I do not intend to do great damage to the concepts which have emerged as the reasonable boundaries for an award. Cost of Living is not of great concern or relevance.

CONTINUITY AND STABILITY OF EMPLOYMENT

Much has been said of the need to stabilize the employment of this work unit of investigators and need not be repeated here. The underlying reason to make an award which is different than the Employer is pursuing is the need to impose a system which lends stability to the employment of the Prosecutor's staff. This is not to say that the dimensions of the award can be endlessly elastic to achieve that goal. There are substantial limitations imposed by the economic circumstance of the County and these are sufficiently serious to be given great weight. That consideration will be very obvious in the award to be set in place.

While I do not wish to appear excessively redundant I must say that the testimony of the Prosecutor clearly emphasized the need for careful consideration of this criterion. The needs of the people of Hudson County are best relieved by provision of an excellent staff in the Prosecutor's office. The current rotating door circumstance which allows bright new people to come into his employment, gain valuable training and experience, and then

go on to other employment when they have become good at the job is counterproductive and wasteful. The remedy involved is not a revolutionary concept but rather the normal condition found in most other Prosecutor's offices and throughout public sector/police employment. It is not a fundamental discovery on the part of the arbitrator but instead a recognition of the need for this Employer to provide a sufficiently competitive salary/benefits package to enable the retention of good, effective personnel. Because the current condition has been ignored for so long there is a temptation to take greater strides toward remedying it than may be affordable. My award is intended to strike a balance by imposing a plan which will tend to overcome the problem of turnover, reasonably compensate all staff, and remain within an affordable cost. This criterion is central to the resolution of this matter.

THE FINANCIAL IMPACT ON THE GOVERNING UNIT

I am very concerned about the impact of an award on the financial condition of Hudson County notwithstanding the PBA contention that the Prosecutor is the employer and does not need to accept limitations imposed by the County. My reason is that the costs of the Prosecutor's function are all paid by taxation of County residents and because the County has experienced a decade of budget balancing challenges which have required it to resort to all manner of initiatives from sharply reducing employment to begging relief from the State. However, the 1998 surplus carried into the 1999 budget seems to have been a sign of change. There followed a slight reduction of taxes for 1999 and a prediction of a meaningful future increase in tax revenues as well. This seems to bode well for the County but when the Deputy Director, Finance and Administration was cross examined and some of these seeming improvements in the economic situation had been acknowledged he was asked, "...have you ever seen a year as good as '99 compared to preceding years of budgetary standpoint, revenue standpoint, tax rate standpoint?", his response seemed to reflect the bruising battle of the past decade when he said, "I think that '99 has shown some hope". It was obvious from this dialog that the economic future of Hudson County was anything but a certainty in the Deputy Director's mind and the glow on the horizon was being observed by a veteran skeptic. Suffice it to say I saw this criterion as significant, relevant to this matter and deserving of careful consideration.

FURTHER ANALYSIS

Much of the above discussion has focused on the circumstance of the County, the statutory criteria and the basic economics which concern these employees and the Employer. At this juncture I will first address the two remaining demands of the PBA. The first of these has to do with the basis for computation of overtime premium pay. The Agreement which has expired on December 31, 1998 provides for premium pay to be paid for work in excess of a 40 hour week. The PBA wants the computation to be adjusted so that hours worked beyond 8 in a day also qualify for premium payment. In addition PBA is demanding that all days off with pay should qualify for the computation of overtime pay. The Agreement provides that vacation time is to be considered time worked for the computation of overtime but does not allow credit toward overtime entitlement for all

other paid time off. Hours actually worked on a holiday are compensated at the time and one half rate in addition to the pay for the holiday. The PBA contends its demand for inclusion of these paid days off in the computation of overtime is consistent with provisions of all Hudson County labor agreements. In cross examination of the County Director of Personnel he testified that the practice of overtime payment for hours worked beyond the normal workday shift was common in the agreements he had negotiated. My investigation of the numerous agreements with County employee groups would confirm that this practice has been incorporated in agreements dating as early as 1992.

The Employer argued this is not an appropriate change to introduce in this unit because of the additional costs which would be incurred and the negative incentive it would provide to a group of employees which, to an uncommon degree, are able to control the hours they work. These employees do not have fixed shifts and perform their responsibilities as the need for same requires. They are not relieved at the end of a particular shift and the type of work performed is not subject to strict time performance regulations. The Employer claims that the overtime budget is sorely taxed using the current scheme and poses a threat to the maintenance of a balanced cash flow during the year. For that reason the parties have included a maximum of \$5000 of overtime payment per year in the Agreement in order to assist in controlling that expenditure. The Employer maintains that daily overtime would cripple the effort to control the use of the overtime account monies and the operations impact would be severe, causing the scheduling of work hours to interfere with the incidence of the work requirements to the detriment of overall agency performance.

