

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
CN 429
TRENTON, NJ 08625-0429

Docket No. IA-95-071

In the Matter of Arbitration Between	:	
	:	
BOROUGH OF ALLENDALE	:	
	:	
-Employer	:	OPINION
and	:	
	:	AND
ALLENDALE PBA LOCAL 217	:	
	:	AWARD
- Union-	:	

ARBITRATOR: Robert E. Light, mutually chosen by the parties pursuant to the rules and regulations of the New Jersey Public Employment Relations Commission

HEARINGS/MEETINGS: April 1, 1996; July 22, 1996; October 25, 1996. A stenographic record of the hearings was taken, and thereafter both counsel filed briefs.

APPEARANCES: For the Borough
Robert Emmet Murray, Esq., Murray, Murray & Corrigan

For the Union
Richard D. Loccke, Esq., Loccke & Correia

BACKGROUND

The parties' prior contract expired on December 31, 1994. Direct negotiations between the parties took place with limited success. The PBA filed for interest arbitration on January 9, 1995. Initially, Arbitrator Jeffrey Tener was appointed, and he attempted further mediation. At the request of one of the parties, he withdrew. The undersigned was appointed by date of June, 1995 and also unsuccessfully attempted to mediate a final settlement. Subsequently, formal hearings were held on July 22, 1996 and October 25, 1996. A stenographic record was taken, voluminous exhibits were introduced, and thereafter both counsel filed briefs. This matter is before me under the conventional authority prescribed in The Police and Fire Interest Arbitration Reform Act (A-3296, C425, L1995).

Revised Statutory Criteria

1. The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976 c.68 (C.40A:4-45.1 et seq.).
2. Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
 - a. In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

- b. In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
- c. In public employment in the same or similar comparable jurisdictions, as determined in accordance with Section 5 of P.L. , c. (C.)(now pending before the Legislature as this bill); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

[(b) in comparable private employment.

(c) in public and private employment in general.]

3. The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

4. Stipulations of the parties.

5. The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c.68 (C.40A:4-45.1 et seq.).

6. The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the

county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services; (b) expand existing local programs and services for which public monies have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public monies have been designated by the governing body in a proposed local budget.

7. The cost of living.

8. The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

PROCEDURAL ISSUE

At the beginning of the first arbitration hearing with the exchange of final offers, counsel for the PBA moved to preclude the seven proposals submitted by Borough counsel pursuant to NJAC 19:16-5.5(a)1 which mandates that, within seven days of receipt of the formal petition, the respondent shall file a responsive pleading listing any additional unresolved issues to be submitted to arbitration. The Borough concedes no responsive pleading was ever filed. The parties were given leave to brief the issue in their formal written post-hearing submissions. Both counsel addressed this issue, and it is appropriate to dispose of it at the outset.

POSITION OF THE ASSOCIATION

Association counsel recites a string of decisions favorable to its motion which were issued by the Commission, the courts and interest arbitrators in various cases from 1987 through 1996. Attention is called to a most recent decision of the Commission on an interlocutory appeal in a written decision issued by Acting Chair Millicent Wassell, dated November 19, 1996. The Commission upheld and affirmed Interest Arbitrator Kurtzman's exclusion of all issues not listed on an initially-filed Interest Arbitration Petition. (see In the County of Middlesex - PERC #97-63, 11/20/96).

In substance, counsel argues that the rule in question is clear and precise, written in mandatory language and not subject to interpretation. In conclusion, he asks that the Employer's

position be considered as limited in its response to the PBA position which has been the basis of negotiations from the filing of the Interest Arbitration Petition to the interest arbitration proceeding itself.

POSITION OF THE BOROUGH

In opposition to the Association's motion, counsel argues the following points:

1. While conceding that the rule requires a non-petitioning party to file a responsive pleading, counsel argues it does not mandate the outright bar of issues not set forth in the petition and responsive pleading, and it does not contemplate that any other issues must automatically be disregarded.

