

**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between :

SOMERSET COUNTY BOARD OF :
FREEHOLDERS (SHERIFF'S OFFICE) :
"the County or Employer" :

and :

FRATERNAL ORDER OF POLICE :
LODGE 39 :
"the FOP or Union" :

**INTEREST ARBITRATION
DECISION
AND
AWARD**

Docket No: IA-2002-046

Before: Robert M. Glasson, Arbitrator

APPEARANCES

FOR THE EMPLOYER:

James E. Coley, Jr., Esq.
Of Counsel & On the Brief
DiFrancesco, Bateman, Coley, Yospin
Kunzma, Davis & Lehrer, P.C.

FOR THE PBA:

Richard D. Loccke, Esq.
Of Counsel & On the Brief
Loccke & Correia P.A.

Background & Procedural History

The Somerset County Board of Freeholders (Sheriff's Office) (the "County" or "Sheriff") and the Somerset County Sheriff's Officers, FOP Lodge 39 (the "FOP" or "Union") are parties to a collective bargaining agreement (the "CBA") which expired on December 31, 2001. Upon expiration of the CBA, the parties engaged in negotiations for a successor agreement. Negotiations reached an impasse, and the parties mutually filed a petition with the New Jersey Public Employment Relations Commission ("PERC") on February 6, 2002 requesting the initiation of compulsory interest arbitration. The parties followed the arbitrator selection process contained in N.J.A.C. 19:16-5.6 that resulted in my mutual selection by the parties and my subsequent appointment by PERC on March 15, 2002 from its Special Panel of Interest Arbitrators.

I met with the parties in voluntary mediation sessions on May 14 and 17, 2002. The mediation sessions did not resolve the issues included in the impasse. Formal interest arbitration proceedings were invoked and a hearing was conducted on November 14, 2002 when the parties presented documentary evidence and testimony in support of their positions. Both parties filed post-hearing briefs. The hearing was declared closed on January 8, 2003 upon receipt of the briefs. The parties agreed to extend the time for the issuance of the award to March 1, 2003.

This proceeding is governed by the Police and Fire Public Interest Arbitration Reform Act, P.L. 1995, c. 425, which was effective January 10, 1996. While that Act, at N.J.S.A. 34:13A-16f(5), calls for the arbitrator to render an opinion and award within 120 days of selection or assignment, the parties are permitted to agree to an extension.

The parties did not agree on an alternate terminal procedure. Accordingly, the terminal procedure is conventional arbitration. I am required by N.J.S.A. 34:13A-16d(2) to "separately determine whether the net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria in subsection g. of this section."

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 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 condition of employment of the employees involved in the arbitration proceedings with the wages, hours and condition of employment of other employees performing the same or similar services 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 jurisdictions, as determined in accordance with section 5 of P.L. 1995, c. 425 (C. 34:13A-16.2); provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

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

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976, c. 68 (C.40A:4-45.1 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 municipality, the arbitrator or panel of arbitrators shall take into account to the extent the 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 budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such 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.

FINAL OFFERS OF THE PARTIES

FOP LODGE 39

1. **Term of Contract:** January 1, 2002 to December 31, 2004.
2. **Wage Increase:** The FOP proposes a 5% annual increase on the salary guide, across-the-board, effective each January. The FOP also proposes a 20-year senior officer differential step.
3. **Longevity:** The FOP proposes an improvement of 2% at each longevity step.
4. **Clothing allowance:** The FOP proposes the deletion of this benefit payment with the current payment folded into the base and used for all calculation purposes.
5. **Compensatory Time:** The FOP proposes a modification of Article V, Overtime, to provide for the election of compensatory time and a compensatory time bank as follows:

The FOP proposes that employees be permitted to elect at the end of the overtime work performed to be compensated with compensatory time off or paid compensation. In the event that compensatory time off is elected it will also be paid at the time and one-half rate (90 minutes for 60 minutes work). Accumulated time so earned would accumulate in a Compensatory Time Off (CTO) Bank for future use. CTO Time could be used at the employee's sole discretion subject only to prior employer approval.

6. The FOP seeks to modify Article XXX (FOP Rights) in accordance with proposal number twelve.
7. The FOP seeks to codify the present off duty rate provision in accordance with proposal number 13a.

SHERIFF'S OFFICE

1. **Term of Contract:** January 1, 2002 to December 31, 2004.
2. **Wage Increase:** The County proposed the following salary schedule:

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Step				
1	34686	35286	35904	36532
2	36458	37058	37707	38366
3	38212	38812	39491	40182
4	40050	40750	41565	42396
5	41936	42636	43489	44358
6	45847	45847	45847	45847
7	47866	48566	49537	50528
8	49928	50628	51641	52673
9	52027	52727	53782	54857
10	56337	56337	56337	57605
11	58537	59337	60672	62037

The County's salary proposal is structured in accordance with the following formula:

2002: \$600 for Steps 1-3
 \$700 for Steps 4,5, 7, 8 & 9
 \$0 for Steps 6 & 10
 \$800 for Step 11

2003: 1.75% for Steps 1-3
 2% for Steps 4,5,7,8, & 9
 No increase for Steps 6 & 10
 2.25% for Step 11

2004: 1.75% for Steps 1-3
2% for Steps 4-9
2.25% for Steps 10-11

3. **Salary Schedule:** The County seeks the deletion of Article II, Section 2.3.

2.3 During the years 1999 and 2000, all Sheriff's Officers who complete twelve and one-half (12½) years of service with the Sheriff's Department will have their base salary adjusted on the next January 1 to an amount equal to the highest base salary being paid to any other member of the bargaining unit. Beginning with the year 2001, all Sheriff's Officers that have one-half (½) year of service with the Sheriff's Department less than the number of years required to be placed on the highest step of the Salary Guide, will have their base salary adjusted on the next January 1 to an amount equal to the highest base salary being paid to any other member of the bargaining unit.

4. **Longevity:** The County seeks the elimination of longevity for all employees hired since January 1, 2002. The County seeks the deletion of the first sentence of Article II, Section 3.1 to be replaced with:

"All Sheriff's Officers employed in the department before January 1, 2002 and who have five (5) or more full years of completed service shall be eligible for longevity pay, in accordance with the schedules set forth herein, which payment shall be based upon the rate of the individual in effect on January 1st of the year in which such individual becomes eligible for the longevity pay."

5. **Health Benefits:** The County seeks to modify Article XIII, Section 13.1 as follows:

"The County shall pay ninety percent (90%) of the cost to the County of the traditional Somerset health benefits program currently administered through Oxford Health (POS), and the Officer shall pay ten percent (10%) thereof. In the event that an Officer selects another health benefits program offered by the County which is more expensive than the said traditional plan, then the Officer shall pay all costs of that substitute program which exceeds the cost to the County of ninety percent (90%) of the said traditional program. Said payment shall be deducted from the Officer's pay in equal installments."

6. **Dental Benefits:** The County seeks to modify Article XIII, Section 13.2 as follows:

“The County shall pay ninety percent (90%) of the cost to the County for single coverage under the Traditional Dental Plan and the Officer shall pay ten percent (10%) thereof. In the event that the dental plan selected by the Officer costs the County less than the single coverage under the said traditional plan, then, in that event, the Officer will make no contributions. In the event that an Officer selects another dental plan offered by the County which is more expensive than the traditional plan, then the Officer shall pay all costs of that substitute program which exceeds the cost to the County of ninety percent (90%) of the traditional program. The payment shall be deducted from the Officer’s pay in equal installments.”

7. **Educational Reimbursement:** The County seeks the elimination of the current reimbursement language in the CBA:

- 14.1 The purpose of the County Educational Reimbursement Plan is to permit full time employees to enroll in courses offered by recognized institutions of learning for job related training or courses which are not available within the County structure.
- 14.2 Prior approval by the Sheriff is required in order to be eligible for reimbursement.
- 14.3 Any officer who has receive prior approval and who receives a satisfactory passing grade will be reimbursed 100% of the eligible expenses to a maximum of \$1200 per calendar year. Reimbursement is made as follows: 50% upon successful completion of the course and 50% six months later.

The County seeks to standardize its educational reimbursement policy. The County’s proposed policy is set forth as an attachment to its final offer.

8. **Call-in Time:** The County proposes to delete the wording “. . . that the pertinent call is made” and replace with “. . . that personal contact is made with the Officer . . . “

The new clause will read as follows:

- 6.2 Officers shall start accruing call-in time benefits as of the time that personal contact is made; provided, however, that no officer shall be paid more than 30 minutes of time spent responding to the workplace.

9. **Shift Differentials:** The County seeks to delete the last sentence of Article XVII, Section 17.1:

“This rate shall be effective from January 1, 1998 and a retroactive adjustment will be completed in relation thereto.”

10. **On Call Pager Pay:** The County seeks to modify Article XXXV, Section 35.1(B) by adding the following:

“Officers that are working the afternoon and midnight shifts cannot sign up for pager duty.”

THE FOP'S POSITION AND ARGUMENT

The following are the PBA's positions and arguments in relation to the statutory criteria on the outstanding economic and noneconomic issues.

INTERESTS AND WELFARE OF THE PUBLIC

The FOP asserts that a Sheriff's Officer is first and foremost a "law enforcement officer" as defined by New Jersey Law, NJS 43:15A-97 (P-3). The statutory duties of Sheriff's Officers include "the investigation and apprehension of violators of the law, or in criminal identification, or in ballistics, or any related work which the Sheriff shall from time to time prescribe . . ." (NJS 40A:9-117.6 (P-2)). The historic duties of Sheriff's officers within Somerset County include both civil service job specifications and many general orders (SOP) which have over the years developed under prior Sheriff Robert Lund and placed into evidence (P-1). Sheriff Provenzano, now in office approximately 1 year, has dramatically expanded these duties and under his direction and guidance, has taken the Sheriff's office in new directions and has risen to meet the needs in our changing society.

The FOP submits that the most important piece of evidence it introduced was the organizational video tape which the Office of the Sheriff prepared as both a statement of purpose and a description of the new initiatives and directions which form the goals of Sheriff Provenzano's office. In that video tape the Sheriff spoke personally about the changing public needs and security demands which have evolved since the tragedy of September 11, 2001. According to the FOP, under the new Sheriff's guidance the Sheriff's Officers' duties have been refined and expanded to cover everything from general patrol to highly specialized and technical assistance to law enforcement agencies around the county and the area generally. The FOP asserts that the Somerset County Sheriff's Officer is now clearly and unquestionably an integral and essential part of the delivery of law enforcement services to the public.

Among the advance training programs now being implemented and maintained at the Somerset County Sheriff's Office are programs not found at the local level. The standard to which Somerset County Sheriff's Officers are held is extremely high. The FOP cites the testimony of FOP President Mark Szczecina that such professionalism has been met with enthusiasm and professional motivation throughout the bargaining unit. P-12 provides details of the following new initiatives:

- Gang awareness
- Drug identification and current trends
- Spanish for Police Officers
- Explosive - recognition and response
- Top gun for narcotics investigators
- Armorer's School
- Environmental offenses course
- Counterfeit insurance documents
- Drug recognition expert
- Certified Laser instructor
- Community oriented policing

P-12 includes certifications from such agencies as the United States Department of Justice, Federal Bureau of Investigation; Somerset County Police Academy and the National Safety Counsel. These highly specialized advanced training programs are in addition to the traditional duties and statutory updates on law enforcement programs offered to other law enforcement officers throughout the State of New Jersey. The Sheriff's Officer also receives Title 39 update training (NJ Motor Vehicle Act), Breathalyzer training, field sobriety testing, radar operation training, etc.

According to the FOP, the administration of Sheriff Frank J. Provenzano Sr. is characterized by enhanced professionalism with an increased law enforcement role for Somerset County Sheriff's Officers. The motivation, professionalism and enthusiasm with which the Sheriff's Officers have met these new initiatives were cited during the testimony of FOP President Szczecina. Virtually every area of standard operating procedure has been reviewed and enhanced under Sheriff Provenzano. Examples include the use of force

program which includes both training and clarification (P-14), extensive revision of the probationary training officer program and check list (P-20), and numerous other programs. The FOP submits that the role of Sheriff's Officer is being redefined and expanded.

According to the FOP, the impact of the terrorist attack on the World Trade Center on September 11, 2001 resulted in law enforcement agencies across the country rising to the challenge. The role of the Somerset County Sheriff's Officer was integral to both the post September 11th tragedy and the efforts to prevent such from ever happening again. Sheriff's Officers worked at Ground Zero and were recognized for their contributions. P-24 includes photographs and copies of newspaper articles regarding the service and recognition in the form of commendation by the Sheriff for these officers' activities. In response to the tragedy of 9/11 law enforcement has overhauled its crisis plans generally and the Somerset County Sheriff's office is part of that change.

P-23 is a series of news articles describing the activities of the law enforcement community generally and the Somerset Sheriff's Officers specifically with an article and photograph of the Somerset County Emergency Response Team, a function of the Somerset County Sheriff's office. Also included in P-23 is the "Somerset County Office of Emergency Management Proposed Domestic Preparedness Exercise 2002, Purpose Statement." The integration of law enforcement agencies, including the Sheriff's Department and the Prosecutor's Office in Somerset County are described in detail.

The FOP asserts that the Somerset County Sheriff's Office has gone above and beyond in its outreach to citizens of every age with respect to safety and security preparedness. One example is the "personal safety" handbook prepared by Sheriff Provenzano's administration which gives safety tips and recommendations to the public both at their residences and while out in public. The FOP submits that the general public warning clearly establishes the intent of this publication both in scope and intent.

By reviewing the contents of this handbook you limit the opportunities that the predator can take. As with all human nature these safety issues must be employed and become part of the way you live. Many times there has been a crime committed and the public reacts with fear and they take all types of precautions, they attend seminars, read books, and enroll in self-defense courses. After a short period of time complacency sets in and we become careless again. Complacency is prevalent on the college campus because many students feel that campus is a secure environment, a home away from home.

Follow these three main rules, review the handbook strategies, and know that bad people exist. Take an active role in your well - being, once these strategies become set in nature your fear will diminish and your awareness level will increase. It's up to you!

