

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

CUMBERLAND COUNTY PROSECUTOR

“Public Employer,”

- and -

PBA LOCAL 396

“PBA.”

**SUPPLEMENTAL
INTEREST ARBITRATION
AWARD**

Docket No. IA-2012-028

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the County:

Brian Kronick, Esq.

Genova, Burns & Vernoia

Philip M. Rofsky, Esq., on the Brief

For the PBAs:

Stuart J. Alterman, Esq.

Christopher A. Gray, Esq.

Alterman & Associates

This Supplemental Award issues as a result of a June 25, 2012 Order from the New Jersey Public Employment Relations Commission (PERC) partially remanding an Interest Arbitration Award I issued on May 14, 2012. That Award covered two bargaining units of the Cumberland County Prosecutor's Office who had filed separate petitions initiating interest arbitration but proceeded to interest arbitration under a single PERC appointment. The first (IA-2012-028) unit involved PBA Local 396 representing rank and file Detectives/Investigators. The second unit involved PBA Local 396A representing Superior Officers (IA-2012-029). The arbitration proceeding was consolidated and a single Award issued covering employees in both units. The terminal procedure was conventional arbitration which allows for an Award not confined to either party's last offer. The remand is limited to the Award affecting PBA Local 396. The Award contained the following terms:

1. All proposals by the County and the Unions not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those which have been modified by the terms of this Award.

2. **Duration**

There shall be a four-year agreement effective January 1, 2011 through December 31, 2014.

3. **Minor Discipline Clause**

I award the ability to arbitrate minor discipline for penalties which, at minimum, involve a one-day suspension without pay. I leave the issue as to what administrative agency would administer the provision to the parties. In the absence of an agreement, such agency shall be the American Arbitration Association.

4. **Union Security Clause**

Employees represented by this collective bargaining unit may not request payroll deduction for payment of dues to any other labor organization other

than the duly certified majority representative. Existing written authorizations for payment of dues to any other labor organization shall be terminated.

5. **Employee Organization Reference**

Replace all references of FOP Lodge 132 with PBA Local 396 or 396A.

6. **Health Insurance Opt Out**

I award the language of the PBAs' proposal in the form of a recommendation to the Prosecutor to be considered for adoption and, if adopted, the Agreement shall include an opt out provision in the form of a notice to the unit employees as follows:

The Prosecutor has exercised the authority of that office to allow employees to opt out of the County's sponsored health benefits plan in the amounts allowable by N.J.S.A. 40A:10-17.1, namely, in an amount equivalent to 25% of the premium for the type of coverage waived not to exceed \$5,000.

The Prosecutor shall notify the PBA, within thirty (30) days of the Award as to whether the recommendation is accepted.

7. **Vacation Schedule – PBA Local 396**

I award the establishment of a joint committee to more fully discuss the vacation proposal to ascertain whether the proposal impacts upon the amount of vacation time now provided and, if not, as the PBA argues, whether the adoption of the proposed schedule is a preferable alternative to specifying the amounts of vacation time by individual employee.

8. **Longevity**

Commencing on January 1, 2014, I award a conversion of longevity payments in the value of percentage longevity received at each step of that schedule into a new schedule of dollar amounts that correspond to the percentage value of longevity on that date. This dollar amount schedule shall apply to employees hired after July 1, 2012.

9. **Vehicle Specifications**

I award a modification that would remove vehicle specifications from the existing provision through a joint committee whose function shall be to modify Article XXIII solely with respect to issues such as vehicle specification and replacement. I recommend that the scope of negotiations petition be suspended pending committee action.

10. **Grievance Procedure**

Article IX, Step 2 shall be amended to state that the Prosecutor shall issue a written decision within twenty (20) days of the filing of the grievance at this level.

11. **Salary**

The salaries at each step of the salary schedule shall increase by 0% effective January 1, 2011, 1.0% effective on January 1, 2012, 1.25% on July 1, 2012, 1.0% on January 1, 2013, 1.25% on July 1, 2013 followed by an increase of 1.5% effective January 1, 2014. All increases shall be at each step of the salary schedule and at each superior officer rank and shall apply to all unit employees and those who have retired on normal or disability pension and except for those who have voluntarily resigned or have been separated from employment without good standing. The salary schedule shall read as follows:

