

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration

DOCKET NO.
IA-98-25

-between-

TOWNSHIP OF DELRAN

OPINION
AND
AWARD

-and-

DELRAN TOWNSHIP SOA

BEFORE: JACK D. TILLEM, Interest Arbitrator

APPEARANCES: For the SOA:
JAMES GILBERT, President

For the Township:
STEVEN J. MUSHINSKI, Attorney

Upon the filing of a petition to initiate interest arbitration by the Delran Township Superior Officer's Association (SOA), the undersigned was designated to hear and determine the issues at impasse. Arbitration sessions at which mediation attempts were also made were held on July 29 and October 20, 1998 at the Delran Township Municipal Building. At the last session on October 20, the parties submitted their final positions. Post hearing briefs and rebuttals were subsequently submitted on November 20, 1998 and the parties mutually agreed to extend the time limits for the issuance of the award to January 20, 1999.

Situated in Burlington County, comprising an area of slightly less than seven square miles with a population of 13,100, the Township of Delran maintains a police force consisting of a police chief, five lieutenants, two sergeants and twenty police officers. The sergeants and rank and file officers, in one bargaining unit, are represented by the Delran Patrolman's Association. This proceeding, involving the five lieutenants who are in their own bargaining unit and represented by the SOA, arises from an impasse in their negotiations with the township over a successor contract to the two year agreement that expired on December 31, 1995. The parties met some ten times over a two year period spanning 1996 and 1997. When all efforts at settlement, including a mediation session, proved fruitless the SOA petitioned for interest arbitration in November 1997.

There are actually only four issues on the table; salary not being one of them, both sides having made clear that a 4 percent annual boost in a four year deal, 1996 to 1999, would be acceptable – the same increases agreed to and signed off by the Delran Patrolman's Association. The four items on which the parties do not agree are shift differential, accumulated sick leave, prescription co-pay and holiday pay. If, however, an impasse issue is defined as one but for which settlement could be achieved, an issue over which the parties are clearly at loggerheads, then only two issues qualify: accumulated sick pay and holiday pay.

An explanation is in order. On shift differential, the parties are separated by an amount of \$40 per year on the 4 to 12 shift for the years 1996 through 1998.

They have already agreed on the 1999 amount so the \$40 can fairly be described as more of a quibble than an impasse. The other item which the parties have signaled is susceptible to settlement is the prescription co-pay increase from \$2 to \$5. While the SOA has stated for the record that it opposes a co-pay increase, the fact remains that throughout three years of bargaining, both sides have made clear by their statements as well as their abject indifference to issues other than accumulated sick pay and holiday pay that these are the only two which keep them from cutting their Gordian knot.

The impasse involving accumulated sick leave is concerned with how it is dealt with on retirement. Article XVI(F) provides:

Eligibility – employee at retirement or permanent disability only. Employee at his or her option may elect one of the following:

1. Employee shall receive continued Township pay at then current rate for 50% of accumulated sick days for those eligible days prior to retirement (early retirement option).

Example John Smith plans on retiring on January 1, 1980 and has 200 days of accumulated sick time. Under this option John can retire before January 1, 1980 and continue to be paid at the then current rate for 100 working days prior to January 1, 1980.

2. Employees shall receive direct cash payment for one-half of accumulated sick days at their current rate up to a maximum of \$13,500. (Cash Payment Option)

Conditions: One years written notice, payment can be over three years/waives all claims to sick leave.

The township seeks the elimination of paragraph 1 and the retention of paragraph 2 with an increase from \$13,500 to \$22,500, a change the Delran Patrolman's Association has accepted in its recent settlement. The other issue deals with holiday pay, the SOA proposing that the lump sum presently paid should be included in the base salary, a change which would increase the overtime rate and raise their pensions. The township says no.

The parties having failed to agree on a terminal procedure herein, the statute calls for conventional arbitration. The arbitrator is required by NJSA 34:13A-16d(2) to "separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the statutory criteria..."