It is this increased awareness goal that also responds to other State and National initiatives. For example, booklets are included which respond to the "amber alert", an initiative regarding missing children and a booklet entitled "United For a Stronger America: Citizens Preparedness Guide" which describes how one is to get prepared, what one can do and how to respond to emergencies. Outreach to children includes everything from the 9/11 pamphlet, cycle safety pamphlet, house numbers pamphlet, and "Kids Safety Skills" pamphlet. The FOP submits that the defined role of the Somerset County Sheriff's Officer is not just to be reactive. Rather, it is the goal of Sheriff Provenzano to be proactive. The current administration clearly is focused on meeting problems before they occur.

In addition, the historic role of the Somerset County Sheriff's Department has been in part a cooperative agency with other law enforcement agencies in general law enforcement. For example, the Somerset County Sheriff's officers are regularly used in various inter-agencies task forces. Examples of some of these inter-law enforcement agency task forces in which the Somerset County Sheriff's Officers participate are set forth in P-18. These task forces include, but are not limited to, the following:

- Patrolling of local airports in Somerset County with the terrorism liaison. The three airports within the County are Princeton Airport, Kupper Airport and Somerset Airport.
- Coordination with Somerset County Prosecutor's antiterrorism Task Force which formalizes a method of coordination with the Somerset County Sheriff's Office and local departments. The primary stated objective is to ensure intelligence information is shared between agencies to combat terrorism.
- Designee of the Somerset County Sheriff's Office, Prosper Cima, received specialized training in state and local antiterrorism and FBI certification.
- Designation of Sheriff's Officer Prosper Cima as the liaison to the fugitive unit of the United States Marshalls Service.

The apprehension of fugitives is and has been for many years a key part of the Somerset County Sheriff's Department mission. Apprehensions have included efforts both in the State of New Jersey and in other states. One example of a recent apprehension in South Carolina by the Somerset County Sheriff's Office Fugitive Unit is described in P-17. The Sheriff's office has the specialized training and equipment to make such apprehensions and conduct such fugitive apprehension efforts. Other inter-agency efforts include service with the Prosecutor's Office, State Police and virtually every municipality within the County. The Warrants Unit has had exceptional success in recent years. The graph on the last page of P-4 shows a near quadrupling of the warrant activity in the last ten years. Warrant arrests in the same period are approximately triple. The productivity and success of the Warrant Unit is clear (P-4).

Inter-agency activity is the norm within the Somerset County Sheriff's Office. The FOP notes that there is no County Police Department in Somerset County. Somerset County Sheriff's Officers are the only uniformed County level law enforcement officer available for patrol and law enforcement activities generally throughout the County. Inter-agency activity, as described and developed clearly at hearing includes the following:

- Police Academy Instructors from the Sheriff's Office training local officers and regularly part of the cadre at the academy.

- Method of Instruction (MOI) certified instructors
- Regular participation in specific law enforcement task forces, narcotics, fugitive, SWAT/CERT
- United States Marshall Service coordination
- FBI coordination - currently one Sheriff's Officer is attached as liaison to the Federal Bureau of Investigation
- State Police interaction including Uniform Crime Reports (UCR), forensics, ballistics, State Police area Headquarters is located at Somerville Station.
- Regular work with the Somerset County Prosecutor's Office as described in the testimony of the Association witness
- Security at banks, baseball stadiums and the Mall
- Threat Level III security obligations with respect to baseball stadium security
- State Police back up as described by the witness at hearing
- Narcotics under cover duty
- School Resource Officer
- Flood duty in Manville, Franklin and South Bound Brook
- K-9 duty - lost child / fugitive
- Regularly work with various towns on an as needed basis. Witness described specific circumstances including South Bound Brook, Bernardsville, Green Brook, Manville and Franklin.
- Supplementing local patrol with available Sheriff's forces as reserve local police.
- Witness description of major crime occurrences resulting in Sheriff's cars being sent to back up local agencies.
- The Hillborough / Franklin riot in which Sheriff's Officers worked with State Police
- Extraditions

FOP President Szczecina testified concerning many regular protocols which exist in Somerset County and involve the regular services of the Somerset County Sheriff's Office.

These regular protocols include, but are not limited to the following:

- Bank Robbery protocol
- Court House response in both security and pro-active protection as well as any disturbance which occurs within the confines of the Court House.
- Somerset County Corrections protocol - a protocol in the event of disturbances at the jail.
- Money runs for the County
- Back up for local agencies
- Officers assigned to special duty such as Ground Zero at the World Trade Center (duty lasted approximately 1 month).

The FOP asserts that the professionalism, skill and training of Somerset Sheriff's officers is further evidenced by the requests for Somerset Sheriff's officers at various other agency

initiatives such as the Somerset County Prosecutor's office "Fugitive Round Up" and the "Operation Tri-state" narcotics and gambling arrests, both of which are described in detail in P-19 and P-21.

According to the FOP, the successes of the Somerset County Sheriff's Department and the high esteem and professional image to which they are held and identified are further established in P-5 and P-6 which include letters of commendation and newspaper articles describing the successes of the Sheriff's officers and the office generally. Included within this Exhibit are commendations from various municipalities within the County, the Prosecutor's office, the Somerset Police Academy, various fire departments, and even Judge Arnold, presiding Judge of the Superior Court of New Jersey for Somerset County. The Newspaper articles (P-6) are too numerous to enumerate in this brief and the Arbitrator is respectfully requested to review those many articles covering all sorts of successes and citizens outreach efforts which are part of the mission of this law enforcement agency. The "Honor Guard" of the Somerset County Sheriff's office further enhances the professionalism and personal initiatives of the personnel within the bargaining unit. (P-25).

The FOP contends that staffing has not kept up with these new challenges. The employee roster for this bargaining unit includes forty personnel. (P-7). In the 90's, many bargaining unit personnel left the Sheriff's department to go to other law enforcement agencies. The FOP submits that there were twenty-nine such resignations to work in other law enforcement agencies. (P-8). In 1998, nine persons left the department for other law enforcement agencies. In 1999, two left for other law enforcement agencies. In 2000 four Sheriff's Officers left for other law enforcement agencies. In 2001, three Sheriff's Officers resigned and in 2002, one Sheriff's Officer left to work in another law enforcement agency. (P-8). During the term of the last contract (J-1) four Sheriff's personnel retired, 2 of them

supervisors. (P-9). There was also one tragic death of a Sheriff's Officer which took place in July of 2000. During 2001 and 2002, three persons left the bargaining unit by promotion. The FOP notes that the bargaining unit has remained fairly static over the last several years resulting in a more junior officer in years of service. The FOP submits that exceptional expertise, professionalism and training as well as the high esteem to which Somerset County Sheriff's Officers are held in the law enforcement community is problematic since these highly skilled, motivated and trained personnel are under paid and are attractive candidates to other law enforcement agencies. Almost every Sheriff's officer who resigned from the Somerset County Sheriff's Dept. has been hired by another law enforcement agency. These agencies hire a fully trained and experienced officer with all the expense of applicant recruitment, training, etc. being absorbed by the Somerset County Sheriff's Department. The FOP asserts that it is beneficial and more cost effective to the County to retain the trained and experienced well functioning Sheriff's Officer rather than have to have a continuously ongoing training program and a sort of "revolving door" approach to staffing.

The FOP submits that, based on the numerous documents in evidence, the video tape prepared by the Sheriff's office and the testimony of FOP President Szczecina, this is an exceptional law enforcement agency with a high level of productivity and proficiency offered to the public. This agency performs all of the constitutional and statutory duties of a Sheriff's Officer as well as the duties traditionally found elsewhere performed by a County level police agency. The Somerset County Sheriff's office is effectively also the Somerset County Police Department. All duties and functions both traditional and innovative have been undertaken with professionalism and resultant success. This is a model law enforcement agency which well serves the interest and welfare of the public.

***Comparison of Wages and Terms
and Conditions of Employment***

The FOP contends that the current compensation program contributes to the high turnover rate. According to the FOP, the Somerset County Sheriff's Officer is among the lowest paid and there are no offsetting benefits to justify the low base wage. The FOP submits that if something is not done to rectify this low compensation program, the flow of talented, experienced and well-trained officers will continue out of the Somerset Sheriff's office and into the other agencies as has been noted in the evidence at hearing. This flow of talent out of the Sheriff's office must be addressed. The FOP notes that morale is high and the officers enjoy their work and address it with initiative and professionalism. However, these officers are also heads of household and have financial obligations to meet.

The FOP claims that the base pay of the Somerset County Sheriff's Officer is far below average and the lowest of all contracts placed in evidence by the FOP. The following is a comparison of the 2001 base pay for top step non-supervisory employees in Somerset County municipalities:

**Comparison of 2001 Maximum Rates Among
Somerset County Municipalities**

Somerset Co. Municipality	2001 maximum
Bernards Twp	\$62,291
Bernardsville Twp	63,390
Bound Brook	61,987
Franklin	64,851
Hillsborough	62,051
Manville	69,593
Montgomery	65,936
North Plainfield	65,392
Peapack-Gladstone	61,833
Raritan	60,875

Somerville	63,839
Warren	61,976
Watchung	61,888
Average 2001 Base Rate	\$63,531
Somerset Sheriff's Officer 2001 Max Rate	\$58,537
Somerset Sheriff's Officer Compared to Average	(\$4,994) (8.53%)

The FOP points out that it would take more than an 8.5% increase as a market rate adjustment just to bring the Somerset Sheriff's Officer up to average for 2001.

The FOP submitted the following chart comparing the maximum rates in effect in 2002:

**Comparison of Maximum Rates 2002 Among
Somerset County Municipalities**

Bernards Twp	\$67,903
Bedminster	65,926
Branchburg	67,729
Bound Brook	64,157
Bridgewater	74,065
Franklin	67,445
Hillsborough	64,742
Montgomery	68,573
North Plainfield	68,007
Raritan	63,280
Somerville	66,393
Warren	64,455
Watchung	64,363
Bloomingdale	66,506
Vernon	63,983
Average	66,502

The FOP contends that not only is the maximum pay rate for Somerset County Sheriff's Officers the lowest among all contracts in evidence. It also takes longer to get to that maximum rate than any other jurisdiction in evidence. The FOP submitted the following data comparing the average numbers of steps for non-supervisory municipal employees based on contracts in evidence.

**Annual Steps to Maximum Among
Other Municipalities in Evidence**

Bernards Twp	6
Bernardsville Twp	6
Bound Brook	4
Branchburg	6
Bridgewater	9
Franklin	7
Green Brook	6
Hillsborough	6
Manville	8
Montgomery	6
North Plainfield	6
Peapack-Gladstone	6
Raritan	4
Somerville	6
Warren	6
Watchung	3
Bloomingdale	7
Vernon	4
Average	5.9 steps
Somerset Sheriff	11 steps
Somerset Sheriff Compared to Average	(5.11 steps)

The FOP asserts that it takes approximately double the time to reach that maximum pay rate when compared to other jurisdictions. It requires a Somerset County Sheriff's Officer who goes through all the steps to take eleven years to reach maximum.

The FOP contends that the number of steps to maximum is relevant since the FOP is seeking a "Senior Officer step" upon completion of twenty years of service. Adjustment of the step program is an opportunity to create equity. The FOP initially requested a reduction in the number of steps. The FOP submits that the creation of a senior officer step is cost effective since few officers are close to qualifying. The FOP submits that the creation of a 20th year step will encourage employee retention. The FOP contends that the County has acknowledged the inadequacy of the step program by bringing in newly hired employees at higher steps on the salary schedule. The FOP submits that this lends support to its contention that the step system is too long and fails to retain employees. The FOP asserts that a senior officer differential step is particularly attractive in this proceeding since the employer has stipulated that there are no financial issues or economic considerations to be raised.

The FOP contends that the low maximums must keep pace with the following settlements achieved in other jurisdictions:

**Base Rate Increase in Percent of Changes -
Employee Organization Exhibits**

	2002	2003	2004
Bernards Twp. PBA	4	4	3.95
Bernards Twp. SOA	4	4	3.95
Bernardsville	4	4	
Branchburg PBA		4	4
Branchburg SOA		4	4
Bridgewater		4	4
Franklin PBA	4	4	4

Franklin SOA	4	4	4
Green Brook	8.2	5	
Hillsborough	4	4	
Montgomery PBA	4	4	
Montgomery SOA	4	4	
North Plainfield	4	4	4
Raritan	3.95	3.95	
Somerville	4		
Warren	4	4	
Watchung	4		
NJ State Police	4	4	
Bloomingtondale	5 (3/2)	5 (3/2)	
Vernon	5 (3/2)	4.5	4.5
Bound Brook	3.5		
Averages	4.314%	4.136%	4.044%

The FOP notes that it previously established that it would take more than an 8.5% increase for the Somerset County Sheriff's Officer to get to average in 2001. The FOP asserts that the 8.5% "market adjustment" would have to be made before applying the above average increase. These adjustments would satisfy the FOP's goal of "catching up" and maintaining an average wage positioning. It would take the 8.5% increase as a market rate adjustment together with the sum of the above annual average increases of 4.314%, 4.136%, and 4.044%. The FOP calculates the total salary increase over the three years to maintain average to be just under 21% or 7% annually. The FOP notes that this is more than the 5% it is proposing.

The FOP submitted salary data from other Sheriff's Officer contracts showing that Somerset County Sheriff's Officers 2001 maximum of \$58,537 do not fare well when compared with other counties. The FOP notes that it would also require an approximate 8.5% increase to reach average.

**Comparison of 2002 Sheriff's Officer
Base Rates in other Counties**

Mercer Sheriff	\$60,951
Middlesex Sheriff	63,104
Morris Sheriff	62,079
Ocean Sheriff	62,350*
Passaic Sheriff	65,623
Union Sheriff	65,687
Averages	\$63,489

* 2001 rate

The FOP submitted the following chart to illustrate that the number of steps required to reach maximum in Somerset County are well above the norm:

**Comparison of Number of Steps Required to Reach
Maximum Pay Based on FOP Evidence in the Record**

Mercer Co. Sheriffs	8
Middlesex Sheriffs	5
Morris Sheriffs	9
Ocean Sheriffs	7
Passaic Sheriffs	7
Union Sheriffs	10
Camden Sheriffs	4
Average	7.85 steps
Somerset Sheriff	11 steps
Somerset Sheriff compared to average	(3.15 steps)

**Sheriff's Officers Contract Base Rate Increases Based
on FOP Evidence in the Record**

	2002	2003	2004
Middlesex Sheriff	4.75	4.75	4.75
Mercer Sheriff	4 (2/2)	4.5 (2/2.5)	4.75 (2/2.75)

Morris Sheriff	3.5		
Union Sheriff	4	4	4
Camden Sheriff	4		
Averages	4.05%	4.416%	4.5%

The FOP points out that the above average increases exceed the average increases of municipal officers.