The other issue placed on the table is a demand that employees in on-call status be granted compensatory time credit at the rate of 25% for the hours asked to be on-call. These credits would be subject to the Federally mandated limit of 480 accumulated hours but could be reduced at any time by the use of same as time off. The PBA argues that when an employer expects performance outside his regular work schedule the employee involved should receive reasonable compensation for the obligation he fulfills. The record is clear that some of these employees are performing on-call on a regular basis, normally on weekends or nights, sometimes once a month or six weeks, and that they are somewhat restricted in that the typical call requires an immediate response in the form of advice or their presence at some location to fulfill obligations of the Prosecutor's basic functions. This means that they can not be beyond a limited distance within or from Hudson County. The PBA also argues that such provisions are common and are to be found in most if not all Prosecutors' contracts with investigators and detectives. Evidence introduced confirms this.

The Employer resists this proposal because it has the effect of building a backlog of time off that must, at some time be compensated with time off or cash payment. Together these proposals present a problem because of the dearth of money resources available to the Prosecutor and the demands for performance due to the high crime rate.

It is impossible to demonstrate that these demands are beyond the scope of the normal conditions of work for similarly situated employees in other jurisdictions and it is improvident to simply say that because they exist elsewhere they should therefore be granted here. Instead of either course I will consider the award to be made as a reflection of the needs of both parties, including the views of the Prosecutor, and the limitations imposed by the fiscal circumstance of the County as a total package which is responsive to what I have come to understand as the priorities of each party.

The dispute as to the term of the agreement must be determined as a reflection of the situation presented by the circumstances of the parties. We are now into the second year of the proposed agreement and both parties have expressed the need for an agreement which will settle the terms of employment for enough time so that the staff will gain comfort and a sense of financial security. PBA has indicated a preference for a three year period and the Employer argues for a five year term. There are reasons which I believe lend support to the longer term which I see as including the best interest of the public, providing a time for this dispute atmosphere to return to normal and to provide a long term notice for economic planning purposes.

CONCLUSIONS--AS TO PBA PROPOSALS

I do not think the PBA has met its mandate to fully support the financial implications of a 5% per year increase with automatic increments added. The added elements concerning the adjustments of the overtime practices and initiation of on-call compensation present another exacerbation of the cost of the package sought. The proposal of the County during the hearing was clearly non-responsive to the particular situation faced by these employees and the Prosecutor. However, the County made a strong effort to stretch its limited resources to accommodate the problem of turnover in its post hearing brief proposal. My feeling is that this offer was deficient in that it affected different persons in such completely different ways which made it unjust and inequitable in its impact. I therefore have arrived at a reconstruction of the pay plan which I believe is reasonably fair to all employees similarly situated; one which clearly affords career pay adjustments in the form of annual or biannual [two year] incremental movement; one which is not seen as unduly generous but is responsive to the needs of these employees; and one which is crafted in such a way as to not impose a significantly greater financial burden on the Employer during the first three years than it proposed. There are significant long term escalations of costs but these do not go beyond the level of increases which are found in comparable employment situations both in the County and elsewhere; are necessary to fulfill the Prosecutor's need to stabilize employment and are consistent with the standards of consideration imposed on me by the statutory criteria. Coming as they will in the last years of the contract should allow adequate time to establish a financial plan to accommodate these changes. As the entire Prosecutor's budget is less than five percent of the County budget these changes, in of themselves, will not markedly effect the budgeting process nor threaten the limitations imposed by the Cap Law.

The establishment of increment systems in the public sector was a reflection of the concept of providing a sufficient entry salary to ensure hiring of competent personnel and adjustment of salary as that person gains proficiency in the work. That is what is being done by this award. The Prosecutor enjoys relatively unfettered exercise of judgment as to the continued employment of investigators and can remove any individual should performance deficiencies dictate. Hopefully this changed pay plan will provide greater incentive to remain in the employ of the Prosecutor and to improve performance as well.

Both of the changes involving overtime compensation and on-call pay requested by PBA have a degree of merit and both if effected would be costly and would impose substantial restrictions on the flexibility now depended upon in the assignment and utilization of investigators in their work. They also represent the conditions of employment peculiar to the work of the Prosecutor's office. The demand for changes are predicated largely on the fact that such conditions are prevalent in other employment situations including those of Hudson County. I conclude that the costs which would be realized if both of these changes were to be made in the form requested would substantially upset the budget balance which I am trying to maintain and, in the instance of the demand for overtime beyond 8 hours, pose special restrictions on operating methods. However, there is need for some compromise on this and I conclude that the first step in such a compromise should be one which uniformly affects all employees. The way to do that would be to eliminate the contractual exclusion of paid holidays from overtime computation. This change would be consistent with the logic that supports giving credit for paid vacation hours in computing overtime. This is a substantial step and potentially costly but the record does not supply specific data to enable me to state the absolute costs. The reason for concluding it should be done is that it is a universal condition in other Hudson County employment and is a matter the cost of which can be controlled. It represents a reasonable compromise between the valid position of PBA and that of the Employer under the limiting economic conditions which exist.