STATUTORY CRITERIA

The statute requires the arbitrator to:

decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor.

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

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995, c. 425 (C.34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other 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 moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in 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. (N.J.S.A. 34:13A-16g)

ELABORATION OF THE ISSUES

1) Shift Differential

Article VI of the parties' prior contract provides in relevant part:

A. The Township shall provide for shift differential to all officers covered by this agreement based on the following rates:

4 - 12 shift	-	17¢ per hour
12 - 8 shift	-	25¢ per hour

B. All police officers permanently scheduled to work the 4-12 shift or the 12-8 shift, will receive payment of shift differential

based upon 2080 hours a year. Such payment shall be prorated and paid out on a monthly basis pursuant to paragraph E of this section.

Presumably in an effort to simplify the payment and reduce the bookkeeping, the parties have agreed to change the method of payment to a flat dollar amount per shift. Their proposals differ in two respects, however: The SOA's position is as follows:

From 1996 through 1998:

8-4 Shift = \$ 85.00 Annually
4-12 Shift = \$600.00 Annually
12-8 Shift = \$750.00 Annually

Effective January 1, 1999 increase to:

8-4 Shift = \$110.00 Annually
4-12 Shift = \$750.00 Annually
12-8 Shift = \$950.00 Annually

The township's proposal is as follows:

Effective 1997 through 1998:

8-4 Shift = \$ 85.00 Annually
4-12 Shift = \$560.00 Annually
12-8 Shift = \$750.00 Annually

Effective January 1, 1999 increase to:

8-4 Shift = \$110.00 Annually
4-12 Shift = \$750.00 Annually
12-8 Shift = \$950.00 Annually

A comparison of their proposals illuminates the two areas of disagreement: the SOA seeks the implementation of the new method of shift differential payment retroactive to 1996 while the township would make the change in 1997. The other difference has to do with the 4 to 12 shift and then only for the years prior to 1999. The SOA seeks \$600.00 retroactive to 1996 for that shift while the township offers \$560.00 retroactive to 1997.

2) Accumulated Sick Leave

As stated, the township proposes to eliminate Option 1 (Early Retirement Option) and increase Option 2 to a maximum of \$22,500. The SOA counters that it would consider eliminating Option 1 for future members, grandfathering present members, and increasing Option 2 to \$27,000 for all members.

2) Prescription Co-pay

The old agreement provides a \$2 co-pay drug plan for the employee and family. The township seeks an increase to \$5. The SOA has taken the position that it would not accept an increase at all, suggesting however that if the township would agree to its holiday pay proposal, it might consider a \$5 co-pay.

3) Holiday Pay

Article XI of the prior agreement provides:

A. Employees covered under this Agreement shall continue to be eligible for thirteen (13) paid holidays in accordance with present practices. The holidays are: New Year's Day, Martin Luther King, President's Day, Good Friday, Easter Sunday, Memorial Day observed (fourth Monday in May), Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Friday after Thanksgiving and Christmas Day.

B. All holiday pay shall be paid to each employee in a lump sum, payable once on November 15 of each year.

Albeit the core sticking point of this impasse, this is not a complicated issue. The township has rejected the SOA proposal that holiday pay, instead of being paid in one lump sum, should be included in the base salary rate. Early on in their negotiations, the SOA, relying on federal court decisions, advised the township that it was in violation of the Fair Labor Standards Act in refusing to include various non-discretionary payments in the base salary for purposes of computing overtime. After reviewing the matter, the township agreed to include longevity, shift differential and college credits commencing January 1997. Holiday pay was not included, apparently because the federal court decisions did not specifically address that item. Hence, it is on the table in this arbitration.

Although conceding that PERC has determined that the issue of including holiday pay in base pay for purposes of calculating pensions is a mandatorily negotiable item (City of Newark 19 NJPER §24030), the township rejects the proposal on

two grounds: first, it is too expensive, and second, the township says, it has been informed by the Division of Pensions that if holiday pay is included for the SOA it must be done for all township employees. Thus, the township raises a jurisdictional challenge contending that the arbitrator has no power to render an award which would directly affect the terms and conditions of employment of township employees who are not in this bargaining unit.