2. Counsel alleges that PERC has never strictly applied the rule at the expense of fundamental fairness. He claims In the County of Middlesex is distinguishable in that the additional issues the County sought to submit to interest arbitration one month prior to the first formal hearing had not been raised beforehand, whereas in the present case the Borough had repeatedly raised these issues in negotiations as well as in mediation before both interest arbitrators.

3. As a result of the PBA's failure to object to the discussion of these issues in mediation, counsel argues they are precluded from raising a formal objection in this forum.

4. Counsel asserts that it is within the arbitrator's discretion to deny the PBA's motion, and based on its attempt to take advantage of a technicality despite having been fully apprised of the Borough's issues, it should be denied.

DISCUSSION

The arbitrator has carefully weighed all of the evidence in the case including the contract, the exhibits, the testimony of the witnesses at the hearing and the arguments of respective counsel as set forth both at the hearings and in their briefs prior to reaching his decision.

A similar issue was presented before this arbitrator in the case of Lakewood Township and Lakewood Township Police Superior Officers, PERC Docket #IA-95-126. It must be emphasized that this trier of fact recognizes that such disputes are fact-sensitive and the mere string of citations Association counsel sets forth in his brief does not require a “lock step” following of those rulings. However, in this case, I am convinced that there are no anomalous facts which would distinguish this case to the extent that a result should obtain which is at variance with any holding in Lakewood. I made the following comment in that decision which is on point presently:

“In this case, the only equitable argument advanced by the Township is that these issues were discussed between the parties in negotiations, and therefore the SOA cannot claim surprise. However, such an argument leads to the question of the reason for the existence of the regulation in the first place. The validity of such a regulation must be presumed, and the urging of the respondent to consider these issues even though they were not formally raised until eleven months after the petition leads to the next question of where should such a cut off be drawn - after 12 weeks or 12 months? In other words, to accede to the Town’s urging is to, in effect, totally disregard the regulation. Had the petitioner failed to formally list an issue in its initial petition, should the same relaxation of the rules be accorded to it merely because the parties discussed it in

negotiations? These are but a few of the troubling issues that would be raised were the Town's plea to include these issues be granted. The final conclusion, however, rests on the simple premise that a regulation exists which has not been complied with by the Town without any justification whatsoever. The regulation exists and, in the instance where the Association seeks to enforce its rights thereunder, no choice remains but to rule accordingly...."

"The Town argues that the regulation does not call for a bar of proposals not timely filed in a response. To accept such an argument is to conclude that the regulation creates a regulation it makes mandatory, then omits a remedy or a penalty. The preclusion of such a late filed additional topic as an issue must be implied from the very existence of the regulation itself...."

"In this time of judicial and legislative scrutiny of the entire arbitration process, close compliance with the statute and the regulations promulgated thereunder is advisable. The appropriate governmental branch implemented these regulations, and for any arbitrator to allow these issues to be submitted and considered nearly a year beyond where the regulation mandates their timely filing would represent the clearest case of exceeding statutory authority. Accordingly, the Township's final offer is limited to its counter offer on wages...."

The strongest point that Borough counsel made in his brief which needs to be addressed is his comment concerning the exchange between the parties that occurred in negotiations and mediation. This arbitrator has long held that the negotiation and mediation process should be sacrosanct and, once the parties come away either with or without a settlement, the process should never be used in a tribunal or a formal procedure by one party against the other. The only

exception that seems permissible is where in arbitration one side argues it has a certain specific right under ambiguous contract language where the other side can show that the proponent of this theory unsuccessfully and repeatedly attempted to obtain definitive language as to the right in formal negotiations. However, if we permit parties to state in the formal process statements made by them or the mediator in mediation, the mediation process will be hopelessly crippled out of the parties' fear to talk freely, thus making a voluntary resolution a virtual impossibility.