The FOP asserts that the entire compensation program is lacking in comparison to other jurisdictions. The maximum longevity available is 3.75% after twenty-six years of service, one of the lowest longevity programs of any contract in evidence. Longevity programs between 8 and 10% are common and included in the CBAs in Somerville and Hillsborough.

The FOP notes that Franklin Township provided a \$2,000 “market adjustment” in two of the contract years. This additional \$2,000 “market adjustment” was above the 4% salary increases. According to the FOP, Franklin Township recognized the need to attract and retain employees with appropriate pay rates. The maximum rate in Franklin Township in 2000 is \$64,851. The Somerset County Sheriff’s Officer’s maximum pay in 2001 is \$6,314 less. This does not include the additional 8.5% longevity plan in Franklin Township.

According to the FOP, many contract settlements include benefits folded into base pay. (P-43, P-44, P-30 and P-31). The FOP asserts that this trend supports its proposal to fold the clothing allowance into the base rate.

The FOP points out that the County has reached settlement with other bargaining units and has granted increases to non-bargaining unit employees at rates significantly higher than it has proposed in this matter. The FOP submitted the following data based upon a calculation from the Salary Adjustment Accounts that were the subject of cross-examination of Connie Sutton, County Compensation Specialist:

**2002 Salary
Adjustment Accounts**

Board of Utilities	4
Board of Taxation	5.2
Bridges	3.91
Consumer Affairs	3.38
Cultural & Heritage	7.65
Emergency Management	4.55
Human Resources	4
Human Services	4.58
Mutual Health	4.76
Office of Aging	4.38
Public Information	10

The FOP questions why the County granted the above adjustments. The FOP points out that the Somerset County Prosecutor's Office contract (P-54) and the Somerset County Jail contract (P-55) provided higher salary increases than are being proposed in this matter.

The FOP notes that the Sheriff who oversees Correction Officers made a direct and voluntary settlement with PBA Local 177, representing Somerset County Correction Officers. This contract is significant in that it reflects what the Sheriff has done for a parallel unit that works as Correction Officers in this County. The CBA provides for maximum step increases of 3.8% in 2002 and 4.48% in 2003. (P-55, at 57). The average is 4.14%. The Somerset Sheriff's Officers Corrections Supervisors covered by the same contract received wage increases of 4.25% in 2002 and 4% in 2003. The FOP questions why the County is treating the Sheriff's Officers differently.

The FOP also notes that the Somerset County Prosecutor and the Somerset County Board of Chosen Freeholders have entered a voluntary agreement with Somerset County Prosecutor's Detectives, PBA Local 307. The Prosecutor's Detectives bargaining unit negotiated a salary increase of 4.25% in 2002. (P-54, Appendix A-1).

The FOP asserts that private sector comparisons should not be entitled to great weight in this proceeding. Due to the unique statutory obligation and treatment of police officers under New Jersey Law, any comparison of said law as it applies to private sector employees as compared to police officers must result in a strong justification for significantly higher compensation to be paid to police officers. The FOP cites the decision of Interest Arbitrator Carl Kurtzman on this point:

As other arbitrators have noted, it is difficult to compare the working conditions of public sector police officers with the working conditions of private sector employees performing the same or similar services because of the lack of specific private sector occupational categories with whom a meaningful comparison may be made. The standards for recruiting public sector police officers, the requisite physical qualifications for public sector police and their training and the unique responsibilities which require public sector police to be available and competent to protect the public in different emergent circumstances sets public sector police officers apart from private sector employees doing somewhat similar work. Accordingly, this comparison merits minimal weight. (**Borough of River Edge and PBA Local 201, PERC IA-97-20, pg. 30**)

The PBA asserts that private sector comparisons should not be considered controlling here. In the first instance, there is no comparable private sector job compared to that of a police officer. A police officer has obligations both on and off duty. This is most unusual in the private sector. A police officer must be prepared to act and, under law, may be armed at all times while anywhere in the State of New Jersey. Certainly this is not seen in the private sector. The police officer operates under a statutorily created public franchise of law enforcement with on and off duty law enforcement hours. Once again such public franchise and unique provision of statutory authority is not found in the private sector. There is no portability of a pension in the law enforcement community after age thirty-five. Police officers may not take their skills and market them in other states as one may market one's own skills in the private sector. A machinist or an engineer may travel anywhere in the county to relocate and market their skills. This is not possible for a police officer. The

certification is valid locally only. The nature of police work is inherently one of hazard and risk. This is not frequently seen in the private sector.

The following represents certain statutory and other precedential laws controlling the relationship of police officers to their employers.

1. The Federal Fair Labor Standards Act, 29 USCA sect.201, et seq applies different standards to private sector employees and police officers. Whereas private sector employees have the protection of the 40 hour work week and the 7 day work cycle, police officers are treated to much less protection. Police officers have only relatively recently been covered by the Act by virtue of the 7k amendment.
2. The New Jersey State Wage & Hour Law, NJSA 34:11-56a, et seq does not apply to the employment relationship between a police officer and the officer's public employer. Private sector employees are covered under New Jersey Wage and Hour Laws. Such protections as are therein available are not available to the police, **Perry v. Borough of Swedesboro, 214 NJ Super. 488 (1986).**
3. The very creation of a police department and its regulation is controlled by specific statutory provisions allowing for a strict chain of command and control. Included are statutory provisions for rules and regulations, specifying of powers and duties, specifics for assignments of subordinate personnel, and delegation of authority. **NJSA 40A:14-118.** There is no such statute covering private employment in New Jersey.
4. **NJS 40A:14-122** provides for specific qualifications which are statutorily mandated for police officer employment. Such requirements as US Citizenship, physical health, moral character, a record free of conviction, and numerous other requirements are set forth therein. No such requirement exists by statute for private employment in this state.
5. If an employee in a police department is absent from duty without just cause or leave of absence for a continuous period of five days said person, by statute, may be deemed to cease to be a member of such police department or force, **NJS 40A:14-122.** No such provision exists as to private employment.
6. Statutorily controlled promotional examinations exist for certain classes of police officers in New Jersey under title 11 and other specific statutory provisions exist under **40A:14-122.2.** There are no such private sector limitations on promotion.
7. A police officer in New Jersey must be resident of the State of New

Jersey, **NJS 40A:14-122.8**. No such restriction exists for private sector employees.

8. Hiring criteria and order of preference is set by statute **40A:14-123.1a**. No such provision exists for private employees in New Jersey.
9. There are age minimums and age maximums for initial hire as a police officer in New Jersey. No such maximum age requirements exist for private employment in this state. Even if an employee in a police department who has left service seeks to be rehired there are statutory restrictions on such rehire with respect to age, **40A:14-127.1**. No such provision exists for private employees in this state.
10. As a condition for employment in a police department in the State of New Jersey there must be acceptance into the applicable Police Retirement System, **NJS 40A:14-127.3**. No such requirement exists in private sector. The actual statutorily created minimum salary for policemen in New Jersey is set at below minimum wage **NJS 40A:14-131**. Private employees are protected under the Fair Labor Standards Act. Days of employment and days off, with particular reference to emergency requirements are unique to police work. A police officer's work shall not exceed 6 days in any one week, "except in cases of emergency". **NJS 40A:14-133**. The Fair Labor Standards Act gives superior protection to private sector employees.
11. **NJS 40A:14-134** permits extra duty work to be paid not in excess of time and one-half. This prohibits the higher pyramided wage rates which may be negotiated in private sector. There is no such prohibition in the law applying to private sector employees.
12. The maximum age of employment of a police officer is 65 years. No such 65 year maximum applies to private sector employees.
13. Police Officer pensions are not covered by the federal ERISA Pension Protection Act. Private sector employees pensions are covered under ERISA.
14. Police officers are subject to unique statutorily created hearing procedures and complaint procedures regarding departmental charges. Appeals are only available to the court after exhaustion of these unique internal proceedings, **NJS 40A:14-147 to 40A:14-151**. No such restrictions to due process protections for private employees exist. Private employees, through collective bargaining agreements, may also negotiate and enforce broad disciplinary review procedures. The scope is much different with police personnel.

According to the FOP, the greatest differentiation between police officers and private employees generally is the obligation to act as a law enforcement officer at all times of the day, without regard to whether one is on duty status within the state or not. Police officers are statutorily conferred with specific authority and “. . . have full power of arrest for any crime committed in said officer’s presence and committed within the State of New Jersey.” **NJS 40A:14-152.1.** A police officer is specially exempted from the fire arms law of the State of New Jersey and may carry a weapon off duty. Such carrying of deadly force and around the clock obligation at all times within the State is not found in the private sector.

Police officers are trained in the basic police academy and regularly retrain in such specialties as fire arms qualifications. This basic and follow up training schedule is a matter of New Jersey Statutory law and is controlled by the Police Training Commission, a New Jersey Statutorily created agency. Such initial and follow up training is not generally found in the private sector. Failure to maintain certain required training can lead to a loss of police officer certification and the police officer’s job. This is rarely found in the private sector.

Mobility of private sector employees is certainly a factor in the setting of wages and terms and conditions generally for private sector employees. Where a company may move from one state to another, there is more of a global competition to be considered. The New Jersey private sector employee must consider the possibility that his industrial employer might move that plant to a another state or even another country. This creates a depressing factor on wages. This is not possible in the public sector. The employees must work locally and must be available to respond promptly to local emergencies. The residency restriction has been above mentioned. In a private sector labor market one might compare the price of production of an item in New Jersey with the price of production of that item in other states, even in Mexico.

The FOP cites the following excerpt from the decision of Arbitrator William Weinberg that local comparisons are more relevant with police wages:

Second of the comparison factors is comparable private employment. This is troublesome when applied to police. The police function is almost entirely allocated to the public sector whether to the municipality, county, state or to the national armed forces. Some private sector entities may have guards, but they rarely construct a police function. There is a vast difference between guards, private or public, and police. This difference is apparent in standards for recruiting, physical qualifications, training, and in their responsibilities. The difficulties in attempting to construct direct comparisons with the private sector may be seen in the testimony of the Employer's expert witness who used job evaluation techniques to identify engineers and computer programmers as occupations most closely resembling the police. They may be close in some general characteristics and in "Hay Associates points", but in broad daylight they do seem quite different to most observers.

The weight given to the standard of comparable private employment is slight, primarily because of the lack of specific and obvious occupational categories that would enable comparison to be made without forcing the data.

Third, the greatest weight is allocated to the comparison of the employees in this dispute with other employees performing the same or similar services and with other employees generally in public employment in the same or similar comparable jurisdictions (Section g. 2(a) of the mandatory standards.) This is one of the more important factors to be considered. Wage determination does not take place without a major consideration of comparison. In fact, rational setting of wages cannot take place without comparison with like entities. Therefore, very great weight must be allocated to this factor. For purposes of clarity, the comparison subsection g,(2), (a) of the statute may be divided into (1) comparison within the same jurisdiction, the direct employer, in this case the Village, and (2) comparison with comparable jurisdictions, primarily other municipalities with a major emphasis on other police departments.

Police are a local labor market occupation. Engineers may be recruited nationally; secretaries, in contrast, are generally recruited within a convenient commute. The nearby market looms large in police comparisons. The farther from the locality, the weaker the validity of the comparison. Police comparisons are strongest when in the local area, such a contiguous towns, a county, an obvious geographic area such as the shore or a metropolitan area. Except for border areas, specific comparisons are non-existent between states. (Ridgewood Arbitration Award, Docket No.: IA-94-141, pages 29 - 31)

The FOP maintains that any time there is a comparison made between a police officer and a private employee generally, the police officer's position must be given greater weight by such comparisons. The police officer lives and works within a narrowly structured

statutorily created environment in a paramilitary setting with little or no mobility. The level of scrutiny, accountability and authority are unparalleled in employment generally. The police officer carries deadly force and is licensed to use said force within a great discretionary area. A police officer is charged with access to the most personal and private information of individuals and citizens generally. His highly specialized and highly trained environment puts great stress and demand on the individual. Private employment generally is an overly generalized category that includes virtually every type of employment. To be sure in such a wide array of titles as the nearly infinite number covered in the general category of “private employment” there are highly specialized and unique situations. The majority, however, must by definition be more generalized and less demanding. Specialized skills and standards are not generally as high as in police work. A police officer is a career committed twenty-five year statutorily oriented specialist who is given by law the highest authority and most important public franchise. The police officer should be considered on a higher wage plane than private employment generally.

Stipulations of The Parties

The FOP notes the parties’ stipulation that statutory criteria g5 and g6 are not relevant in this case. The stipulation was entered in the record during the hearing.

Lawful Authority of The Employer

The analysis of criteria g5 under the Act is not necessary in this case since the parties stipulated that criteria g5 is not relevant to my determination in this case. The stipulation was entered in the record during the hearing.

The Financial Impact on The Governing Unit, Its Residents and Taxpayers

The analysis of criteria g6 is not necessary in this case since the parties stipulated at hearing that criteria g6 is not relevant to my determination in this case. The stipulation was entered in the record during the hearing.

The Cost of Living

The FOP contends that a review of this criterion usually focuses on the percentages of change without consideration of relative positioning. The FOP contends that Somerset County Sheriff's Officers are substantially underpaid and are not paid consistent with the officer's peer compensation. The FOP contends that the cost-of-living factor would be more relevant if a Sheriff's Officer was at an average position when compared with comparable jurisdictions.

The FOP suggests that the focus should be upon the specific job and the compensation that specific job receives. The FOP refers to P-90 in support of its position. P-90 is PERC publication citing the rate of change in certain areas of wages. The FOP notes that this document shows that the average annual change in wages for all areas is 6.4%. (P-90, at 2). The most recent year reported in P-90 shows Somerset County with a 5.2% increase. The FOP also cites a recent rate report from the American Compensation Association showing an average rate increase of "just over 4%" for US Salaries. (P-92).