THE STATUTORY STANDARDS IN THE CONTEXT OF THIS IMPASSE

1) The Interest and Welfare of the Public

This standard requires the arbitrator to assess the constraints of the cap law on the outcome, but it is not actually an issue in this proceeding. The SOA bargaining unit has only five employees out of a township total of seventy. The township's budget exceeds \$7 million and the township has already acknowledged that it has the wherewithal without exceeding the caps to pay a 4 percent salary increase in each of the four years from 1996 to 1999.

As a general proposition, a police union will argue that an award less than acceptable to its membership will, by virtue of their despondency and demoralization, redound to the detriment of the public. A municipality will generally, on the other hand, press the proposition that an award more generous than that which it offers will have a negative effect because it will either fuel a higher tax rate or result in the diminishment of some worthwhile municipal endeavor.

Given the limited number of employees involved in this impasse, the narrow scope of the issues, and the relatively small amount of money at stake in proportion to the total municipal budget it would be difficult to determine, let alone quantify, the relevance of this standard for the resolution of this dispute. Suffice it to state that all indications point to the conclusion that the members of the SOA, the top line of supervisors just below the chief, run an excellent department which well serves the interest and welfare of the public.

2) Comparisons

Notwithstanding the parties having implicitly agreed on the salary issue, the wages paid in Delran to members of the SOA play a pivotal role because they are the starting point or yardstick by which all other forms of remuneration must be measured. If it appears, say, that Delran lieutenants' salaries are in the upper levels as compared to other municipalities, then obviously its requests for increases in the fringe areas must be viewed in a dimmer light than if their base wages are somewhere below average.

The following chart shows the 1997 base salaries for municipalities in Burlington County with roughly similar demographics and/or police department size as Delran:

Burlington City	\$65,688.00
Burlington Township	\$68,676.00
Cinnaminson Township	\$68,443.00
Maple Shade	\$65,768.00
Medford Township	\$68,343.00
Moorestown Township	\$73,235.00
Mount Holly Township	\$67,227.00
Mount Laurel Township	\$66,439.00
Willingboro Township	\$67,459.00
Average	\$67,920.00

The above figures actually represent base salaries for pension purposes. Assume that in 1997 Delran Township's base would be \$57,800 premised on a proposed 4 percent increase for 1996 and 1997 from the 1995 base of \$53,466. Adding in longevity, shift differential and college tuition, the base for pension purposes would rise to around \$63,000, some \$5,000 less than the average.

Assuming for the sake of the argument an average increase in the other municipalities of 3.5 percent in 1998 and 1999, the averages will rise to approximately \$70,000 and \$73,000 respectively. So even if the Delran SOA obtains 4 percent in each of those years bringing their base rate to about \$65,000 in 1998 and \$68,000 in 1999 (inclusive of longevity, shift differential and average college credits) they would still be well below average, the spread remaining relatively unchanged.

The township, as previously noted, has settled its contract with the Delran Patrolman's Association for a 4 percent increase in each of the four years. The

clerical and blue collar workers in a bargaining unit represented by the Communications Workers of America have a three year contract – 1996 to 1998 – providing for 3.5 percent annual increases.

In both private and public sectors, wage increases in New Jersey over the past few years have hovered in the area of 4 percent and below with all indications being that that number will probably drop down closer to the 3 percent range over the near term. At any rate, the relevance of statistics from these sources is of questionable value in resolving this impasse. This is because the issues here – the use of accumulated sick leave upon retirement, for example, and holiday pay into the base rate – are not easily susceptible to comparison with employees who are not in police work.