Moreover, the provision solely requires issues which the respondent wants to be subject to the interest arbitration process be listed in a timely fashion in a formal reply. That requirement is not burdensome, and does not provide for methods of alternate compliance such as the discussion of the topics in negotiations or mediation..

For the reasons stated within, Association counsel's request is granted and this arbitration shall be limited to the three issues the Association listed in its petition, viz. wages, clothing allowance and bereavement leave and the Borough's counter positions on each of these issues. Solely for the purpose of identifying the additional issues the Borough sought to raise, they are listed under the heading of the Borough's final offer although they will not be considered.

Finally, since the Borough has agreed to the Association's proposals as to clothing allowance and bereavement leave, they are deemed to be awarded as proposed (see later discussion on the actual clothing allowance proposal) and shall be included in the final Award.

Final Offer of the Association

1. Wage increase - The PBA proposed a 5.5% increase on each January 1st of a three (3) year contract to commence January 1, 1995.
2. Clothing Allowance - The PBA has proposed to increase the clothing allowance by \$100.00 effective January 1, 1995.
3. Bereavement Leave - The PBA has proposed a modification to move grandparents from the one day category to the three day category in the contract bereavement article.

Final Offer of the Borough

1. There is the proposal for wage increases and the contested ability to pay on the Borough's part. The effect of the Borough's vacation proposal would be that after seven (7) years of service, an officer would be entitled to 15 working days vacation. After 9 years, the officer would be entitled to 16 working days. After 11 years, he or she would be entitled to 18 working days and one (1) additional day per two (2) years of service thereafter, until year 25 and thereafter where the officer is entitled to 24 working days.
2. The Borough's final offer includes, with regard to wages, additional steps to be added to the salary scale. There would be an additional step created for each year in the life of the contract which would represent a new maximum salary. This step, which would be effective 1/1/95, would be \$1,500.00 higher than the current maximum. Each year of the contract would see the creation of a new maximum step, with an additional \$1,500. Thus, the maximums for each rank would be increased by \$7,500.00 throughout the life of the contract.
3. Elimination of "red dot days" is a proposal which inures directly to the benefit of Allendale citizens and taxpayers. Whereas previously an officer could earn up to six (6) "red dot days" (days off) in exchange for working on a scheduled holiday, this proposal would restore those days to the work schedule, providing more police coverage.
4. The Borough also proposed a reduced starting pay for an officer in the academy. For the first six months, a starting officer would earn \$24,000, and \$26,084 in the second six months. The first step would then be \$29,214. The result of the addition of these steps would be a twelve-step salary scale which encompasses appropriate cost-of-living increases.

Neither side proposed any non-economic issues.

POSITION OF THE PBA

In his brief, PBA counsel addresses the relevant statutory criteria:

Interest and Welfare of the Public

Counsel asserts that the testimony of Patrolman Joseph W. Carey can lead nowhere but to the conclusion that the department provides an exceptionally high level of service, given the 25% reduction of the force size over the last seven years contrasted with the generally increasing work load. Reference is made to a 1989 letter from then Police Chief Parenti to the Borough Administrator in which he urged that "...we do not go below a 16-man department". The present roster contains twelve. Counsel argues that the failure to fill a captain and a lieutenant slot reduces career possibilities for younger officers, while requiring them to engage in unsupervised job performance with fewer superiors to whom they can defer job obligations.

Counsel notes that Allendale enjoys significant new construction, a growing tax base, a 98% tax collection rate with the highest real estate values in the northwestern region of Bergen County. In summary, counsel opines that Allendale is a wealthy town with an unparalleled quality of life "that should in no way impinge on an otherwise supportable ruling by an Interest Arbitrator".