The desire to impose the constriction of overtime premium pay for work performed beyond 8 hours is inconsistent with the needs of this Employer and could have a negative impact on performance because of the limited funds available and the need to adjust work to avoid extra overtime payments. Work assignments of investigators have traditionally allowed substantial self determination of the hours actually worked. This is consistent with the need for performance reflecting the particular situation confronted. Admittedly this imposes a somewhat different condition on investigators than that which is found in the work place of those on more regulated shifts but that is the condition which is part of the choice to become an investigator. The Employer has indicated it would seriously compromise the effectiveness of the staff or become uncontrollable and very costly. I conclude the needs of the Prosecutor outweigh the arguments presented by PBA in this issue.

Throughout the PBA's presentation it has focused on the achievement of an automatic increment system. This issue will be met in this award but the costs that will be involved seriously impact on an Employer which is just possibly seeing some positive change in the

decade long agonizing shortage of funds. I respect the means which have been adopted to combat that problem, including the elimination of more than 1000 jobs and as a result I conclude this arbitration should be dedicated to accomplishing what is necessary and affordable and not on what might be done if there were less constraints on spending. The on-call demand which parallels programs instituted in recent years in many other jurisdictions is another concept which, if imposed, could have substantial impact on the cost and efficiency of operations.

The arguments of PBA in support of such a change are not without merit but I am of the persuasion that the current practices which are of long standing do not impose an intolerable burden on those assigned to stand-by. I believe the practice is not to impose stand-by obligations in an irresponsible manner and that an effort is made to limit any individuals exposure to such assignments. The PBA argument that the level of turnover should be considered in this proceeding was reinforced by strong evidence and testimony confirming that decisions to terminate employment were made based on the salary program. That is the key issue to be addressed here but turning that argument around I was not presented with any evidence suggesting that the current on-call program has any such impact on the staff. That is not to suggest they testified as to enjoying it but it had none of the criticality as was presented in the case for automatic increments. I again state my conclusion that not every demand can be met within the resources available to the Prosecutor and in this overall award I do not see enough compelling reason to grant this demand given the circumstances presented to me.

CONCLUSIONS--AS TO EMPLOYER PROPOSALS

The salary plan I have devised will be set forth in detail below. The Employer offered a \$1000 one time cash bonus to employees with at least an undergraduate degree or higher level of academic achievement. There was little discussion as to this element of the final offer but as it was never recanted or conditioned on acceptance of the final offer I can see no reason why it should not be accepted. Certainly it demonstrates the appreciation of the Employer for the effort necessary and the potential utility of such improvement.

The Employer made a proposal to implement a voluntary plan for direct deposit of payroll checks but predicated this on the removal of the provision of the current Agreement which allows employees to be paid vacation pay in advance of the vacation period. Very little persuasive argument was presented to suggest that the current plan has been problematic for the Employer. The only costs apparent to me would be those associated with the clerical functions related to such payments. It may be a small benefit which is enjoyed by members of this unit, I really don't know. If there is an automatic direct deposit system and if employees voluntarily subscribe to it the problem of handling special requests for early payment of vacation pay may be expanded. I conclude that the Employer may institute the voluntary direct deposit plan and attach to that choice the condition that the early vacation payment entitlement will cease.

The Employer also has proposed that persons retiring from service be paid only the pro rata share of any vacation allowance earned in the year of retirement instead of the contractual provision to be paid the balance of any unused annual vacation credit. This is claimed to be justified by the costs which are attendant to such a plan and the sentiment that they are unnecessary. There is much about this proceeding which has to do with costs and I believe I have weighed the cost effects of each proposal with care. But this benefit is a once in a career happenstance and is more a form of farewell gift than anything else. Were it not in place I would reject such a proposal as unwarranted. But where it has been a condition of employment for many years and is probably seen by individuals as something in their pocket I am loathe to try to justify its elimination based on the cost argument made by the Employer. I conclude this proposal should be denied.