3) Overall Compensation

Although their value and extent encompass a broad range, fringe benefits received by police officers in New Jersey are generally of the same type. As the following comparisons show, Delran Township lieutenants fare at least average if not a tad better. Starting with vacations, Delran provides for 24 days in the 20th year of service. A sampling of other municipalities: Maple Shade - 5 weeks, Medford Township - 25 days, Mount Lauren Township - 20 days after 20 years, Cinnaminson Township - 22 days after 20 years, Moorestown Township - 25 days after 19 years and Burlington City - 30 days in the 21st year.

Delran grants 13 holidays, the same number as virtually all other communities; Florence Township, however, grants 14 and Bordentown Township 12. With reference to leave time, Delran offers the average of 15 sick days per annum. Very few municipalities offer less or more days, Lumberton with 18 being a rare exception. Bereavement leave varies between 3 to 5 days. Delran is right in the middle with 4 days, providing however that if the death is in the immediate family, up to four extra days can be taken as sick leave.

Turning to health insurance, virtually all police departments including Delran provide full medical and hospital insurance with the municipality picking up the tab. There may be a co-pay for doctor visits and other small items which the employee must shoulder. Still, the coverage is complete in every municipality for the police officer and his or her family. Almost all of them also provide dental coverage, the extent however varying greatly, most being rather parsimonious, a few more generous. As for prescription coverage the co-pay in many municipalities has been increased from \$2 to \$5 – for example, Mount Holly, Cinnaminson, Burlington City and Bordentown.

Optical plans for police employees are also offered in perhaps a majority of the municipalities in the county. Delran provides reimbursement up to \$200 with the spouse entitled to any unused balance. A number of municipalities such as Bordentown and Cinnaminson do not provide a vision plan.

Longevity payments are endemic to police contracts, the most common form being a percentage increase on the base every few years. Delran, a typical case, provides for 2 percent of the base salary after four years with an additional 1 percent every three years up to a maximum of 5 percent after 13 years. This plan appears to be on a more accelerated schedule than the average, many other municipalities providing for the maximum to be reached after 15 or 20 years. On the other hand, some municipalities exceed the 5 percent maximum – Maple Shade, for example, reaching 6 percent after 22 years, Cinnaminson 12 percent after 20 years, and Burlington Township 10 percent after 20 years.

4) Stipulation of the Parties

There are none.

5) Lawful Authority of the Employer

In light of the relatively small percentage of the municipal budget involved in this impasse, the lawful authority of the municipality or a cap limitation does not become part of the equation.

6) The Financial Impact

Out of the total 1998 township budget of \$7,954,000, the cost of operating and maintaining the police department is \$2.3 million or 29 percent, an expense

far exceeding any other item in the budget. 46 percent of municipal revenues are obtained from taxation and 20 percent from state and federal aid, the latter percentage, as the following table shows, having decreased steadily over the past eight years:

<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
47%	40%	25%	24%	24%	24%	21%	20%

On the other hand, the tax as a percentage of budget revenue has steadily increased:

<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
41%	40%	38%	41%	44%	42%	46%	46%

The median family income in Delran Township is \$50,825 and the average value of a residential property is \$130,000, a value remaining fairly constant over the last eight years. The net assessed valuations have increased from \$648,654,013 in 1993 to \$718,354,663 in 1998. The total tax rate in 1998 was 2.691 per hundred dollars of assessed valuation, up from 2.548 in 1997 and 2.479 in 1996.

The taxes paid by an average homeowner with an assessment of \$130,000 since 1993 are shown in the following table:

<u>Year</u>	<u>Tax Rate</u>	<u>Total Tax</u>
1993	2.353	\$3,059.00
1994	2.383	\$3,078.00
1995	2.419	\$3,144.70
1996	2.479	\$3,222.70
1997	2.548	\$3,312.40
1998	2.691	\$3,498.30

The total tax is comprised of four parts: school, county, municipal and fire. As is usually the case, the school tax makes up the bulk of the rate; Delran's 1998 school tax is 1.504 out of the total of 2.691 or 56 percent; the municipal portion from which the police salaries are derived is .503 or 19 percent; and the county at .555 and fire .129 take the remaining 25 percent.