Comparability

While conceding that some pay levels in the department alone compare favorably with area base pay rates, counsel claims overall compensation and benefit levels drop the department toward the bottom of all comparables. The PBA's request for three consecutive 5.5% increases covering

1995 through 1997, it is alleged, is comparable to raises negotiated and awarded for the same years in 25 bargaining units in 22 Bergen County communities counsel cites in Chart #1 of his brief. Counsel asserts the Borough offered absolutely no justification for its proposed wage offer based on comparability figures or the increase in steps it seeks to have awarded. The actual average increases for these 22 Bergen County departments when calculated come to 5.045% - 4.829% - 4.588% respectively for 1995, 1996 and 1997. In a second chart comparing 18 Bergen County departments, the PBA notes sixteen departments reach maximum salary in fewer steps than Allendale's present seven steps. Without rationale or justification, the Borough's offer seeks the imposition of a 12-step progression to maximum by 1999.

PBA counsel argues again through a chart - this time of 18 Bergen municipalities - that it lags behind in uniform allowance (which the \$100.00 per year increase for each of three years it seeks, would bring it slightly above the present average) annual holidays, sick leave and personal days. In summary, it is argued that these typical benefits are not so excessive for this department so as to argue that they offset its current inadequate compensation package. Counsel asserts that no evidence exists in the record to justify the Borough's wage offer or proposed compensation program. To the contrary counsel cites agreements voluntarily reached in the Northern Highlands Regional High School District in which Allendale participates, including the 4.2% increase (top step figure) for the 1996-1997 school year. Increases enjoyed by other teachers working up through the wage schedule are yet even significantly higher. Counsel urges that these similar or greater wage increases and benefit improvements be viewed as a pattern of settlement voluntarily reached

in several contracts introduced into the record which, in turn, supports the PBA offer. Counsel dismisses citations Borough counsel relies on from the private sector arguing that the best method of comparison is between law enforcement groups. As is his wont, counsel cites Arbitrator William Weinberg's oft-quoted discussion as to the inherent weakness in comparisons of public law enforcement groups to the private sector which discussion is found in the Ridgewood arbitration award, Docket #IA-94-141.

Stipulation of the Parties

Counsel notes, other than procedural agreements, no substantive stipulations were entered into by the parties.

Lawful Authority of the Employer

Counsel reviews the pertinent budget documents to demonstrate that Allendale has always brought its budget well within the index rate including the 2.5% 1995 cap and the 3.5% 1996 cap. Actually the Borough budgeted \$166,954.00 below the 1995 cap figure, that amount combined with an allowable full 5% rate (\$101,891.00) would have provided the Borough with \$268,845.00 total flexibility all within the 1995 cap limitation. In 1996, \$209,440.00 was the final cap flexibility available to carry forward into 1997 and beyond. In summary, Allendale is well within its lawful authority to fund the PBA's wage offer.

Financial Impact on the Governing Unit, Its Residents and Taxpayers

The PBA argues that funding its final offer would result in an imperceptibly small impact on the Borough. It is claimed that the total current base wage cost is \$703,020.00 (nine patrolmen at \$57,665.00 maximum, and three sergeants at \$61,345.00 maximum) with one percentage point therefore costing \$7,030. The PBA 5.5% offer therefore costs \$38,665.00 versus the Borough's final offer cost of \$18,000.00 (12 x \$1,500.00). The gap between offers therefore is 2.39% (5.5% - 2.6% [$\$15,000.00/\$57,665.00$]). Counsel notes that since the inception of the proposed contract term (1/01/95), three officers are no longer in the department; no replacements have been appointed; and \$185,811.00 in base pay alone per year has been eliminated. These savings theoretically cover 4.8 years of wage increases the PBA is seeking ($\$185,811.00/\$38,665.00$). Note is made that an additional \$61,000.00 existed in the 1995 budget as "non-budgeted revenue", and \$38,449.00 alone was reserved in the 1995 budget under the police salary and wage line item. It is clear the Borough has reserved sufficient amounts to fund the PBA proposal even without considering the wage savings it enjoyed as a result of the three departing officers. In light of the reserves, the unanticipated savings, and the other economic factors discussed, the PBA alleges there would be no adverse impact if its offer were awarded, and the Borough simply has no "ability to pay" defense.