AWARD

A. The term of the Agreement shall be January 1, 1999 through December 31, 2003

B. The salary plan shall be as set forth below. Changes are effective on January 1st.

	1999	2000	2001	2002	2003
Steps Academy	25000	25000	25500	26000	26500
1	27500	28325	29174	30049	31101
2	30500	31415	32357	33328	34494
3	33000	33990	35009	36060	37322
4	35550	36565	37662	38792	40149
5	38000	39140	40314	41523	42976
6	40500	41715	42960	44249	45798
7	43000	44290	45618	46987	48632
8	45550	46865	48271	49719	51459
9	48000	49440	50923	52451	54287
10	50500	52015	53575	55183	57114
11	53000	54590	56227	57914	59941
12	56220	57905	59643	61436	63582

Explanatory notes:

1. The salary plan for 1999 is designed to establish relatively similar differentials between the steps and in doing this a step was added to make the total 12 beyond the academy rate. It is anticipated that a new hire not having to complete academy training will be hired at step 1. Employees hired at the academy rate will move to step 1 upon completion of that training.
 2. The across the board increases which apply to all steps from 1 through 12 are 3% in years 2000, 2001 and 2002 and 3.5% in 2003 and are to be applied on January 1st. The academy rate shall be adjusted as illustrated in the salary guide above.
 3. All employees on the payroll during 1998 shall be moved to the same step in the salary guide as they occupied in 1998 except that those at step 9 in 1998 will move to step 10 in 1999, those at step 10 in 1998 will move to a new step 11. Those at maximum in 1998 will remain at maximum which is now step 12.
 4. Incremental movement is defined as the adjustment of salary rate by movement from one step to the next higher step.
 5. Employees at steps 1 through 8 shall be entitled to an automatic annual increment in each year of the Agreement. Employees at steps 9 through 11 will be entitled to an automatic increment every other year the first of which is 2001 and the second 2003. No employee is entitled to placement beyond the maximum pay rate which is step 12. However, the Prosecutor shall retain the right to provide additional salary as is set forth in the prior contract and shall have the right to withhold an increment based on his assessment of less than satisfactory performance. He may also reinstate a withheld increment at his discretion at any time.
 6. The concept of entitlement to an increment under the provisions above presupposes a period of one year service from the date when the prior increment was received or in the case of those at step 9 and beyond, two years service. Such things as leaves of absence or hiring date may cause the increment anniversary to occur at any time during the calendar year.
- C. The overtime provisions of the prior contract shall be amended to add, "paid holidays shall be considered hours worked for the computation of overtime compensation". This modification shall be effective as of May 1, 2000 as a means of simplifying the introduction of this concept.
- D. The proposal to provide employees who have at least an undergraduate degree or higher level of educational achievement with a one time cash bonus of \$1000 is accepted and will apply to persons now on the payroll and paid at the earliest time practicable.

E. The Employer's proposal to initiate a voluntary direct deposit plan for salary checks is also awarded with the understanding that if such plan is offered the Employer may condition its availability on the elimination of the right of employees opting for this service to receive early pay checks. For those who do not voluntarily take this option the terms of the prior Agreement will prevail.


F. All elements of the prior Agreement not inconsistent with this award are to remain in effect and all other agreements reached during these negotiations including specifically the work incurred injury concept agreed to at this hearing are to be incorporated as well.

SUMMARY

This award confirms the 3% pattern of pay increases to the County employee units except that the 2003 increase is 3.5%. This reflects the County desire for a longer contract period, the fact that there are no contract improvement limits set for that time and the additional risk to employees that economic conditions will likely change. It is seen as sufficiently far in advance for the County to make appropriate budget plans. The five year term allows confirmation of the imperative of incremental adjustments which affect employees, especially those on the bi-annual program who will not have seen the second application until the 2003 year. The delay of implementation being 2001 for that group was made purely because of the economic circumstance of the Employer.

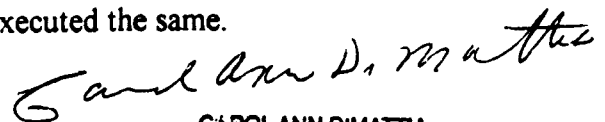
My firm conclusion is that the impact of this award will not affect the Cap Law limitations of the Employer and that these salary changes are fully justified within the boundaries of all of the statutory standards.

In some ways the salary program set forth above will provide less than the Employer offered for a part of the contract period. I concluded that there was need for a plan which provided balance and equity and which would satisfy the desire to afford employees with the sense of future financial security necessary to encourage their continued dedication to Hudson County Prosecutor's office. The application of the plan does increase the total cost to the Employer compared with its proposal in the post hearing brief by approximately \$185,000, none of which is incurred before 2001. I believe this additional impact, of about 5.4% on payroll in 2003 is fully justified and reasonable according to my analysis of the entire record and economic condition of the Employer. Had this Employer been in the more favorable economic condition of some other counties I conclude there would have been full justification for a more generous plan; one which would have included annual increments for all as an example.


Frank A. Mason

April 26, 2000: Mercer County, New Jersey

On this date before me personally came and appeared Frank A. Mason, to me known and known to be the individual described in and who prepared and executed the foregoing opinion and award and he acknowledged to me that he executed the same.



CAROL ANN DIMATTIA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires February 10, 2003