Step	1/1/2011 0%	1/1/2012 1.0%	7/1/2012 1.25%	1/1/2013 1.0%	7/1/2013 1.25%	1/1/2014 1.5%
Pre-Academy	46,834	47,302	47,894	48,373	48,977	49,712
Step 1	48,956	49,446	50,064	50,564	51,196	51,964
Step 2	52,699	53,226	53,891	54,430	55,111	55,937
Step 3	55,060	55,611	56,306	56,869	57,580	58,443
Step 4	57,420	57,994	58,719	59,306	60,048	60,948
Step 5	60,176	60,778	61,537	62,153	62,930	63,874
Step 6	66,089	66,750	67,584	68,260	69,113	70,150
Step 7	70,410	71,114	72,003	72,723	73,632	74,737
Step 8	72,771	73,499	74,417	75,162	76,101	77,243
Step 9	75,154	75,906	76,854	77,623	78,593	79,772
Step 10	81,611	82,427	83,457	84,292	85,346	86,626

Step	1/1/2011 0%	1/1/2012 1.0%	7/1/2012 1.25%	1/1/2013 1.0%	7/1/2013 1.25%	1/1/2014 1.5%
Sergeant	94,488	95,433	96,626	97,592	98,812	100,294
Lieutenant	105,348	106,401	107,731	108,809	110,169	111,821
Captain	114,863	116,012	117,462	118,636	120,119	121,921

The County (or interchangeably the "Prosecutor") filed an appeal challenging many terms set forth in the Award. The Award was affirmed in all respects with the exception of the remand of the salary award for PBA Local 396 (Detectives/Investigators). PERC stated the purpose for the remand of the salary award for PBA Local 396 in Section E of the Order:

- E. The interest arbitration award issued in IA-2012-028 is remanded for an explanation and clarification of the financial impact of the salary award. Such clarification shall take into account both the percentage increases awarded for the term of the successor agreement and the raises resulting from advancement on the salary guide. The award is otherwise affirmed.

The salary award for the Superior Officer Unit represented by PBA Local 396A contained identical across the board increases and was affirmed. It provided the following increases at each rank of Sergeant, Lieutenant and Captain:

Step	1/1/2011 0%	1/1/2012 1.0%	7/1/2012 1.25%	1/1/2013 1.0%	7/1/2013 1.25%	1/1/2014 1.5%
Sergeant	94,488	95,433	96,626	97,592	98,812	100,294
Lieutenant	105,348	106,401	107,731	108,809	110,169	111,821
Captain	114,863	116,012	117,462	118,636	120,119	121,921

Identical percentage increases were awarded for Local 396 at each step of its salary schedule which consists of eleven steps beginning with a Pre-Academy step through Step 10:

Step	1/1/2011 0%	1/1/2012 1.0%	7/1/2012 1.25%	1/1/2013 1.0%	7/1/2013 1.25%	1/1/2014 1.5%
Pre-Academy	46,834	47,302	47,894	48,373	48,977	49,712
Step 1	48,956	49,446	50,064	50,564	51,196	51,964
Step 2	52,699	53,226	53,891	54,430	55,111	55,937
Step 3	55,060	55,611	56,306	56,869	57,580	58,443
Step 4	57,420	57,994	58,719	59,306	60,048	60,948
Step 5	60,176	60,778	61,537	62,153	62,930	63,874
Step 6	66,089	66,750	67,584	68,260	69,113	70,150
Step 7	70,410	71,114	72,003	72,723	73,632	74,737
Step 8	72,771	73,499	74,417	75,162	76,101	77,243
Step 9	75,154	75,906	76,854	77,623	78,593	79,772
Step 10	81,611	82,427	83,457	84,292	85,346	86,626

Based upon my overall analysis of the original record, I awarded identical across the board increases to the salary schedules of both units. That approach

considered the wage relationships between the rank and file unit and the superior officer unit. By doing so, the ratio, or differential, between those employed in the Sergeant, Lieutenant and Captain rank with those employed in the Detective/ Investigator maximum salary at Step 10 was maintained as well as the ratios between the pre-academy step and Step 10. The County proposed annual step movement between those steps¹ for each of three years but increases to the schedule only for top Step 10. In 2011, the costs of the Award and the costs of the County proposal are identical. The financial impact of the Award beyond what the County proposed is the difference between awarding across the board increases in 2012 and 2013 to the steps below top step 10 and the amount of the annual across the board increases that were awarded at maximum Step 10 compared to the County's proposals. In addition, the salary award for 2014 represents an additional cost of 1.5% at each step of the salary schedule in the absence of a specific County proposal on salary for that year.