In conclusion, counsel argues that based on the evidence and testimony presented in the record and the arguments offered, it is requested that the PBA's entire offer be awarded.

POSITION OF THE BOROUGH

In an extensive post-hearing brief, counsel for the Borough addresses the statutory criteria:

Interest and Welfare of the Public

Counsel recites the threatened loss of state aid as a calamity that has forced the Borough to take drastic budgetary measures which take services away from its citizens. Recited as examples are reduced funding to its First Aid Organization and Public Library.

In light of this background, counsel asserts that the Borough's proposal contains cost-saving measures which also, at the same time, continue to provide cost-of-living raises and greater maximum salaries for members of this unit. On balance, it is asserted that this proposal better serves the interests and welfare of the public.

Note is made that the police department budget comprises 20.8% of the overall Borough budget. In attempting to "sell" the Borough's offer, counsel notes that its proposal to cut the annual eye examination and eliminate "red dot days" represents a "sacrifice of a marginal bonus in exchange for appreciable savings to Borough taxpayers".

Overall Compensation

Counsel claims the department members in Allendale are very well compensated. He notes that patrolmen at a \$57,665.00 maximum are higher paid than their peers in Atlantic City, New York City, Newark, Philadelphia, Elizabeth, Camden and Trenton and higher even than sergeants are paid

in Jersey City, Atlantic City, Trenton, Camden and Newark and yet again even more than lieutenants in Trenton, Camden and Newark. The present offer of a \$1,500.00 per year increase will maintain their status among those departments. Counsel also notes the high level of benefits these individuals receive which only further enhances their status.

Note is made by counsel of the string of recent no or low increase settlements and awards such as the firefighters in Atlantic City (no wage increase for 1996 and 1997). A detailed review is then conducted through recent Bergen County police settlements in various towns, the actual salaries for specific years which are then contrasted with Allendale's comparable wage levels under both the proposed offers of the Borough and the Association. Of note are the numerous Bergen towns which have achieved reduced first step -- the so-called academy steps which have resulted in substantial savings for these towns.

Comparability

Moving to comparability with other northwestern Bergen towns, counsel, using a scatter-gun approach, makes detailed actual wage comparisons to support his ultimate argument that an Allendale patrolman fares very well in comparison to his counterpart in Glen Rock, Ramsey, Oakland, Ho-Ho-Kus, Ridgewood, Wyckoff, Upper Saddle River and Waldwick.

As to private sector comparability, counsel notes a string of countrywide multi-year contract settlements with little or no wage increases between the Rubber Workers, IBEW, IAM and American Nurses Association and their major employers. Note is made of the 2.8% average wage gain in

1993 and 2.9% in 1995 experienced in a period of slow post-recession growth during which time these very officers received incremental increases exceeding these private sector wage increases.

Counsel recites virtually an identical scenario as to comparability with other public sector groups' multi-year, no increase agreements, modest lump sum renewal payments, give backs, and deferred increases among other public sector occupations. These comparisons are brought home by counsel's comparisons of municipal administrators from the Town who earn less than the average patrolman in Allendale. It is argued the \$1,500.00 proposed increase equates with a 2.5% increase for 1995 and reasonably enhances already competitive salaries. Counsel continues these comparisons demonstrating that the Allendale officer typically makes more than agents in the FBI and DEA, and investigators from the Attorney General's office.

Financial Impact

Allendale's budget is reviewed in detail to demonstrate to the arbitrator the drastic cuts implemented in anticipation of the loss of significant amounts of state aid. Significant unanticipated budget increases (snow removal, sanitation costs, PFRS required contributions) when combined with loss of state aid mandated severe budget cuts for 1996. These and other factors indicative of an unhealthy municipal budget are argued to preclude any consideration of awarding the PBA's across-the-board wage increase demand. Declining tax collection rate, increased tax rates themselves, and further anticipated increases resulting from disappearing state aid all are cited as

reasons the increases sought by the PBA would produce an unacceptable financial impact on the Town, its residents and taxpayers.