Tax collection percentages, a reliable barometer of the fiscal health of a community, have been consistently higher than 95 percent in Delran for the past few years. Indeed, the percentage has increased from a rate of 95.69 percent in 1993 to 98 percent in 1997, the latter figure about as high as can realistically be obtained by any municipality. On one hand, the higher rate reflects an extremely solid financial administration. On the other, since the percentage cannot as a practical matter be increased, it cannot be looked to for surplus revenues.

The following schedule shows the amount of fund balances available at the end of 1997 and the five previous years and amounts utilized in the

subsequent budgets:

<u>Year</u>	<u>Balance Dec. 31</u>	<u>Utilized in Budget of Succeeding Year</u>	<u>Percentage of Fund Balance Used</u>
1993	\$1,533,491.00	\$1,250,000.00	81.51%
1994	\$1,610,608.49	\$1,300,000.00	80.71%
1995	\$1,870,808.78	\$1,391,600.00	74.38%
1996	\$2,056,333.37	\$1,580,000.00	76.83%
1997	\$2,355,344.66	\$1,804,000.00	76.59%
1998			

The township's fund balances are also an indicator of good financial administration. The chart shows that a significant portion of surplus has been absorbed in balancing the budget, a move that would enable the town to keep increases in the local property tax down that would otherwise have been necessary to offset the loss in state and federal revenues over the past few years. The fund balances have presumably also played no small part in Moody's upgrading of the township's bond rating from A to A1 this past June.

The Township of Delran is in good financial shape. The increases sought by the SOA are within its means. Still, that does not translate into an automatic surrender of the township's position. Merely because a bargaining unit is small does not mean that the employer has to grant all its demands. Say a municipality has two librarians in a bargaining unit, it need not double their salaries because it's a pittance in the overall budget. By the same token, New York City does not give away the store to a bantam bargaining unit merely because it has a budget in the mega millions. Yet, the reason financial

ability remains a critical component of the process, no matter how small the bargaining unit, is that an interest arbitration award resonates throughout the municipality, each and every other employee and bargaining unit observing ringside while they wait their turn. A small bargaining unit is sort of like the butterfly flapping its wings in the Amazon Rainforest which ultimately creates the hurricane off the Carolina coast.

7) The Cost of Living

Rising at a modest rate over the past few years, the CPI has averaged 2 to 2 ½ percent increases since 1995, numbers which the township relies on to support its position. Having acknowledged that it is prepared to pay 4 percent per year, the township says it has been more than generous, any further benefits unnecessary and uncalled for. What's more, it notes, the CPI increases, small as they are, are overstated in their inflationary impact on the members of this bargaining unit. The reason is that a good chunk of the CPI increase, the township explains, is due to the swelling costs of medical care, an expense fully borne by the township.

This statutory standard generally takes front and center along with the standards dealing with financial ability and comparability. Yet in this proceeding there is reason to believe it should not have that prominent a place in the sun. The only issue which could generate an increase over and above the 4 percent salary increases is the SOA's proposal for inclusion of the holiday pay in the base rate. The change in shift differential

from an hourly rate to a fixed rate can have no discernible effect, the parties having agreed on the terms except for \$40 on one shift, a minuscule difference which would not carry into 1999 anyway. The other two issues – sick pay buyout and prescription co-pay – are township proposals, give-backs that run with rather than against the CPI tide.

8) Continuity and Stability of Employment

No evidence exists that the continuity and stability of employment will be impacted by whatever the result is in this proceeding. Assume the SOA is entirely shut out, there is simply no reason to believe the members of the bargaining unit would not continue to do the professional and competent job they have been performing for decades. With over a century of service to the department among them, where would they go? Now assume the opposite, they obtain everything they seek in this arbitration. While they would most assuredly be very happy, how that relates to the continuity and stability of their employment remains to be explained.

DISCUSSION AND ANALYSIS

A discussion and analysis of this impasse might do well to stay put for the moment at this last statutory standard, a full reading of its words suggesting that it cuts deeper than merely determining whether the award will fuel a stampede of employees out of the place or ignite turmoil in the work place. After "continuity and stability of

employment" it says

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...