The Continuity and Stability of Employment

The FOP contends that this statutory factor requires an evaluation under the traditional labor principles of "area standards" and "going rate". The FOP contends that the application of these concepts supports an award of its proposals. The FOP repeats its contention that there is very strong empirical data supporting an award of its position.

The FOP notes that it is seeking the opportunity to elect compensatory time in lieu of paid compensation after working extra duty. This proposal actually saves the employer money. Paid compensation by its nature must be paid within a specific period of time consistent with law. Compensatory time does not require a cash transaction and requires prior approval. The employer is doubly protected. There is no cash transaction at the effective date of the extra work and there is no later impact since the employer's approval is required for any request of time.

The FOP suggests that this is also the case with its proposal to codify off duty work procedure. The FOP seeks to identify that which exists. The FOP cites the testimony of President Szczecina who described the specifics of this procedure and how it has been carried out for a long period of time. According to the FOP, Szczecina's testimony was essentially unchallenged.

The final proposal of the FOP is to correct Section 30.1 (Convention Leave) of the current CBA. The FOP contends that its proposal is fully supported by a change in the law. The effective statute which was previously in place was changed. The Association seeks nothing more than compliance with the new law. A copy of the new statute was introduced into the record as P-94. The FOP notes that the new statute is effective January 3, 2002. The FOP asserts that it seeks only what is statutorily mandated. The language in the contract should be corrected to conform to the statutory change.

The FOP contends that evidence in the record did not support many the County's proposals. An example of unsupported data is the medical issue. The FOP contends that the County wants changes in this long-standing benefit yet the County did not identify any other group in the County, whether aligned in a bargaining unit or not, subjected to such change. Even Compensation Specialist Connie Sutton acknowledged on cross examination that she was not subject to such contributions. The FOP questions why its unit members should be subject to a harsh economically expensive contribution program of lesser coverage when no other County bargaining unit is subject to such a demand. The FOP submits that the New Jersey Interest Arbitration Law should not be interpreted as an opportunity to "take a free shot" at employee compensation. If something is justified and weighed under all of the criteria then it may be subject to consideration. The FOP asserts that this issue never gets to the analysis of "weight of evidence" since the County has offered no evidence. The FOP suggests that the County has failed to satisfy the requirements of the section (g) criteria.

The FOP asks that its proposals be awarded.

THE COUNTY'S POSITION AND ARGUMENT

The County describes the FOP's three-year 5% across-the-board salary proposal as unreasonable. According to the County, it results in a 31.8% total increase for the FOP members for the three-year period when increments are included. The County asserts that incremental step movement must be taken into consideration when calculating Sheriff's Officer salary increases. The County calculates the cost of the FOP's 5% increase in 2002 as 10.12%.

The County calculates its three-year salary proposal as 19.14%. The County asserts that it has submitted evidence which verifies the serious problems in the county, state and national economies; the very low cost of living increases; the state of medical insurance coverages for employees; private sector wage increases; public sector wage increases and other additional evidence, all of which clearly support its positions.

The County contends that now is the time to remedy the following serious defects in the CBA:

- Remove the step movement enhancement provisions of Article II, Section 2.3.
- Delete longevity payments.
- Require additional medical and dental co-payments.
- Standardize educational reimbursement with other County contractual and non-contractual employees.

The following is the County's position on the outstanding noneconomic issues:

The County proposes that Article VI, Section 6.2 of the CBA reworded to read:

“Officers shall start accruing call-in time benefits as of the time that personal contact is made with the Officer; provided, however, that no Officer shall be paid for more than 30 minutes of time spent responding to the workplace.”

According to the County, currently the supervisor often reaches an answering machine and the argument of the Officers is that the time of the “pertinent call” is when the answering machine receives the call and overtime runs from that time. Also, unless the supervisor actually talks to an Officer, the supervisor does not know if the Officer is responding to duty and cannot adequately complete the overtime assignment. The County seeks to modify the current contractual language to remedy these two problems. The County asserts that its request is reasonable and that the FOP did not offer any persuasive evidence against its modification.

The County proposes the deletion of Article XVII, Section 17.1 of the CBA:

“This rate shall be effective from January 1, 1998 and a retroactive adjustment will be completed in relation thereto.”

The County claims that this language is unnecessary. The County contends that this is merely a language “cleanup” matter and that there was no objection to this request by the FOP at the hearing. The County submits that the FOP agreed to delete Article IV, Section 4.1 from the current CBA.

The County proposes that the following language be added to Article XXXV, Section 35.1(B):

“Officers that are working the afternoon or midnight shifts cannot sign up for pager duty.”

According to the County, Pager Duty requires an Officer to be available for duty during off duty hours (those hours other than 8:30 a.m. to 4:30 p.m. Monday to Friday) and the Officer is compensated for that status. The County contends that an Officer actually on duty for any portion of the day outside normal work hours cannot reasonably request pager duty, as he is already being paid to work the hours or part of it which Pager Duty would cover. The County asserts that an Officer should not be paid twice for the same work.

Salary/Increments

The County asserts that it has offered the FOP a fair and generous proposal for salary increases for 2002, 2003 and 2004. The County submits that the goal of its salary proposal is to take into consideration the existing incremental step movement, provide a reasonable increase for that movement and to “smooth out” the large increases at steps 6 and 10.

The formula used for the year 2002 is a \$600 increase for steps 1, 2 and 3; \$700 for steps 4, 5, 7, 8 & 9; \$0 for steps 6 and 10; and \$800 for step 11. (See E-15, Chart A). The County asserts that its approach is more than reasonable because of the County, State and national economic conditions, the current and past cost of living increases and other public and private sector wage increases.

The County asks that I take into account the existing incremental step movement built into the CBA. The County calculates an average 4.75% on each step of the salary schedule. The County submits that a 4.75% increase is, by itself, a more than adequate salary increase for any worker in the County, State or Country. The County describes the incremental step movement as “unconscionable” According to the County, the general Somerset County resident received a 1.6% average salary increase in 2001. The County submits that this is well below the 7.77% FOP salary proposal and is unacceptable to the public.

The County concedes that the present Sheriff’s Officer compensation system cannot be remedied in one contract and proposed the following salary increases:

- 6.13% increase in 2002
a \$96,871 total dollar increase in 2002
- 6.25% increase in 2003
a \$104,813 total dollar increase in 2003
- 5.7% increase in 2004
a \$100,833 total dollar increase in 2004

The total salary increase is \$302,517 over three years producing a 19.14% total salary increase for the FOP members. The County requests that I find that incremental step movements and across-the-board salary increases are not two separate items — they must be viewed together as salary increases. The County asserts that step movement salary increases and across-the board-salary increases both provide additional money to bargaining unit members.

The County claims that its proposal is the best it can do for its taxpayers and the FOP members. The County cites the Somerset County Vocational and Technical Schools salary guide, which provides a percentage for salary increases over the total salaries paid the year before. (E-42). The new money is then spread through the salary guide with no built-in incremental steps.

Chart B in E-15 shows the costs to the County from its seven recent new Sheriff's Officers. Using the County proposal as contained in Chart A of Exhibit 15, the County salary increase over the three-year term is 21.59%. E-14 shows the salary distribution in the Somerset County Sheriff's Office. It clearly shows an increase in the number of step 11 officers. Once an Officer reaches the top of the salary guide (step 11), an Officer would be treated as set forth in E-15. No new steps should be added to the salary guide. The Officer would receive only the negotiated salary increase with no step movement.

E-16 shows the dollar increases and percentage increases of the County's proposal. The annual salary increases proposed by the County over three years (excluding step 11) range from \$2,350 to \$5,700 with the annual percentage increases ranging from 5.33% to 10.21%. The County asserts that 5.33% and \$2,350 salary increases would be more than adequate in today's economic times, and when compared to the average 1.6% Somerset County private sector salary increase in 2001. (E-4).

E-17 shows the costs of salary and other benefits for Somerset County Sheriff's Officers. The percentage of benefits to salary is 29.55%. The County contends that the benefits currently provided (longevity, health, dental, social security, pension, worker's compensation, uniforms and shoes), are very generous and must be taken into consideration in this matter. According to the County, there was a time when a Sheriff's Officer may have been under compensated in relation to the private sector in base salary and the overall compensation was sweetened by a great benefits package. The County argues that it was fair at that time, but now that Sheriff's Officers salaries exceed private sector salaries, the extraordinary benefits package is becoming unreasonable. (E-5). The County asks that I give this consideration in my Award.

According to the County, part of the extraordinary benefits package is the time off allowed to Sheriff's Officers (i.e., personal days, vacation days, bereavement leave, sick days and holidays). The costs to the County for those benefits range from \$6,404 to \$10,791 annually equating to from 18.46% to 27.31% of salary. The County asks that I give this consideration in my Award.

The County submitted the following in support of its economic position:

- E-28 is a news article from the Courier News September 30, 2002. There is a quotation from a state resident that sums up how workers in New Jersey feel about the economy: "The way things are now, I'd rather have my job than get a raise." The average raise in New Jersey is estimated at 3.9% for 2003 and was 3.8% for 2002. These are total raises, not the smoke and mirrors concept of step movement and across the board increases. The general tenor of the Article is: "Workers next year are unlikely to see big pay raises." The article also notes that "Health care costs are spiraling, forcing workers to pay more out of their pockets."

The County argues rhetorically: In light of the above sentiments of the general public, how do the Sheriff's Officers even think about asking for a 31.8% increase over a three-year period? The County contends that the FOP's request is unconscionable and that I should award the County's 19.4% salary proposal.

E-29 is the September 27, 2002 letter from a Senior Vice President at Salomon Smith Barney, showing major stock market positions over the last 4½ years. The decline from December 31, 1999 to September 26, 2002 shows the Dow Jones, S&P and NASDAQ down 30.4%, 42% and 70% respectively.

E-30 is a letter dated September 26, 2002 from SDA which is an MAI appraiser in Somerset County. The County submitted the letter to show the status of commercial real estate vacancy rates in Central Jersey:

“The general consensus among commercial real estate brokers and analysts is that the office market has softened significantly over the last 2 years, going from historically low vacancy rates in the late 1990's to nearly historically high vacancy rates just this year.”

The County notes that the average vacancy of the reporting services for Central Jersey was 12.1% in the second quarter of 2001 and 20.4% in the second quarter of 2002. The specific Somerset County vacancy rate for the same period of time doubled from 8.7% to 17.4%. The County argues that Somerset County's economic problems must be considered in my Award.

Other Issues

Section 2.3 of Article II (Salaries) states as follows:

2.3 During the years 1999 and 2000, all Sheriff's Officers who complete twelve and one (12½) years of service with the Sheriff's Department will have their base salary adjusted on the next January 1 to an amount equal to the highest base salary being paid to any other member of the bargaining unit. Beginning with the year 2001, all Sheriff's Officers that have one-half (½) year of service with the Sheriff's Department less than the number of years required to be placed on the highest step of the Salary Guide, will have their base salary adjusted on the next January 1 to an amount equal to the highest base salary being paid to any other member of the bargaining unit.

The County contends that Section 2.3 provides an unreasonable benefit to Sheriff's Officers and must be deleted or, in the alternative, must be modified to only be applicable to employment service as a Sheriff's Officer. It must not apply to general county service for other than Sheriff's Officers. The County calculates the cost of this benefit at \$9,164 or 2.36% over the term of the new CBA. (E-21). The County asks that if this section is not deleted it should be modified to be limited to time of service within the Sheriff's Department.

Longevity

The County proposes to delete Article III, Section 3.1(Longevity) prospectively, grandfathering all Officers that have at least five years service with the Sheriff's Department as of January 1, 2002. The County contends that longevity is an expensive benefit and in light of the automatic step movement provisions of the CBA, it is unreasonable to have the County paying this benefit. E-34 shows that Union County and Camden County have recently eliminated longevity payments. E-32 shows the longevity costs for the proposed step guides of the FOP and the County. The County proposes a 71.26% increase (existing contractual obligation) while the FOP proposes a 308.3% increase. E-33 shows the County's proposed individual increases including longevity. The County asserts that the FOP's longevity proposal with a 308.3% increase is out of control. The County asks that its longevity proposal be granted.

Health Insurance

The County notes that it currently pays 100% of the Oxford POS Plan and the Officer pays a part of the Oxford PPO, the Cigna and the Core Source Plans. The County pays for basic dental coverage and the Officer pays for enhancements. (E-35).

The County proposes the following:

- **Health Insurance:** Currently, the County pays 100% of the monthly premium for each tier of Oxford-POS. The County proposes to pay 90% of the monthly premium for each tier of Oxford-POS. The employee shall be responsible for the remaining 10%. For other plans where the County's monthly contribution exceeds 90% of Oxford-POS full premium, the employee shall be responsible for the remaining costs.
- **Dental Insurance:** Currently, the County pays 100% of the monthly premium for Traditional Plan, Employee Only. The County proposes to pay 90% of the monthly premium for the Traditional Plan for Employee Only. The employee shall be responsible for the remaining 10%. For other plans where the County's monthly contribution exceeds 90% of the Traditional Plan Employee Only full premium, the employee shall be responsible for the remaining costs. For plans where the County's monthly contribution is less than 90% of the Traditional Plan Employee Only full premium, no employee contribution will be required.

According to the County, the premiums for employer-sponsored health insurance increased 12.7% between the spring of 2001 and the spring of 2002, the largest increase since 1990. The County asserts that it is very common for employees to participate in costs of medical coverage in the private sector. The "Annual Survey of Employee Contributions for Health Benefits Premiums" (E-6) shows that in 2001 and 2002 the average monthly employee's contribution toward medical insurance was:

	<u>2001</u>	<u>2002</u>
Single	\$ 30	\$ 38
Family	\$150	\$174

The County notes that in 2002, this contribution resulted in employees paying 16% of the cost of premiums for single coverage and 27% of the cost premiums for family coverage. The County further notes that the percentage of covered employees whose employers paid the full cost of coverage in 2002 was 23% for single coverage and 9% for family coverage.