Continuity and Stability of Employment

No officers, save one who joined the FBI, have left employment within recent history. Competitive benefits and salaries, ample sick, holiday, vacation and personal time off, among ancillary benefits, explain this loyalty which argues on the Borough's behalf under this statutory criteria.

On balance, considering the low cost of living increase, the Borough's reasonable wage offer must be chosen under the appropriate statutory criteria. Counsel accordingly asks that it be awarded.

DISCUSSION

The arbitrator has carefully weighed all of the evidence in the case including the testimony of the witnesses at the hearing, the arguments of respective counsel as set forth both at the hearings and in their briefs, the present contract and the exhibits prior to reaching his decision. A review of the evidence presented shall be dealt with under each of the statutory criteria. As noted, there were no substantive Stipulations entered into between the parties. With respect to the Continuity and Stability of Employment criteria, the Employer correctly stated that with one exception, no one within the last seven years, at the very least, has left the Borough for "greener pastures". It is therefore fair to conclude that the current and past compensation and benefit packages these officers have received have been sufficient to insure continuity and stability of employment from the Borough's and the individual patrolman's perspectives. Neither the Borough nor the Association's final offers, if adopted in their entirety in this arbitrator's opinion, would be so extreme as to reverse the trend noted. Accordingly, since the ultimate resolution of this interest arbitration will employ a modification of these offers, neither party can be said to have prevailed under this statutory criteria.

A similar conclusion was reached as to the Overall Compensation criteria after reviewing the package provided for these police officers. While PBA counsel sought to argue that their level of benefits as to certain emoluments (personal days, sick leave benefits, holiday benefits, clothing allowance, steps required to reach maximum) were somewhat or well below the average of other Bergen towns, on balance, they are not so woefully inadequate so as to require the awarding of the

PBA offer unaltered. No benefit-by-benefit comparisons are made beyond police units. Indeed, it can be concluded that the level of benefits enjoyed supports a resolution of the final offers more toward the Borough's proposal.

The only challenge on the issue of the Lawful Authority criteria from the Borough came in the form of a vague and certainly incomplete statement that "A patrolman at maximum will receive an approximate wage increase of 2.5%, which is the greatest increase the lawful authority of the Employer will permit NISA 40A:4-45.1, et seq." PBA counsel quoted the numbers and did the math in a step-by-step process which conclusively established the Town was not only below the respective cap levels for 1995 and 1996 as well as the allowable 5% cap, but also had funds available for "cap banking". The only conclusion that can be drawn is that the PBA has well established that no cap or other lawful authority problem weighs on the evaluation of either parties' final offers.

The Cost of Living criteria clearly favors the Borough. Counsel has amply demonstrated and arbitral notice has been taken that the cost of living for the relevant period to date is well within the 2% to 3% range. Under this criteria, the Borough's offer clearly prevails over the Association's request for four 5.5% increases. While these numbers, upon analysis, might change slightly - e.g. actual percentage equivalent of a \$1,500.00 raise in 1999 will be 2.3% versus its 2.6% value for 1995, the declining rates are insufficient to throw the balance to the PBA offer. The open question of course which requires some speculation is what the CPI levels for 1997 through 1999 will be.

Comparability is one of the two most significant of the statutory criteria in resolving this present interest arbitration. Both counsel seek to "cherry-pick" from the list of potential comparable departments under criteria 2(c), namely, comparisons in public employment in the same or similar jurisdictions, to support their respective final offers. Both counsel's arguments could be extensively analyzed on the record, but such an exercise would appear to be unnecessary. After analyzing all of their respective charts and comparisons, the conclusion is obvious that, among Bergen County municipal police departments, the Allendale department presently compares favorably and under the Award announced below, any future comparison will more than likely bear the same overall result.