This phrase, to my mind, has special relevance to the employees involved in this case: top rank supervisors with decades of service to the municipality. It justifies a certain consideration that might not be pertinent to other classes or types of employees and lends support to the SOA's proposal for inclusion of holiday pay in the base salary.

These are by no means fungible employees. They serve as the top line of management directly under the chief. Their vast experience inuring to the benefit of the township, they must have been doing something right decade after decade to reach and hold the command posts they have attained. They are entitled to some extra bit of consideration, some recognition of their status, and that may be precisely what the statutory standard means when it says "seniority rights and such other factors...".

We are not breaking new ground in collective bargaining when we acknowledge that supervisors and management personnel are not infrequently granted additional or different perquisites. Whether a principal of a school or a commissioner of a department or chief of a bureau, public sector labor relations has long accepted the

proposition that in recognition of their greater responsibilities, high level supervisors often receive not only higher salaries but different and better fringes as well.

That is not to say that merely because members of a bargaining unit are supervisors with lots of seniority, they are automatically entitled to a higher settlement than that obtained by their subordinates. In this case, however, the lieutenants' salaries are in some respects dwarfed by what their peers earn in other municipalities so that the inclusion of holiday pay in their base wage would be a reasonable way of achieving the goal of bringing them a little closer to par. Even assuming 4 percent increases per year, the average salary paid to lieutenants in Delran would remain well below average.

The township responds that the members of this bargaining unit actually work as sergeants and should be compared to sergeants, not lieutenants, in other departments. The SOA vociferously disputes this suggestion on the ground that they most definitely do perform the functions of a lieutenant. What's more, the SOA adds, PERC rules discourage comparisons of different ranks as apples and oranges. At any rate, the SOA points out, other communities in and around Delran actually pay their sergeants more than Delran pays its lieutenants; in Mount Holly, for example, sergeants earn approximately \$67,000 and in Medford, the top step sergeant earns over \$63,000.

The township raises a question of jurisdiction arguing that if holiday pay is included for SOA pension purposes, it must be included for all members of the retirement system who are employed by it. Hence, the township reasons that the arbitrator

does not have the authority to award a benefit that will result in a change in the terms and conditions of other employees. Yet it is not entirely clear why this should be so, given the fact that other items such as longevity and college credits and shift differentials have been folded into the base rate by the township. Besides, the only unit this change might impact upon is the Delran Patrolman's Association, the only other bargaining unit in the Police and Fireman's Pension System. All other township employees are members of the Public Employees Retirement System. Since PERC has ruled this is a negotiable term and condition of employment, it would follow that it is a proper subject for interest arbitration.

The township calculates that the additional cost in overtime for the members of this bargaining unit would be about \$2,100 per year and the additional contribution to the pension plan \$3,600 for a total increase of \$5,700 per year, a 1.7 percent increase to each member of the bargaining unit. This burden is exacerbated, the township claims, by the fact that unlike other police pension plans, it funds two pension systems: PFRS and FICA - a total of almost 16 percent of base salary.

The township's pension expense is indeed costly. However, its contention that its burden of paying into two systems is unique or even unusual is questionable. Letters submitted by the SOA show that quite a few other municipalities in the area contribute both to PFRS and FICA. They include Bordentown, Burlington Township, Edgewater Park, Medford, Willingboro Township and Mount Laurel. And since the amount contributed is a percentage of the base which in Delran is below average, the actual amount

it contributes will also be lower. In sum I think their seniority and their years of service as the top echelon in the department entitle the lieutenants to this benefit of folding holiday pay into the base rate – a change that will give them a bit more in overtime and a slightly higher pension when they retire.

Although the total budgetary cost for this benefit would be only about \$5,700, a rather minuscule portion of the overall police payroll of some \$2.3 million, nevertheless in order to keep this increase down to a bare minimum if not offset entirely, I would grant the township's three proposals. The first is an increase in the prescription co-pay from \$2 to \$5, a change virtually endemic in municipalities throughout the state as well as the county. The township's two other proposals are equally valid and warrant approval.