I commence the explanation and clarification of financial impact by framing the terms of the Award in relation to the parties' last offers that were stated on the record. The parties engaged in an unsuccessful attempt to settle the issues prior to hearing. The record reflects that the PBA revised its original last offer of annual 3% increases (1.5%/1.5% splits) over each of four years to an offer matching the County's offer for

¹ I note that the County's appeal references language in the original award that it states was a mischaracterization the County's position as one that would freeze Detectives/Investigators on their existing steps rather than to advance them annually to the next step on the salary schedule. The County had proposed to freeze employees on their steps after contract expiration. Language in the Discussion section of the Award did not accurately reflect the County's position but the conclusion that an award of the across the board percentages to each step of the salary schedule rather than freezing the steps was found to be consistent with the application of the statutory criteria and, though not explicitly stated, was based upon a cost analysis reflecting reasonable costs beyond the County's proposal to provide annual step increases without any across the board increases and across the board increases only to top Step 10 Detectives/ Investigators.

a 0% increase in 2011 in a package in which, in 2012, 2013 and 2014, maintained its original proposal for 3% annual splits. The County proposed increases of 1.75% only at maximum Step 10 for 2012 and 2% only at maximum Step 10 for 2013 with normal annual step movement. Similar to the County's proposal, the PBA's proposal would advance employees to their next annual step but the steps between the Pre-Academy Step and Step 9 would not be frozen. Under the County's proposal, the 1.75% and 2% increases in 2012 and 2013, would not be applied to the Pre-Academy Step through Step 9 but would annually advance each Detective/Investigator to the next step on the salary schedule. Under the County's proposal, Detectives/Investigators who moved from Step 9 to top Step 10 would receive step increases in addition to the across the board increases at top Step 10.

The Award included a freeze to the salary schedule (0%) in 2011, 1% on January 1 and 1.25% on July 1, 2012 on each step of the salary guide, 1% on January 1 and 1.25% on July 1, 2013 on each step of the salary guide and 1.5% on January 1, 2014 on each step of the salary guide. The percentage increases were applied to all steps on the salary schedule and eligible employees received annual step movement on the salary schedule. Over the three year period, the financial impact of the Award assumes the overall cost of the County's proposal and, in addition, the awarded terms that extend beyond the County's proposal. Because the financial impact issue deals solely with the costs to the County, this analysis will be limited to the County's costs. The PBA asserts that the Award was \$140,000 below its proposal, but for the purposes of this explanation and clarification, this assertion is not relevant and need not be considered.

The Agreement between the County Prosecutor and PBA Local 396 that expired on December 31, 2010 contains a salary schedule that creates a structure for movement from \$46,834 to top Step 10 at \$81,611 over a ten year period. Article X, Section 4 of the prior agreement provides the eleven step structure and Article XXXII, Section 4 makes reference to movement on the negotiated salary schedule:

If a new contract is not agreed upon by the completion date of this contract, the terms and conditions of this agreement will remain in effect until such time as a new agreement is reached. The continuation of this agreement shall include any and all issues herein. Employees covered by this contract will advance to the next higher salary level as outlined in Section X regardless of the status of negotiations. All employees will receive the prescribed percentage raises as well as advance to the next pay level until such time as a new contract takes effect.

The Award, as well as the parties' respective proposals, provided for step movement based off of the 2010 salary schedule without any alteration to the structure of the schedule itself. My financial projections are largely based upon a County document showing a roster of twenty-eight (28) Detectives/Investigators as of February 17, 2012 as well as the base salary costs therein. The cost outs of the parties' show similar but not identical calculations in dollars and percentages. The calculations of financial impact that follows reflect my own calculations. Actual costs over a four year period cannot be precise due to changes in staffing levels caused by resignations, retirements, promotions and hiring and are projections based upon a roster snapshot at a given point in time. There is no significant financial impact resulting from any other issues in the Award. Also, as was stated in the original award, the actual financial impact of Chapter 78 (Health Insurance), though resulting

in substantial reductions in take home pay in amounts that serve as an offset to some of the increases awarded was not credited or calculated as a deduction despite arguments to the contrary offered by the PBA. The application of the increases to the steps was also linked to the amount of the percentage increases that were awarded to both units.

In contract year 2011, there is no financial impact caused by the Award beyond the costs of what the County proposed. This is so because the County's proposal for a 0% increase to each step of the salary schedule with annual step movement was awarded. Thus, under the County's proposal and the terms of the Award, the costs of step movement for 2011 was \$82,489 or 4.27% of the 2010 overall base salary of \$1,928,207 for all employees changing the base to \$2,010,696. This calculation stems from a County document calculating the cost of the PBA proposals. The County asserts that this cost out amounts to \$88,424, or 4.4%, but whether the cost of step movement is 4.27% or 4.4% is not significant given the fact that the financial impact of the Award and the County's offer is identical. As of January 1, 2011, ten (10) Detectives/Investigators or 35.7% of the unit occupied maximum top Step 10. The entire costs of the contract for 2011 are linked to annual step movement in the absence of any changes to the steps caused by an across the board increase.