E-36 states that employees are likely to pay more for health benefits in the future. This year 43% of all firms and 78% of firms employing 200 or more employees (like the

County) report that they are “very” or “somewhat” likely to increase the contribution of their employees to health benefits costs in 2003. The County contends that public sector employees should share the cost of medical insurance in light of the substantial contributions made by employees in the private sector. E-37 shows that Union, Atlantic and Camden counties require Sheriff Officers to contribute to health insurance costs.

E-35 details the County’s proposal for employee sharing of County medical and dental insurance premium costs. Currently, FOP members share in the costs for enhanced medical and dental coverage in amounts between \$10 and \$800 monthly for medical and \$26.92 and \$60.57 monthly for dental. The County requires, under its proposal, contributions to the basic coverage for both medical and dental coverage and an increase in existing contributions for enhanced coverages. The County asserts that its proposal is reasonable in light of the costs to the County for this benefit, contributions to premiums in other counties and the status of medical insurance contribution in the private sector.

Educational Reimbursement

Article XIV of the current CBA provides as follows:

- 14.1 The purpose of the County Educational Reimbursement Plan is to permit full time employees to enroll in courses offered by recognized institutions of learning for job related training or courses which are not available within the County structure.
- 14.2 Prior approval by the Sheriff is required in order to be eligible for reimbursement.
- 14.3 Any officer who has receive prior approval and who receives a satisfactory passing grade will be reimbursed 100% of the eligible expenses to a maximum of \$1200 per calendar year. Reimbursement is made as follows: 50% upon successful completion of the course and 50% six months later.

The County seeks to standardize its educational reimbursement policy. The County's proposed policy is set forth as an attachment to its final offer. All employees in Somerset County use the proposed policy except the Sheriff's Officers. The policy proposed does not have a limited maximum reimbursement, but it does limit the reimbursement rate to the tuition charged by Rutgers. The County notes that the FOP has not objected to the County's proposed policy.

**County's Response to the FOP Proposal
and Evidence Submitted at the Hearing**

The County contends that most of the testimony presented by the FOP at the arbitration hearing went to the question of whether a Somerset County Sheriff's Officer is a municipal police officer or a Sheriff's Officer. The County asserts that society functions better with Sheriff's Officers protecting judges and the court house, serving warrants, serving process, transporting prisoners, sequestering juries and arranging for their food, lodging and general welfare, collecting of money to satisfy legal debts, conducting foreclosure sales, taking of finger prints, conducting the identification unit, maintaining records and files and completing other assigned functions. (E-22). However, Sheriff's Officers are not municipal police officers. The County notes that FOP President, Mark Szezecina, testified, in response to participation in Operation TriState (which performed narcotics and gambling operations), that in 2002 no gambling operations were conducted by the Sheriff's Office and two or possibly three narcotics operations were conducted by the Sheriff's Office in 2002. The County contends that these operations are conducted on a daily basis in municipal police departments. While it may be true that FOP members may on occasion be involved in police work directly related to criminal or disorderly persons matters, it is equally true that these are occasional matters and not performed on a daily basis or in a continuous manner.

The County submits that for the most part, the Somerset County Sheriff's Department performs administrative functions, not a criminal deterrent or enforcement function. The County notes that this is not meant to disparage the Sheriff's Officers whose job function is important. It is just not the same function as the State Police or Municipal Police.

The County notes that the FOP introduced as P-2, a copy of N.J.S.A. 40A:9-117.6 which sets forth a job description for a Sheriff's Officer, which reads in part:

“. . . to perform duties involved in attending the courts heretofore performed by court attendants, or in serving court processes, or in the investigation and apprehension of violators of the law, or in criminal identification, or in ballistics, or in any related work which the sheriff shall, from time to time, prescribe . . .”

Of the five areas set forth above, four are administrative in nature and one is more related to municipal police work. The County contends that this statute substantiates that Sheriff's Officers' work is more administrative than criminal deterrence and apprehension work.

The FOP introduced into evidence N.J.S.A. 43:15A-97 for the purpose of defining “Law Enforcement Officer” which runs the gamut from “principal inspector in the Division of Shell Fisheries” to officers in the state police and includes Sheriff's Officers. (P-3). The County acknowledges that all are law enforcement officers, but their job functions are different. A principal inspector in the Division of Shell Fisheries does not compare to a state police officer's job, nor do either compare to a Sheriff's Officer.

E-22, E-23 and E-24 show the different job functions performed by those officers in the Sheriff's Department, County Corrections Department and in a Municipal Police Department. The County contends that they are not comparable. A Sheriff's Officer does not work a rotating shift (24 hours per day) as does a municipal police officer. Sheriff's Officers are not on duty from 11:00 p.m. to 7:00 a.m., 4 Officers start at 7:00 a.m. and end

at 5:00 p.m., 4 Officers work from 1:00 p.m. to 11:00 p.m. and all others work steady days from 8:30 a.m. to 4:30 p.m., Monday through Friday (very similar to an office worker's workday). A Sheriff's Officer does not regularly enforce N.J. Criminal/Disorderly/Traffic statutes and municipal ordinances and they do not regularly investigate violations in the above cited areas.

Sheriff's Officers do attend training sessions on safety, use of force, airport protection, CPR, firearms and the like, but this training is for their use in a law enforcement backup role, not for their primary role, which is much more administrative in function. A municipal police officer has the same training and probably more in the above areas and uses this training in his or her primary police function.

E-43 is a comparison of assaults on Municipal Police and County Police. The County contends that E-43 shows that the municipal officer is almost 12 times as likely to be assaulted as the County Officer. Again this shows the jobs are not comparable. The County contends that a municipal police officer's job is much more dangerous than that of a Sheriff.

E-44 shows that Somerset County is not a violent county. Only 3 counties out of New Jersey's 21 counties have less violent crime, 17 Counties have more. Somerset County has almost 25% of the violent crime experienced by the average New Jersey county. E-46 is the Uniform Crime Report for New Jersey. The County submits that E-46 shows that being a Sheriff's Officer is much safer than a municipal police officer.

The County maintains that a Somerset County Sheriff's Officer is not a Warren Township Police Officer or any other municipal police officer. Both jobs are important, but are different and that difference is, in one way, shown in pay scales. The municipal officer's pay scale is higher than a Sheriff's Officer's pay scale.

The FOP, in P-7, P-8 and P-10, discussed Sheriff's Officers who separated or retired from the Sheriff's Office. The County disputes the FOP's claim that Sheriff's Officers left

because of poor pay. According to the County, as set forth in E-20, Sheriff's Officers range up to 20.3 years of service as of September 1, 2002 with the average length of service at 7.6 years. The County claims that this experience level does not appear abnormal.

E-21 shows that twenty-two Officers have left the Department since 1998: One died off duty, one injured and on disability, four retired, one was terminated for cause, one resigned with no new job indicated, and four went to municipal police departments or the prosecutor's office. The County contends that this shows that many Sheriff's Officers are attracted to municipal law enforcement. The County points out that no Officer left the Somerset County Sheriff's Office for another Sheriff's Office proving that the Somerset County Sheriff's Office is competitive with all other Sheriff's offices in New Jersey and that moving to a municipal police force is not a question of money, but rather the type of work the Officer is doing.

E-26A shows the costs to the County of the FOP's 5% across-the-board, step increase and longevity (excluding clothing in base). This exhibit breaks down the costs for each individual Sheriff's Officer. The total increase to the County is 31.8% (10.12% in 2002, 8.73% in 2003 and 9.23% in 2004). The individual three-year cumulative increases range up to 41.9%. The County contends that the FOP's salary proposal is unrealistic, is unfair to the County of Somerset and its taxpayers and is unreasonable in light of the economic times and in light of the cost-of-living raises to other public and private sector workers. The County calculates the total cost of the FOP salary proposal as \$502,179 for three years.

E-26B includes the cost increases to the County when clothing is added into an Officer's base salary. The increase then goes up from 31.8% to 34.2%.

E-27A & E-27B show the scattergram for the FOP proposal, both including and excluding clothing in base and shows the salary distribution. E-3 shows how many officers are at each pay step. The County's proposal results in a 19.62% salary increase for the FOP

members over a three-year period. The FOP proposal ranges from a 31.79% increase over a three-year period to 34.17% when clothing is added in; to 36.18% when longevity is increased by 2% at each plateau. The County describes the FOP's proposal as unrealistic.

E-4 is a comparison of Somerset County Sheriff's Officers' average salary increases and Somerset County Private Sector average salary increases during 1999, 2000 and 2001. In 1999, the Sheriff's Officer received 2.05 times the increase of his private sector counterpart; in 2000, the discrepancy was 1.53 times the increase of his private sector counterpart in favor of the Sheriff's Officer; and in 2001 it was 4.88 times the increase of his private sector counterpart. The County contends that E-4 shows how "out of kilter" the relationship between the Sheriff's Officer and the private sector employee salary increases have been. The County submits that the great medical and dental insurance, terrific pension, sick days, personal days, great vacation, clothing allowance, etc., etc., that are not provided to the private sector worker compounds the discrepancy even more.

The County contends that the historical trend is important when it comes to recent salary increases granted to Somerset County Sheriff's Officers. In 1999, a Sheriff's Officer's salary was about equal to the all-county (New Jersey) private sector average salary; in 2000 the officer pulled ahead of that average salary and, in 2001, he pulled far ahead of that average salary. The County contends that the salary increase granted in 2001 was not in step with the economic reality of New Jersey. The County notes that a Sheriff's Officer made less than the average state worker in 1999, made more than the average state worker in 2000 (\$1,182 more) and \$1,870 more than the average state worker in 2001. A Sheriff Officer on step 6 earns more than the average state worker. (E-8).

The average salary of a Sheriff's Officer for 2002 (based on the County Proposal) would be \$48,524. The County points out that 74.6% of all non-managerial County employees earn less than the average Sheriff's Officer.

The County contends that when Sheriff's Officer salary increases are compared to other Somerset County employee increases, it shows that in 2000 and 2001 the increases were the highest in the County, usually almost double: 7.93% and 7.77% compared to 4% and 4%. (E-12). The County contends that its salary proposal is the highest in the County for all 2002, 2003 and 2004 settlements which have been made. The County contends that Sheriff's Officer salary increases have far exceeded (more than doubled) public sector increases granted in 1999 and 2000. (E-12).

The County notes that the United States Private Sector average wage for 1999 was \$33,094; the average Sheriff's Officer's wage was \$40,579. In 2000, the US average wage was \$35,305 and the average Sheriff's Officer's wage was \$43,795. (E-12). The US average wage increased in 1999 by 4.5% and in 2000 by 6.7%. During the same period, the average Sheriff's Officer's wages increased by 8.0% in 1999 and 7.93% in 2000. The total increase for both years for the U.S. private sector worker was 11.2% and for the Sheriff's Officer it was 15.93%. The County contends that this discrepancy is too large and cannot be continued. (E-14).

A comparison of the Sheriff's Officer salary increases and the Consumer Price Index ("CPI") shows that in 2000, a Sheriff's Officer received salary increases 2.33 times the US CPI and 2.56 times the NY/Northeastern NJ Area CPI. In 2001, the salary increase was 4.86 times the US CPI and 4.57 times the NY/Northeastern NJ Area CPI. (E-19). The County submits that these increases cannot be justified in the present economic times. E-25 shows that the cost of fringe benefits provided to Sheriff's Officers is 28.32% of salary.

The County notes that E-38 shows the following average percentage increases in Sheriff's Officers' salaries in fourteen counties from 1998 through 2004:

1998 - 2.88%
1999 - 3.53%
2000 - 3.30%
2001 - 3.32%
2002 - 3.55%
2003 - 2.99%
2004 - 4.31%

The County further notes the following:

- The percentage increases set forth in E-38 are obviously much lower than the increases sought by the FOP.
- A 5% increase was granted in Bergen County in 2001 only for those hired after July 1, 1997 (this was a limited number of Officers).
- Cape May County did have a 5.8% increase in 2002, but it compensated with 0% increases for steps 1-6 for 2003 and 2004.
- Monmouth County had a 7.7% increase for step 9 in 2001, but for all other 8 steps, the increase was 2%.

The County contends that the other 11 counties have annual salary increases from 0% to 4.9%, with average increases in 2002 of 3.55%; 2003 of 2.99% and 2004 of 4.31%.

The County contends that the FOP's proposal is out of line and should be denied.

The County asserts that any comparisons by the FOP to municipal police departments is not justified and that the Somerset County Sheriff's Department is comparable to other New Jersey Sheriff's Departments. E-39 provides salary information for sixteen of New Jersey's Sheriff's Departments. The County contends that Somerset County's maximum Sheriff's Officers' 2001 salary was higher than ten of the sixteen counties surveyed: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Middlesex, Monmouth, Salem, and Sussex and lower than 6 of the counties surveyed: Bergen, Essex, Morris, Ocean, Passaic, and Union.

The County asserts that its maximum step salary is competitive and is only exceeded by counties that are much larger than Somerset. E-45 details further differences among the

sixteen counties as to area, housing units, and population density according to square miles. Based upon all these factors, the County asserts that its Sheriff's Officers are paid competitively when compared to other county Sheriff's Departments.

E-40 is a comparison of Somerset County Sheriff's Officers salaries with fourteen of the twenty municipal police officer salary schedules in Somerset County. The County reiterates that the job function of a municipal police officer is not comparable with that of a Sheriff's Officer. (E-22; E-24). The County asserts that the job is generally administrative in nature as opposed to the broader municipal police officer's job. The County contends that the salary schedules in E-40 show that the salary of Somerset County Sheriff's Officers is clearly related to the job functions performed.

E-41 shows that the only municipal police departments granting a 5% or better salary increase in any of the years set forth were Greenbrook (3 years), Far Hills (1 year, 1 level) and Franklin (1 year, 1 level). The other municipal police department salary increases ranged from 3.2% to 4.75%. The average percentage increase for the designated municipal police departments in Somerset County is:

2002	4.60%
2003	4.10%
2004	4.54%

The County asserts that its final offer is fair and reasonable and that the FOP's proposal is unrealistic, unreasonable and without basis. The County asks that its final salary offer be adopted.