The PBA's brief charts out six different topics in an attempt to support the claim that an Allendale police officer "is not well compensated" and "the overall compensation program is poor". However, a review of those charts covering personal days, sick leave benefits, holiday benefits, clothing allowance and years to maximum in grade, discloses that while an Allendale officer might well trail or be below the average, the totality of the difference is not great so as to mandate the conclusion that the PBA final offer must be adopted.

Similarly, the comparisons the Borough argues inevitably produce the same result. For as often as it seeks to show that Allendale's patrolmen earn more than certain northwest Bergen County departments, it reveals the fact that the department is less well paid than other Bergen County towns.

Under the comparability criteria in public employment and private employment, in general the comparisons made relate to salaries and typical recent wage increases, if any, these days. The conclusion is inevitably reached that Allendale patrolmen are well compensated not only within private and public employment in general, but also among patrolmen within Bergen County. This criteria's evaluation leads to the conclusion that the pendulum is well closer to the Borough's final offer than to the PBA's.

Arbitral notice was taken of the Pierson Award in State of New Jersey and S.L.E.C. of N.J.P.B.A. (PERC Docket No. IA-96-013) pursuant to Borough counsel's February 20, 1997 and March 6, 1997 request. PBA counsel's February 26, 1997 objection is noted and overruled.

The Financial Impact on Allendale, its residents and taxpayers is the second of the two most significant of the statutory criteria to be evaluated. Allendale is a financially well off community. Virtually all of the criteria the PBA's brief cites supports this conclusion. The average price of a home, the exceptional tax collection rate, the expanding tax ratables, the declining police salary segment of the department's budget; the reserve documented within that budget; the Borough's recent ability to budget well within the annual index limitation or cap are all factors which help develop this portrait. This conclusion, of course, is tempered by the recognition of the current Governor's financial theory of drastically cutting or eliminating state aid; the Borough's envisioning of smaller budget surpluses; the cutting of appropriations in significant areas such as the Capital Improvement Fund, public library, aid to health care facilities; high tax rate and the recent significant

increase in the equalized tax rate and anticipated further increase from the loss of state gross receipts tax.

On balance, while the conclusion noted earlier on to the effect that Allendale is a financially sound community, the Borough is not immune from those financial problems that almost universally affect all municipalities these days. While PBA counsel's financial analysis cannot be faulted as to its conclusions showing the wherewithal to fund the PBA final offer exists, such a conclusion does not, in and of itself, require that such increases be granted. While the ability to fund these increases may very well exist, it is tempered by the cost of living criteria, the comparability criteria, the impact on the Town, the interest and welfare of the public, the overall compensation presently received, and the stability of a job of this nature. While the unique nature and quality of police work itself can never be forgotten in such an evaluation, and it most certainly is not in this evaluation, all the factors must be offset against each other and finally blended into a final award that is most reasonable. Having done that, the following conclusions are reached:

The length of the new contract shall be for four years, namely, 1995, 1996, 1997 and 1998. The financial data and projections which help serve as a basis for this Award seem very sound for the balance of 1997 and moderately immune from any drastic changes either way for 1998. Committing both sides, particularly the Borough, through 1999 is simply too risky and will not be awarded despite the Borough's request for a five-year contract.

The modification of the present academy step is a most reasonable request. A second year or new first step, as Borough counsel captions it, is also reasonable and will be awarded since it

provides an additional step into the remaining wage step progression system as it exists now. This will assure the Borough of significant savings if and when it determines to fill the two existing patrolmen vacancies between the present complement of nine and the eleven that existed back in 1989 when then Chief Parenti strongly recommended that the total department not fall below a 16-man minimum.

The Borough's request to add three further steps at the top of the guide resulting in a total twelve-step salary guide is unreasonable and is rejected.