On the shift differential, it is difficult to perceive any reason why the change should be retroactive to 1996 as the SOA requests, and not 1997, and why it should be \$600, not \$560, on the 4 to 12 shift. The township's proposal, a reasonable one, accedes to the SOA's demand for the 1999 year. Moreover, with no proof shown that shift differentials are commonly afforded to supervisory personnel, I find little justification for higher payments than that offered by the township.

As for the other township proposal – elimination of Option 1 and reduction of Option 2 in Article XVI(F), the accumulated sick leave provision – very few other municipalities offer such a generous sick leave buyout as that contained in Option 1 and when combined with Option 2, the provision borders on the unique. In these times of

fiscal constraints and reduced federal and state aid coupled with taxpayer resistance to any increased governmental expenditures, paying an employee half his salary while he stays home awaiting retirement seems a touch out of whack. The township has already agreed with the patrolmen to eliminate Option 1 and increase Option 2 to a maximum of \$22,500. The only change I would make from the Delran Patrolman's Association's agreement is that the maximum under Option 2 shall be \$25,000, the \$2,500 difference a recognition of the fact that lieutenants' salaries are greater and, albeit not in direct proportion, I think their sick leave payout should be greater too.

There is one other aspect of this impasse which must be addressed – its antiquity. If the contract merely embraces the four years from 1996 to 1999, the parties would be back at the bargaining table facing each other over a new contract before the ink on this one is dry. The legislature could hardly have enacted a statute making the interest and welfare of the public the first standard and continuity and stability the last one if it intended to engender such a Sisyphian result.

To be sure, protracted police union negotiations are more the rule than the exception. But four years? That's an awful lot; and an award that does nothing to facilitate putting the issues to bed and giving the parties some breathing room before they start negotiating anew doesn't make much sense. I would therefore award a fifth year with the same terms and conditions other than a salary increase of 3.5 percent in the year 2000, a boost fairly comparable to the increases being granted in other municipalities.

AWARD

- 1) The term of the agreement shall be January 1, 1996 to December 31, 2000.
- 2) Salaries shall be increased 4 percent per year effective on the first day of the year in 1996, 1997, 1998 and 1999. On January 1, 2000 salaries shall be increased 3.5 percent.
- 3) Effective January 1, 1997 holiday pay shall be included in the base salary in the same manner as longevity, shift differential and college credit payments.
- 4) Prescription co-pay shall be increased from \$2 to \$5 effective on the signing of the collective bargaining agreement.
- 5) The shift differential in Article VI of the prior contract shall be changed to provide that effective January 1, 1997 to December 31, 1998 it shall be as follows: 8 to 4 shift - \$85, 4 to 12 shift - \$560, 12 to 8 shift - \$750. Effective January 1, 1999 the shift differential shall be as follows: 8-4 shift - \$110, 4-12 shift - \$750, 12 to 8 shift - \$950.
- 6) The early retirement option set forth in Article XVI(F)1 is eliminated. Article XVI(F)2 is amended to raise the maximum amount from \$13,500 to \$25,000.
- 7) All other proposals of both sides are deemed denied and the prior contract shall remain unchanged except as modified herein or by the agreement of the parties.

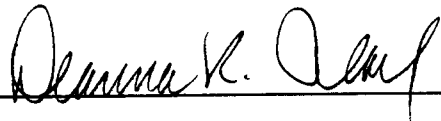
Dated: January 11, 1999



JACK D. TILLEM, Arbitrator

STATE OF NEW YORK)
COUNTY OF NASSAU) SS:

On the 11th day of January, 1999, before me personally came and appeared JACK D. TILLEM, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that the same was executed by him.



DENNIS R. FUNG
Notary Public, State of New York
No. 4823999
Qualified in Nassau County
Commission Expires Nov. 30, 19 2000