Senior Officer Differential

The County opposes the FOP's proposal to establish a senior officer differential upon the completion of twenty years of service. This proposal provides a differential equal to 50% of the difference between a maximum step Sheriff's Officer and a Sergeant. E-50

shows that the cost of adding a senior officer differential is 8.99% in 2002; 2.92% in 2003; and 2.92% in 2004. The County calculates the total salary increase with senior officer differential at 47.25%. The County requests that this proposal be denied.

Longevity

The following is the current longevity schedule:

5 years of service to 9 years	1.5%
10 years of service to 15 years	1.75%
16 years of service to 20 years	2.75%
21 years of service to 25 years	3.0%
26 years of service and over	3.75%

The above percentages are applicable to base pay and increase each year as base pay goes up. The FOP requests that each level be increased by 2%. E-32 shows the costs of the FOP proposal. The County calculates this as an 88.33% three-year increase above the longevity paid in 2001. The County maintains that longevity should be terminated as it has been in Union County and Camden County. The County contends that longevity is a relic which does not provide rewards for performance.

The County seeks the elimination of longevity for all employees hired since January 1, 2002. The County seeks the deletion of the first sentence of Article II, Section 3.1 to be replaced with:

“All Sheriff’s Officers employed in the department before January 1, 2002 and who have five (5) or more full years of completed service shall be eligible for longevity pay, in accordance with the schedules set forth herein, which payment shall be based upon the rate of the individual in effect on January 1st of the year in which such individual becomes eligible for the longevity pay.”

The County asserts that the current longevity in the CBA at its present levels is excessive in its own right. (E-33). The County asks that the FOP's longevity proposal be denied and that its proposal to grandfather longevity for employees hired before January 1, 2002 be granted.

Clothing Allowance

The County opposes the FOP's proposal to include the existing clothing maintenance allowance of \$850 in base pay. The County contends that the FOP's proposal is made to build up pension benefits. If the clothing maintenance allowance is placed in the base salary it will be automatically increased by the negotiated salary increase each year. That is not the case now. This would also cause an increase in longevity and overtime. The County notes that the inclusion of the clothing maintenance allowance in base pay also increases FICA, Medicare, Workers Comp., and pension costs. The County asserts that adding the clothing maintenance allowance to base will have a substantial adverse economic effect.

The County asks that I deny the FOP's proposal to fold the clothing maintenance allowance into base pay.

Overtime

The County's proposal incorporates part of the FOP's proposal with the modifications included in E-51.

Conclusion

The County cites Hillsdale concerning the statutory requirement to consider the interests and welfare of the public. The County asserts that this involves more than mere financial impact concerning ability to pay and that comparability with police salary increases in other municipalities is not dispositive of comparison of wages. The County submits that I must consider the evidence of the serious problems in the county, state and national economies; the very low cost of living increases; the state of medical insurance coverages

for employees; private sector wage increases; public sector wage increases and the host of additional evidence set forth in this brief.

The County submitted the following summary with respect to the statutory criteria:

1. **The interests and welfare of the public:** It is clear that a 31.8% salary increase is unreasonable and not in the public interests or welfare, nor are the other FOP proposals.
2. **A comparison of the wages, salaries, hours and conditions of employment:** The County asserts that all comparisons detailed in its brief clearly show the unreasonableness of the FOP's proposals. This is clear in both the public and private sectors.
3. **The overall compensation:** The County maintains that the current salary package received by the Sheriff's Officers is excellent and far greater than that received in the private sector and is most competitive for the public sector. The County contends that the average taxpayer does not come close to receiving the benefit package received by the Sheriff's Officers.
4. **Lawful authority of the employer:** The County submits that this must be limited by reasonableness and the interests of the taxpayer.
5. **Financial impact:** The County asserts that because a county has the financial means to pay an unreasonable demand of a union does not mean they should pay it.
6. **Cost of Living:** The County notes that Sheriff's Officers received a salary increase that was 4.57 times the NY/Northern NJ Area CPI in 2001.
7. **Continuity and stability of employment:** The County notes that no Somerset County Sheriff's Officers left the department in the last four years to go to another Sheriff's Department.

The County asserts that it has satisfied all of the statutory criteria in support of its positions.

Discussion and Analysis

The arbitrator is required to decide a dispute based on a reasonable determination of the issues, giving due weight to the statutory criteria deemed relevant. Each criterion must be considered and those deemed relevant must be explained. The arbitrator is also required to provide an explanation why any criterion is deemed not to be relevant.

I have carefully considered the evidence as well as the arguments of the parties. I have examined the evidence in light of the statutory criteria. Each criterion has been found relevant, although the weight given to different factors varies, as discussed below. I have discussed the weight I have given to each factor. I have also determined the total net economic annual changes for each year of the agreement in concluding that those changes are reasonable under the statutory criteria.

The parties related the evidence and arguments regarding the criteria primarily to its offer and to that of the other party. I shall not do so because, in this conventional proceeding, I have the authority and responsibility to fashion a conventional arbitration award unlike the prior statute that required an arbitrator to select the final offer of one party or the other on all economic issues as a package and then to justify that selection.

A governing principle that is traditionally applied in the consideration of wages, hours and conditions of employment is that a party seeking a change in an existing term or condition of employment bears the burden of demonstrating a need for such change. This principle shall also be applied to new proposals.

The parties agree that the duration of the new three-year agreement shall be January 1, 2002 to December 31, 2004. I accept this agreement as a stipulation to the term of the new agreement and award a three-year agreement. The agreement shall be effective January 1, 2002 to December 31, 2004.

I have determined that the 2001 base salary that the 2002 salary increases will be applied to is \$1,580,598 for the thirty-five Sheriff's Officers in the bargaining unit. The following salary calculations are based on the 2001 base of \$1,580,598. This is the base included in the County's final offer submitted at the hearing. I will discuss the impact of incremental costs in analyzing the costs of my award and the value of the parties' final offers. These calculations do not include step increases and roll up costs nor do they assume any resignations, retirements, promotions or additional new hires. Changes since the close of the hearing are not relevant since the parties' salary proposals are based on the same complement of officers.

The FOP proposed a 5% across-the-board salary increase in 2002, 2003 and 2004. The cost of the automatic step increments in 2002 is \$75,071. This is 4.75% of the 2001 base salary. The cost of the FOP's 5% salary proposal in 2002 is \$79,030. The new base in 2002 is \$1,738,450. This includes the FOP's 5% across-the-board increase and the cost of the automatic step increments.¹ The cost of the FOP's 5% salary proposal in 2003 is \$86,923. The new base in 2003 is \$1,899,957. This includes the FOP's 5% across-the-board increase and the cost of the automatic step increments. The cost of the FOP's 5% salary proposal in 2004 is \$94,998. The new base in 2004 is \$2,074,689. This includes the FOP's 5% across-the-board increase and the cost of the automatic step increments.

¹The automatic annual step increments are paid pursuant to Article 2.2 of the CBA which provides: "The salary guide attached as Schedule A is intended to be an automatic annual step increment system which provides each Sheriff's Officer on the guide with an advancement of one step on the guide each year until the maximum step is reached."

The following is the FOP salary schedule after applying 5% across-the-board increases in 2002, 2003 and 2004.

Step	officers	2001 base	officers	2002 base	officers	2003 base	officers	2004 base
1	3	\$34,686						
2	4	\$36,458	3	\$38,281				
3	4	\$38,212	4	\$40,123	3	\$42,129		
4	3	\$40,050	4	\$42,052	4	\$44,155	3	\$46,362
5	3	\$41,936	3	\$44,033	4	\$46,234	4	\$48,546
6	3	\$45,847	3	\$48,139	3	\$50,546	4	\$53,073
7	5	\$47,866	3	\$50,259	3	\$52,772	3	\$55,410
8	1	\$49,928	5	\$52,424	3	\$55,046	3	\$57,798
9	3	\$52,027	1	\$54,628	4	\$57,360	3	\$60,228
10	1	\$56,337	1	\$59,154	1	\$62,112	3	\$65,217
11	5	\$58,537	8	\$61,464	10	\$64,537	12	\$67,764
	35	2001 cost	35	2002 cost	35	2003 cost	35	2004 cost
		\$1,580,598		\$1,738,450		\$1,899,957		\$2,074,689

The above salary schedule shows the full cost of the 5% across-the-board increases and the cost of the incremental step movement.

The County did not propose across-the-board increases in any of the three years of the new CBA. The County's salary proposal provides for different increases on the steps in each year of the new CBA.

The cost of the County's salary proposal (excluding automatic step increments) in 2002 is \$23,800. The cost of the automatic step increments in 2002 is \$75,071. The new base in 2002 is \$1,677,469. This includes the cost of the automatic step increments. The County's proposal in 2002 increases the maximum salary by 1.38%. The across-the-board increase for the unit in 2002 is 1.5%.

The cost of the County's salary proposal in 2003 is \$32,231. The new base in 2003 is \$1,777,949. This includes the cost of the automatic step increments. The County's proposal in 2003 increases the maximum salary by 2.25%. The across-the-board increase for the unit in 2003 is 1.95%.

The cost of the County's salary proposal in 2004 is \$36,190. The new base in 2004 is \$1,883,109. This includes the cost of the automatic step increments. The County's proposal in 2004 increases the maximum salary by 2.25%. The across-the-board increase for the unit in 2004 is 2.04%. The following is the salary schedule after applying the County's proposed increases on the steps in 2002, 2003, and 2004:

Step	officers	2001 base	officers	2002 base	officers	2003 base	officers	2004 base
1	3	\$34,686		\$35,286		\$35,904		\$36,532
2	4	\$36,458	3	\$37,058		\$37,707		\$38,366
3	4	\$38,212	4	\$38,812	3	\$39,491		\$40,182
4	3	\$40,050	4	\$40,750	4	\$41,565	3	\$42,396
5	3	\$41,936	3	\$42,636	4	\$43,489	4	\$44,358
6	3	\$45,847	3	\$45,847	3	\$45,847	4	\$46,764
7	5	\$47,866	3	\$48,566	3	\$49,537	3	\$50,528
8	1	\$49,928	5	\$50,628	3	\$51,641	3	\$52,673
9	3	\$52,027	1	\$52,727	4	\$53,782	3	\$54,857
10	1	\$56,337	1	\$56,337	1	\$56,337	3	\$57,605
11	5	\$58,537	8	\$59,337	10	\$60,672	12	\$62,037
	35	2001 cost	35	2002 cost	35	2003 cost	35	2004 cost
		\$1,580,598		\$1,677,469		\$1,777,949		\$1,883,109

The County correctly notes that the total cost of its proposal, when the cost of step movement is included, is 6.13% in 2002, 5.99% in 2003 and 5.9% in 2004. The cost of the automatic step movement in 2002 is 4.75%. Thirty of the thirty-five unit members are on steps 1-10 and are therefore eligible for automatic increments. The cost of the automatic step movement in 2002 is 4.75%. The cost of the County's "new money" in 2002 is 1.38% for a total increase of 6.13%. The cost of the automatic step movement in 2003 is 4.18%. The cost of the County's "new money" in 2003 is 1.95% for a total increase of 5.99%. The cost of the automatic step movement in 2004 is 3.86%. The cost of the County's "new money" in 2004 is 2.04% for a total increase of 5.9%.

The County proposed an Academy rate of \$34,686 in 2002, \$27,000 in 2003 and \$27,400 in 2004.

I shall now discuss the evidence and the parties' arguments in relation to the statutory criteria.

The interests and welfare of the public require the arbitrator to balance a number of considerations. These considerations traditionally include the Employer's desire to provide the appropriate level of governmental services and to provide those services in the most cost effective way, taking into account the impact of these costs on the tax rate. On the other hand, the interests and welfare of the public requires fairness to employees to maintain labor harmony and high morale and to provide adequate compensation levels to attract and retain the most qualified employees. It is axiomatic that reasonable levels of compensation and good working conditions contribute to a productive and efficient work force and to the absence of labor unrest.

I agree with the analysis provided by Arbitrator Jeffrey B. Tener in an interest arbitration award in Cliffside Park. Arbitrator Tener's analysis:

"The arbitrator is required to strike an appropriate balance among these competing interests. This concept has been included in the policy statement of the amended interest arbitration statute. N.J.S.A. 34:13A-14 refers to the 'unique and essential duties which law enforcement officers . . . perform for the benefit and protection of the people of this State' and the life threatening dangers which they confront regularly. The arbitration process is intended to take account of the need for high morale as well as for the efficient operation of the department and the general well-being and benefit of the citizens. The procedure is to give due respect to the interests of the taxpaying public and to promote labor peace and harmony."

(In the Matter of the Borough of Cliffside Park and PBA Local 96, PERC Docket No. IA-98-91-14, page 45.)

The New Jersey Supreme Court in Hillsdale determined that the interests and welfare of the public must always be considered in the rendering of an interest arbitration award and that an award which failed to consider this might be deficient. The County and the FOP stipulated that the statutory criteria under N.J.S.A. 34:13A-16(g)(5)(6) are not implicated in

this matter. The parties waived the submission of evidence, testimony and argument regarding the CAP Law and statutory factors (g) (5) and (6). The parties stipulated that neither proposal would have an adverse impact on the governing body, its residents or taxpayers. I find that the terms of this Award will not cause an adverse financial impact on the County, its residents or taxpayers nor do the terms conflict with the lawful authority of the County.

I shall now discuss the open issues with respect to the interests and welfare of the public factor as well as other relevant factors.

Longevity

There are two issues concerning longevity. The FOP proposes an increase of 2% at each longevity step. The current longevity schedule in Article III of the CBA provides for longevity as follows:

<u>At least</u>	<u>But Not More Than</u>	<u>Longevity Percentage To Be Applied To Wage Rate</u>
5 years	9 years	1.5%
10 years	15 years	1.75%
16 years	20 years	2.75%
21 years	25 years	3.00%
26	Over 26 years	3.75%

The FOP proposes the following longevity schedule:

<u>At least</u>	<u>But Not More Than</u>	<u>Longevity Percentage To Be Applied To Wage Rate</u>
5 years	9 years	3.5%
10 years	15 years	3.75%
16 years	20 years	4.75%
21 years	25 years	5.00%
26	Over 26 years	5.75%

The County calculates the current cost of longevity in 2001 as \$14,841. The County calculates the cost of the FOP's proposal as \$39,504 in 2002, \$48,680 in 2003 and \$60,956 in 2004. The County's calculations assume the roll-in of the clothing allowance into base and 5% annual across-the-board salary increases.