In contract year 2012, the County proposed a 1.75% increase at Step 10 with Detectives/Investigators not at top step receiving step increases but no across the board increase. Because the ten (10) Detectives/Investigators who were at top Step

10 in 2011 and remained there in 2012 without any employees eligible to move to the top step, the County's proposal to award 1.75% to top Step 10 of the Agreement adds \$14,282 or 0.72% in costs to the previous base. The cost for step movement for the eighteen (18) employees who were eligible for steps under the County's proposal but who would receive no across the board increase is \$62,694 or 3.1% in costs to the previous base. Thus, the overall cost of the County's proposal in 2012 is \$76,976 for an overall cost of 3.82% over the 2011 base.

The Award required a 1% increase on January 1, 2012 and a 1.25% increase on July 1, 2012 at each step of the salary schedule. The 1% increase in the Award for the employees at top Step 10 on January 1, 2012 yielded an annual increase in cost of \$8,161. The 1.25% increase for those at top Step 10 on July 1, 2012 yielded an additional \$10,303 of annual rate increase yielding \$5,152 in actual additional cost during the last six months of 2012 with an additional \$5,152 in flow through cost into 2013. Thus, the overall annual cost of the percentage increases for employees at top Step 10 in 2012 is \$13,313 not including the flow through into 2013 that is chargeable to 2013. The Award also provided that the 1% on January 1, 2012 and the 1.25% on July 1, 2012 increase be applied to employees who occupied the Pre-Academy Step through Step 9. I calculate the overall cost of placing this percentage on the steps in addition to step movement for these employees at \$75,270 on January 1, 2012 and an additional \$15,873 on July 1, 2012 in annual rate increase yielding an additional \$7,936 in cost during the last six months of 2012 with an additional \$7,936 flowing through in cost in 2013. Thus, the overall cost of the Award in 2012 is \$96,519 or 4.8% over the 2011 base. The new 2013 base under

this calculation is \$2,106,215 with the flow through cost into 2013 adjusting the base amount to \$2,119,303. The flow through cost as a percentage will be calculated as a new cost in 2013.

In 2013, the County's proposal consists of a 2% across the board increase for Detectives/Investigators at top Step 10 and step movement. The cost of this is \$16,610 for those who occupied this step in 2012 and who have no step movement. There are five Detectives/Investigators who move from Step 9 to top Step 10. While the County's proposal does not appear to provide step movement in addition to an increase at top Step 10, those who move to top Step 10, those who move from Step 9 to Step 10 receive both under the County's proposal. The cost of this step movement in addition to the 2% increase is \$47,730. The cost of step movement alone for those eligible for steps through Step 9 is \$29,411. Thus, the overall financial impact of the County's proposal for 2013 is \$103,751 or \$5.0% over the costs of the 2012 base under its 2012 proposal.

The Award directed a 1% increase on January 1, 2013 to all steps and a 1.25% increase on July 1, 2013 to all steps in addition to step movement. On January 1, 2013, the cost of the 1% for those who occupied top Step 10 and who have no step movement is \$8,350. There are five Detectives/Investigators who move from Step 9 to top Step 10. They receive step movement in addition to the 1% increase. The cost of step movement in addition to the 1% increase is \$37,190. The cost of step movement for those eligible for steps through Step 9, in addition to the 1% increase is \$49,725. The 1.25% on July 1, 2013 is applied to all steps. The cost

of the fifteen Detectives/Investigators at top Step 10 on that date yielded an additional \$15,810 in annual rate cost yielding \$7,905 in actual rate cost during the last six months of 2013 with an additional \$7,905 in flow through cost into 2014. The financial impact of the July 1, 2013 increase of 1.25% for employees on Step 9 and below is an additional \$11,887 in annual rate cost yielding \$5,943 in flow through cost during the last six months of 2013 and \$5,943 in flow through cost into 2014. Thus, the overall cost of the Award in 2013 is \$117,049 over the Award's 2012 base or 5.6%.

In 2014, there is no County proposal from which to calculate financial impact. I awarded 1.5% at all steps on January 1, 2014 as well as step movement. This has a cost of \$19,200 for the fifteen (15) Detectives/Investigators who were at top Step 10 2013 and remain there. There are four (4) Detectives/Investigators who move to top Step 10 in 2014 who receive the new top Step 10 as well as the step increase to Step 10 at a cost of \$32,132. The cost of the 1.5% increase and step movement for those occupying steps through Step 9 is \$39,897. The flow through cost from 2013 into 2014 is an additional \$13,848 for an overall cost of \$105,077 over the Award's 2013 base or 4.7%.

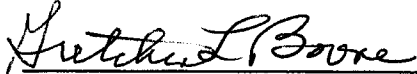
Accordingly, and based upon all of the above, I respectfully submit this Supplemental Award containing an explanation and clarification of the financial impact of the salary award.

Dated: August 9, 2012
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 9th day of August, 2012, before me personally came and appeared James W. Mastriani 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.


Gretchen L. Boone
Notary Public of New Jersey
Commission Expires 4/30/2014