With respect to the wage increases sought, the PBA's 5.5% requested increase for each year of the contract is excessive even for the twenty Bergen County departments charted in the brief for 1995. It is even more out of line for 1996 and 1997. Similarly, the \$1,500.00 increase and its percentage equivalent offered by the Borough ranges from a high of 2.6% in 1995 to a 2.4% low in 1998 appears to be consistently just at or below the cost of living for those years. Having considered all of the argued factors, it is determined that appropriate, reasonable increases over the four years of the contract shall be awarded as follows:

1995	4.25%
1996	4.00%
1997	3.75%
1998	3.50%

The PBA proposals as to bereavement leave and increase in clothing allowance were both agreed to by the Borough. (Borough brief, page 2; Transcript Day No. 1, page 12). With respect to the clothing allowance, a problem exists. While at first blush it appears that the PBA proposal is for a sole \$100.00 in 1995 (see Transcript, page 12, lines 16-20)(see also PBA brief, page 2, item

#2). In his brief, PBA counsel at page 22 speaks of “an annual \$100.00 increase in each of the three contract years”. If that is what the PBA's initial proposal was intended to read, it did not, and therefore Borough counsel's assent (see Transcript, page 13, lines 22-24) was not to a \$100.00 per year, but rather a \$100.00 increase to \$650.00 per year beginning in 1995 and continuing at that rate throughout the entire contract's term. Accordingly, as part of my Award, the \$100.00 agreed to by the Borough will be awarded effective January 1, 1995. The PBA proposed a three-year contract. A four-year contract is awarded. Part of that award will be an additional \$100.00 for clothing allowance effective 1/01/98 for the final year of the contract.

Based on the above analysis and discussion, I hereby issue the following:

A W A R D

1. The contract shall be modified to move grandparents to the three-day bereavement category.
2. Effective January 1, 1995, the clothing allowance shall be increased by \$100.00 to \$650.00 per year; effective January 1, 1998, an additional \$100.00 increase is awarded to increase the allowance to \$750.
3. Salary increases across the board and effective on January 1st of each contract year are awarded as follows:

1995	4.25%
1996	4.00%
1997	3.75%
1998	3.50%

The Salary Guide shall be amended to include the revised Academy/First-Year step; the addition of a new step to replace the current second-year step and the advancement of the remaining steps as noted:

SCHEDULE A

* SALARY GUIDE

	EFF. 1/1/95	EFF. 1/1/96	EFF. 1/1/97	EFF. 1/1/98
PATROLMAN				
NEW EMPLOYEE (ACADEMY)	24,000	24,960	25,896	26,802
BALANCE OF FIRST YEAR OF EMPLOYMENT	27,000	28,080	29,133	30,153
DURING THE SECOND YEAR	30,000	31,200	32,370	33,503
DURING THE THIRD YEAR	34,111	35,475	36,805	38,094
DURING THE FOURTH YEAR	38,204	39,733	41,223	42,665
DURING THE FIFTH YEAR	42,788	44,500	46,169	47,785
DURING THE SIXTH YEAR	47,924	49,841	51,710	53,520
DURING THE SEVENTH YEAR	53,675	55,822	57,916	59,942
OVER SEVEN YEARS (MAXIMUM)	60,116	62,520	64,865	67,135
SERGEANT	63,952	66,510	69,004	71,420
DETECTIVE SERGEANT	67,424	70,121	72,750	75,296
LIEUTENANT	65,804	68,436	71,002	73,487
DETECTIVE LIEUTENANT	69,276	72,047	74,749	77,365

Robert E. Light

ROBERT E. LIGHT, Arbitrator

Dated: March 11, 1997

STATE OF NEW JERSEY:

:SS

COUNTY OF MIDDLESEX:

On this 11th day of March, 1997 before me personally came and appeared ROBERT E. LIGHT to be known to me to be the individual described here and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Ellen Orlandini

ELLEN ORLANDINI
Notary Public of NJ