The County proposes to delete Article III, Section 3.1(Longevity) prospectively, grandfathering all Officers that have at least five years service with the Sheriff's Department as of January 1, 2002. The County seeks the deletion of the first sentence of Article II, Section 3.1 to be replaced with:

"All Sheriff's Officers employed in the department before January 1, 2002 and who have five (5) or more full years of completed service shall be eligible for longevity pay, in accordance with the schedules set forth herein, which payment shall be based upon the rate of the individual in effect on January 1st of the year in which such individual becomes eligible for the longevity pay."

The FOP contends that its longevity proposal is low when compared with other jurisdictions. The FOP contends that the 3.75% maximum longevity (after twenty-six years) is one of the lowest longevity programs of any contract in evidence. The FOP cited Somerville and Hillsborough in support of its position that maximum longevity programs between 8% and 10% are common.

The FOP is seeking a significant increase in the current longevity program. The County is seeking to eliminate the longevity program for all employees hired on or after January 1, 2002. I shall deny both the FOP and the County proposals for the following reasons.

A review of the current CBA between the County and the Superior Officers in the Sheriff's Department shows that the Superior Officers have the same longevity program currently enjoyed by the rank-and-file Sheriff's Officers. (P-68). The 2001-2004 CBA between the County and the Superior Officers was executed in August 2002, several months

after the initiation of interest arbitration in this matter. This is a voluntary agreement reached by the County. Internal comparability is an important element in determining the reasonableness of a proposal. I note that the 2001-2003 CBA between the County/Sheriff and the Correction Officers contains the identical longevity program enjoyed by both the rank-and-file Sheriff's Officers and the Sheriff's Superior Officers. (P-55).

The FOP has not established a basis why the rank-and-file Sheriff's Officers should receive greater longevity benefits than their supervisors. Nor has the County established a basis why the rank-and file Sheriff's Officers should receive lesser benefits than their supervisors.

It is a fundamental principle of labor relations and collective bargaining that wages and other benefits should be uniform among like employees. There is simply no basis in this record to justify rank-and-file or superior officers receiving different longevity benefits. This is particularly true when both units currently enjoy identical longevity benefits. The Sheriff's Department is a paramilitary organization with a clearly identifiable chain-of-command. The County voluntarily agreed to continue the longevity program for the Sheriff's Superior Officers in 2002, 2003 and 2004 — the same duration agreed to in this matter. The County has offered no evidence to justify lesser benefits for the rank-and-file Sheriff's Officers.

The County's proposal would eliminate longevity for certain current employees who have an expectation of additional income as they become more senior. The County's proposal has the potential of creating disparate earnings for current Sheriff's Officers doing similar if not identical work. This has the potential to affect employee morale and continuity of employment. This is not in the public interest. The County has not met its burden of demonstrating a need for a change in the longevity program.

The FOP is subject to the same test on internal comparability. The FOP submitted CBAs showing greater longevity benefits with other bargaining units. These included municipal bargaining units in Somerset County. This is commonly referred to as external comparability. I find that this evidence cannot be given as much weight as internal comparability. The FOP has not met its burden of demonstrating a need for a change in the longevity program.

Clothing Allowance

The FOP proposes the deletion of the current \$850 clothing allowance benefit payment. The FOP seeks to have the \$850 folded into the base and used for all calculation purposes. The FOP contends that many contract settlements have included benefits that were folded into base pay. The FOP asserts that this trend supports its proposal to fold the clothing allowance into the base rate. A review of the cited CBAs and Memorandum of Agreements show the following:

1. The Township of Montgomery and PBA Local 355 agreed to fold holiday pay into base in the 2001-2003 CBA.
2. The Township of Bernards and PBA Local 357/SOA agreed to fold holiday pay into base effective January 1, 2003.

The County opposes the FOP's proposal to include the \$850 clothing allowance in base pay to build up pension benefits. The County is also opposed to the automatic increases generated by the annual across-the-board salary increases. The County notes that folding in the clothing allowance will also cause an increase in longevity, overtime, FICA, Medicare, Workers Compensation and pension costs.

The FOP is correct that there is a trend to fold holiday pay into base pay. However, there is insufficient evidence in the record showing that there is a trend to fold clothing allowance into base pay. P-68 shows that Superior Officers in the Sheriff's Department enjoy the same \$850 clothing allowance as the rank-and-file with no agreement to fold the

clothing allowance into base pay. Accordingly, the FOP's proposal is denied. The FOP has not met its burden of demonstrating a need to fold the clothing allowance into base pay.

Compensatory Time

The FOP proposes a modification of Article V, Overtime, to provide for the election of compensatory time and a compensatory time bank as follows:

The FOP proposes that employees be permitted to elect at the end of the overtime work performed to be compensated with compensatory time off or paid compensation. In the event that compensatory time off is elected it will also be paid at the time and one-half rate (90 minutes for 60 minutes work). Accumulated time so earned would accumulate in a Compensatory Time Off (CTO) Bank for future use. CTO could be used at the employee's sole discretion subject only to prior employer approval.

The County proposed the following compensatory time procedure to be added to Article V, Overtime as Section 5.6:

Effective January 1, 2002, for all hours worked over and above forty hours in any one work week, as defined above, the following shall apply: For all officers required to be paid overtime hereunder, the same may be paid in cash or converted to compensatory time off at the officer's option and request. Overtime hours worked will be paid in cash or converted to compensatory time off at the rate of one and one half hours for each full hour worked. Example: 4 hours of overtime worked = 6 hours of compensatory time off or 6 hours of cash payment.

If an Officer's option is to take compensatory time off, the time must be scheduled during the calendar year in which the overtime was worked, with the Sheriff's or his designee's approval. The Sheriff or his designee shall have the unlimited right to refuse to allow compensatory time usage due to manpower requirements, increase in overtime requirements or other administrative matters. A maximum of 40 compensatory time off hours (26.5 hours of overtime worked) shall be allowed to accumulate at any time (under no circumstances shall the 40 hour limit be exceeded); any hours over 40 shall be paid in cash in the following pay period at the rate of one hour of cash at the overtime rate for one hour of work. An example of the above calculation: An Officer who accumulates 27 hours of overtime worked can bank 40

hours of compensatory time and would be paid for one-half hour straight time ($27 \times 1.5 = 40.5$ hours).

Any accumulated compensatory time off not used prior to November 30 of each year shall be converted to a cash payment and paid in the last paycheck of the calendar year. During the months of December 1, through December 31 of each year any time worked over the 40 hours shall be paid as cash overtime.

An Officer will complete the Overtime Request Form maintained at the Sheriff's Office and indicate whether the time taken is to be compensatory time and banked or to be paid in cash. A compensatory time record shall be established for each officer by the Sheriff or his designee. When entering compensatory time, the Sheriff or his designee and the Officer's immediate supervisor will verify, by signature, the time worked by the Officer. Each Supervisor shall maintain a record of all overtime worked by Officers reporting to him or her. All compensatory time records will be forwarded to Finance by November 30 of each year for payment of unused compensatory time.

Whenever compensatory time is converted to cash overtime under this policy, it shall be paid at the Officer's rate in effect at the time the work was completed.

No compensatory time shall be utilized on a holiday.

The parties are essentially in agreement that a compensatory time program be implemented in the new CBA. The basic aspects of the County's proposal follow the current language in the Sheriff's Superior Officers CBA. (P-68). The compensatory time procedure is detailed in Article IV, Section 4.4. As previously stated, uniformity in terms and conditions of employment is an essential component of sound labor relations. Consistent administration of compensatory time favors the implementation of the same compensatory time procedure for supervisors and rank-and-file Sheriff's Officers. Accordingly, I award the implementation of the exact language in Article IV, Section 4.4 to be included in the new CBA as Article V, Section 5.7. The compensatory time procedure shall be effective January 1, 2003.

Educational Reimbursement

The County seeks the elimination of the educational reimbursement language in Article IV of the current CBA:

- 14.1 The purpose of the County Educational Reimbursement Plan is to permit full time employees to enroll in courses offered by recognized institutions of learning for job related training or courses which are not available within the County structure.
- 14.2 Prior approval by the Sheriff is required in order to be eligible for reimbursement.
- 14.3 Any officer who has receive prior approval and who receives a satisfactory passing grade will be reimbursed 100% of the eligible expenses to a maximum of \$1200 per calendar year. Reimbursement is made as follows: 50% upon successful completion of the course and 50% six months later.

The County seeks to standardize its educational reimbursement policy. The County's proposed policy is set forth as an attachment to its final offer. Article 13.1 in the CBA between the County and the Superior Officers in the Sheriff's Department provides the following regarding educational reimbursement:

"Employees will be eligible for educational reimbursement in accordance with County policy."

This policy is included verbatim as Appendix B in P-54, the 2000-2002 CBA between the County and its Prosecutor's Detectives bargaining unit. Article XXIV in the CBA between the County and the Correction Officers includes educational reimbursement language similar to the current language in the Sheriff's Officers CBA.

Uniformity of benefits favors a finding in favor of the County's proposal to provide educational reimbursement benefits in accordance with County policy. A review of the County policy shows that greater benefits may be available to Sheriff's Officers under the

County's educational reimbursement policy. However, I am concerned that implementation of the County's policy and deletion of the terms of Sections 14.1, 14.2 and 14.3 of Article XIV will result in the removal of an existing term and condition of employment to be replaced by a policy.

Therefore, I remand this issue to the parties to develop contract language which adopts the specifics of the County policy as a term and condition of employment. Any changes shall not be effective until September 1, 2003 to permit the completion of courses for current enrollees. I shall retain jurisdiction in the event the parties are unsuccessful.

FOP Rights

The FOP seeks to modify Article XXX, FOP Rights. This language concerns FOP representation at conventions. The FOP proposes to modify 30.1 as follows:

The County agrees each calendar year to grant necessary time off, without loss of pay or other benefits, to three (3) members of the FOP selected as delegates or alternate delegates to attend any State or National Convention of the Fraternal Order of Police provided that the FOP notifies the Sheriff of the date of such conventions upon the scheduling of such conventions by the State or National FOP. In addition, the FOP shall provide the Sheriff with the names of all such FOP members who will be attending such conventions at least two (2) weeks prior to such convention.

The substantive changes are the increase from two to three members and the deletion of the statutory reference. (N.J.S.A. 11A:6-10).

The FOP also seeks to modify Section 30.3 by increasing the number of hours granted annually to the FOP President or the President's designee to attend to FOP business from sixty-four to one-hundred and fifty.

The FOP contends that its proposal is fully supported by a change in the convention leave law. The FOP contends that it is only seeking to bring the terms of the CBA into

compliance with the new law. A copy of the new statute was introduced into the record as P-94. The FOP notes that the new statute is effective January 3, 2002. The FOP asserts that it seeks only what is statutorily mandated. The language in the contract should be corrected to conform to the statutory change.

A new convention leave statute was passed on January 3, 2002. The new statute provides police and fire units in New Jersey with guaranteed paid convention leave. The new statute provides:

“. . . that no more than 10 percent of the employee organizations' membership shall be permitted such a leave of absence with pay, except that no less than two and no more than 10 authorized representatives shall be entitled to such leave . . . “

The FOP's proposal to increase the number of delegates to three is consistent with the above statute and is so awarded. This change shall be effective April 1, 2003.

The FOP's proposal to increase the number of hours granted annually to the FOP President or the President's designee to attend to FOP business from sixty-four to one-hundred and fifty is denied. There is no evidence in the record to warrant a change in the status quo. The FOP has not met its burden of demonstrating a need to increase the annual allocation.

Off-Duty Work Provisions

The FOP seeks to codify the present off-duty rate provision in the CBA. According to the FOP, the current rate for off-duty work is \$52.50 per hour with the County receiving 15% of the hourly rate as an administrative fee. The FOP contends that there is currently a two-hour minimum. The record includes a Memorandum of Agreement (“MOA”) between the Sheriff and the FOP setting forth the terms of off-duty employment.

The County is opposed to the inclusion of the terms of the MOA in the collective bargaining agreement. The County argues that no other bargaining unit has this language in a CBA. The County further contends that the inclusion of this language in the CBA will increase the cost of projects in the County.

I note that the MOA refers to Sections 5.4 and 5.5 of the CBA to provide for assignment of this off-duty work on a rotational basis by seniority.

The FOP is not claiming that the provisions of the MOA are not being followed. Nor is there any argument that the appropriate hourly rate is not being paid. The FOP simply seeks codification of the terms of the MOA.

This issue was the subject of a scope of negotiations determination by PERC during these negotiations. The County argued before PERC that this proposal was not a mandatory subject of negotiations. The County further argued that it wished to reserve the power to prohibit this supplementary income and does not “wish to include it in the contract if for whatever reason it is required by law or by the interests of public safety to ban it.” PERC issued its decision on April 25, 2002 finding:

Given our case law, the facts and the narrow arguments presented, we hold that the FOP’s proposal is mandatorily negotiable. We add that the clause does not appear to restrict the employer’s power to ban road jobs if required by law or public safety considerations. Instead, it merely sets an hourly rate of pay covering compensation and benefit costs for any road jobs actually done. The FOP’s proposal setting the hourly rate for road jobs is mandatorily negotiable and may be submitted to interest arbitration.
(P.E.R.C. No. 2002-60, April 25, 2002).

The FOP’s proposal is mandatorily negotiable and is properly before me. Given PERC’s determination that the inclusion of the hourly rate in the CBA does not restrict the County’s power to ban road jobs if required by law or public safety considerations, I award

the FOP's proposal to include the current terms regarding off-duty employment. This merely codifies the current procedures and has no economic cost to the County. The following provisions included in the MOA shall be included in the CBA:

1. Section 5(e)(i) of the Somerset County "Policy and Requirements for Employment for Off-Duty Personnel (hereinafter the "Policy"), adopted by the Somerset County Board of Chosen Freeholders on October 6, 1998, and implemented by the Somerset County Sheriff on December 9, 1998 in General Order 91.17, will be amended to add "FOP Lodge #39" in addition to the PBA.
2. The hourly rate under the Policy for members of the FOP Lodge # 39 shall be \$52.50 per hour.
4. The County of Somerset shall deduct fifteen percent (15%) from the hourly rate in effect at the time the off-duty work is performed, in order to cover its costs of administration and benefits.
5. The procedures for selecting officers for off-duty assignments shall be as set forth in Section 5.4 and 5.5 of the current collective bargaining agreement between the Somerset County Sheriff and FOP Lodge #39.

I shall not award the terms of paragraph three since the hourly rate and other procedures are mandatorily negotiable.

Call-In Time

The County proposes to delete the wording ". . . that the pertinent call is made" and replace with ". . . that personal contact is made with the Officer . . . "

The new clause will read as follows:

- 6.2 Officers shall start accruing call-in time benefits as of the time that personal contact is made; provided, however, that no officer shall be paid more than 30 minutes of time spent responding to the workplace.

The County's proposal is awarded. The County is entitled to know that contact has been made with an officer and that the officer is responding to the call-in request. The clause is intended to compensate an officer for a reasonable period of time, up to thirty minutes, to respond to the workplace. The time should toll following personal contact.

Shift Differentials

The County seeks to delete the last sentence of Article XVII, Section 17.1:

“This rate shall be effective from January 1, 1998 and a retroactive adjustment will be completed in relation thereto.”

The County’s proposal simply “cleans up” the language of Article XVII. The parties agreed to make the shift differential included in the 1999-2001 CBA retroactive to January 1, 1998. This language serves no purpose in 2003. The last sentence of Section 17.1 shall be deleted.

On Call Pager Pay

The County seeks to modify Article XXXV, Section 35.1(B) by adding the following:

“Officers that are working the afternoon and midnight shifts cannot sign up for pager duty.”

The County’s main argument is that it is unreasonable to provide compensation for pager duty to employees who are on duty during the afternoon or evening shifts. A review of Article XXXV shows that this is a voluntary procedure with assignment permitted if there is an insufficient number of volunteers. The work week for on call pager duty begins at 4:30 p.m. on each Friday. The purpose of on call pager duty is to have off-duty officers available to be “called to duty.” Such officers are paid at the overtime rate when called to duty.

The County’s proposal is awarded. The County should not be required to pay on call pager duty to officers who are already on duty during the period that such officers may be called.

Health & Dental Benefits

The County seeks to modify Article XIII, Section 13.1 (Health Benefits) as follows:

“The County shall pay ninety percent (90%) of the cost to the County of the traditional Somerset health benefits program currently administered through Oxford Health (POS), and the

Officer shall pay ten percent (10%) thereof. In the event that an Officer selects another health benefits program offered by the County which is more expensive than the said traditional plan, then the Officer shall pay all costs of that substitute program which exceeds the cost to the County of ninety percent (90%) of the said traditional program. Said payment shall be deducted from the Officer's pay in equal installments."

The County seeks to modify Article XIII, Section 13.2 (Dental Benefits as follows:

"The County shall pay ninety percent (90%) of the cost to the County for single coverage under the Traditional Dental Plan and the Officer shall pay ten percent (10%) thereof. In the event that the dental plan selected by the Officer costs the County less than the single coverage under the said traditional plan, then, in that event, the Officer will make no contributions. In the event that an Officer selects another dental plan offered by the County which is more expensive than the traditional plan, then the Officer shall pay all costs of that substitute program which exceeds the cost to the County of ninety percent (90%) of the traditional program. The payment shall be deducted from the Officer's pay in equal installments."

The County currently pays 100% of the Oxford POS Plan and the Officer pays a part of the Oxford PPO, the Cigna and the Core Source Plans. The County pays for basic dental coverage and the Officer pays for enhancements.

The County made several arguments in support of its proposal on health and dental insurance. First, it noted that premiums for employer-sponsored health insurance increased 12.7% between the spring of 2001 and the spring of 2002, the largest increase since 1990. Second, employees in the private sector participate in the sharing of costs of medical coverage with monthly contributions averaging \$30 in 2001 and \$38 in 2002 for single coverage; and \$150 in 2001 and \$174 in 2002 for family coverage. Third, these monthly contributions in the private sector are 16% of the cost of premiums for single coverage and 27% of the cost premiums for family coverage. Fourth, the County notes that in the private

sector, the full cost of coverage in 2002 was 23% for single coverage and 9% for family coverage.

The County's main argument is that public sector employees should share the cost of medical insurance in light of the substantial contributions made by employees in the private sector. The County cites examples of such sharing of costs in Union County, Atlantic County and Camden County. The County requires, under its proposal, contributions to the basic coverage for both medical and dental coverage and an increase in existing contributions for enhanced coverages.

The FOP is opposed to any additional contributions to existing health insurance and dental insurance premiums. The FOP contends that evidence in the record did not support this proposal. The FOP asserts that the County did not identify any other County bargaining units or County supervisory/managerial employees that were subject to such contributions. The FOP pointed out that the County's own witness testifying on compensation issues was not subject to such contributions. The FOP questions why its unit members should be subject to expensive contributions when no other County bargaining unit is subject to such a demand.

The County's 10% contribution is costly. Currently, the Oxford POS is provided at no cost to employees. Under the County's proposal, the monthly employee contribution for employee only Oxford POS would be \$28.83 and \$70.28 for family Oxford POS. Under the County's proposal, the annual employee contribution for the family POS is \$843. This is nearly 2% of the average salary in the bargaining unit.

Other medical insurance plans are available with monthly employee contributions ranging from \$10 to more than \$800. Under the County's proposal, the monthly employee contributions for these plans would increase from \$10 to \$49 for employee only PPO and from \$25 to \$119.48 for family PPO. The annual increase for the family PPO is \$1134.

The County currently pays 100% of the premium for the traditional dental plan, employee only. All other plans (employee & children; employee & spouse; and family) currently require employee contributions well beyond a 10% contribution, i.e., the employee contributes \$60.57 of the \$96.22 monthly premium for the traditional family dental plan. Under the County's proposal this would increase to \$65.94 monthly.

The County proposes that employees pay 90% of the cost of premiums for the employee only dental plan with the employee contributing 10%. The monthly premium for the traditional single dental plan is \$33.65. The employee would contribute \$3.37 a month.

The County's proposal for employee contributions to the POS medical insurance and additional contributions to the other health plans and the dental plans is denied. This is for several reasons.

First, the evidence in the record convincingly shows that no other County employee is subject to the employee contributions proposed by the County. This includes bargaining unit employees and managerial/supervisory employees alike. The County's chief witness conceded that she was not subject to any contributions to the cost of health and dental insurance. The County has not imposed any costs on its supervisory/managerial employees in the same time period that it is asking the Sheriff's Officers to absorb these costs.

Second, the record is clear that no other bargaining units have agreed to make contributions to the Oxford POS health plan. This includes all of the other public safety bargaining units subject to interest arbitration. These units settled voluntarily with the County and none of the successor agreements included contributions by employees to the Oxford POS health plan. Again, it is worth noting that the Sheriff's Officers' supervisors recently completed negotiations for a successor agreement through December 31, 2004 that continues the Oxford POS plan with no contributions by employees.

Third, the County's proposal for employee contributions is not justified at this time. The granting of the County's health care proposal would negate much, if not all, of the salary increase proposed by the County in 2003 or 2004. The County proposes to increase maximum step salaries by \$800 in 2002 which is 1.36% in 2002. The salary increase in 2002 is less than proposed annual employee contribution for the family POS of \$843. The County's proposal cannot be justified when compared with the 1.36% salary increase in 2002 followed by 2.25% salary increases in 2003 and 2004. This is amplified by the evidence in the record showing that other County public safety bargaining units reached voluntary salary agreements with the County with significantly higher annual salary increases at maximum and on the steps. The County's health care proposal singles out one small bargaining unit when the record shows that no other bargaining unit or any other managerial/supervisory employees are required to make such contributions.

I deny the County's health and dental insurance proposals. The County has not met its burden of demonstrating a need to require additional health care/dental contributions.

Salary

The FOP proposes a 5% annual across-the-board salary increase in 2002, 2003 and 2004. The County's salary proposal provides for different increases on the steps in each year of the new CBA.

The cost of the FOP's 5% salary proposal in 2002 is \$79,030. The total cost of the FOP's proposal, including automatic step increments, in 2002 is \$157,852. The cost of the County's salary proposal in 2002 is \$23,800. The total cost of the County's proposal, including automatic step increments, in 2002 is \$96,871.

The cost of the FOP's 5% salary proposal in 2003 is \$86,923. The total cost of the FOP's proposal, including automatic step increments, in 2003 is \$161,507. The cost of the

County's salary proposal in 2003 is \$32,231. The total cost of the County's proposal, including automatic step increments, in 2003 is \$100,480.

The cost of the FOP's 5% salary proposal in 2004 is \$94,998. The total cost of the FOP's proposal, including automatic step increments, in 2004 is \$174,732. The cost of the County's salary proposal in 2003 is \$32,231. The total cost of the County's proposal, including automatic step increments, in 2003 is \$105,160.

The FOP seeks the establishment of a Senior Officer Differential after the completion of twenty years of service. The FOP seeks a Senior Officer Differential equivalent to 50% of the difference between the salary of a maximum step Sheriff's Officer and the salary of a Sergeant. Under the FOP's proposal, the Senior Officer Differential salary would be \$64,861. This is \$3,397 above the maximum step and \$3,397 less than the \$68,258 salary of a Sergeant.

The County opposes the FOP's proposal to establish a Senior Officer Differential. The County calculates the cost of implementing the FOP's proposal as 8.99% in 2002; 2.92% in 2003; and 2.92% in 2004.

Initially, it is important to discuss the costing out of the FOP and County proposals and the inclusion of the incremental costs in the total costs in 2002, 2003 and 2004. The FOP describes its salary proposal as a 5% across-the-board increase for each of the three years of the new CBA. The County describes the FOP's proposal as 9.99% in 2002, 9.43% in 2003 and 9.06% in 2004. The County has included the cost of step movement for all employees not at the maximum step. The County describes its salary proposal as 6.13% in 2002, 5.99% in 2003 and 5.9% in 2004. The County's spread sheet (attached to its final offer) calculates the cost of automatic step increments in 2002 as 4.75%. The dollar value of the 4.75% is \$75,071.

The total cost of the County's proposed 2002 salary schedule is \$96,871. Thus the "new money" is \$21,800 which is 1.38%. New money is another way of describing across-the-board increases. Thus, the true comparison in 2002 is the FOP's 5% across-the-board increase in relation to the County's 1.38% new money increase. The County has proposed differentiated increases at the steps on the salary schedule. The increase at the maximum step is \$800 or 1.38%. All other steps receive either \$600 or \$700 increases except steps six and ten which receive no increase. I would describe the County's proposal as 1.38% across-the-board increase if the 1.38% was applied to all eleven steps on the salary schedule. It is not, thus, it is best described as new money. The cost of the FOP's 2002 salary schedule is \$157,852. The cost of the County's 2002 salary schedule is \$96,871. Both salary proposals include the same automatic step incremental movement costing the same \$75,071. Thus, the true comparison is the FOP's 5% to the County's 1.38% or the FOP's 9.99% including increments to the County's 6.13% including increments.²

Let me be clear on this point. The cost of the parties' proposals are 9.99% and 6.13% in 2002. However, that is not the figure that is appropriate for comparison purposes. Both internal and external comparisons must be made to the across-the-board or "new money" increases. All of the evidence in the record concerning internal and external comparisons exclude the cost of step movement. All of the evidence showing salary increases as 3.5%, 4%, etc. exclude the cost of automatic step annual increments. The 3.5% or 4% salary increases refer only to the across-the-board increases.

Historically, incremental costs have not been factored in by the parties. These incremental costs fluctuate depending on the amount of turnover in a bargaining unit. High turnover, while not desirable, tends to keep the public employer's average salary costs down

²The figures will be slightly higher if the "roll up" costs of longevity are included.

because senior officers are replaced by entry level officers making in some cases less than 50% of the maximum officer's salary. These junior officers now move through the steps to reach maximum salary. It takes ten or eleven years to reach maximum in this bargaining unit. In 2001, only five officers were at the maximum step. This is less than 15% of the bargaining unit and significantly below the percentage of employees at the maximum step in most bargaining units. I make no finding as to cause. It makes no difference if the turnover is caused by retirements, promotions, leaving for municipal police work or other reasons. Regardless of cause, this turnover has created a significant number of employees moving through the steps of the salary schedule.³

It could be argued that the County's costs are reduced when it replaces a senior officer with a salary of \$58,537 (\$60,585 with longevity) with a junior officer with a salary of \$34,686 (no longevity). Eighteen officers left the Sheriff's Department during the three-year period from January 1, 1998 to December 31, 2000. This is more than 50% of the current bargaining unit of thirty-five officers. If these officers replaced senior officers, the County would have saved money from the "breakage" created by the lower salary replacement costs. If these officers replaced junior officers who left for other employment, the County's salary costs would be less. The net result is that there are fewer senior officers earning higher salaries.

I have reviewed this to show that the County's incremental costs, while high at 4.75%, do not equate to higher labor costs for the bargaining unit. The County's labor costs would be much higher if more employees were at the maximum steps of the salary schedule.

³E-21 shows that eight employees left the Sheriff's Department in 1998 (seven to municipal police departments, one retired); five left in 1999 (two to municipal police departments, three retired); five left in 2000 (three to municipal police departments, one resigned, one deceased) and four left in 2001 (one retired, one terminated, one to municipal police department and one to Prosecutor's Office.)

Accordingly, while I have fully considered the costs of the incremental movement in 2002, 2003 and 2004, the more relevant comparison is to the across-the-board increases, or new money, added to the salary schedule in 2002, 2003 and 2004. Nearly all of the comparability data in the record is expressed as across-the-board salary increases, excluding the cost of automatic step incremental movement. The vast majority of the comparability data in the record does not show the cost of automatic step incremental movement. Having served as arbitrator in many of the jurisdictions cited, I take arbitral notice that many of these jurisdictions have automatic step incremental costs similar to the costs in this bargaining unit. I served as arbitrator in the negotiations between the County and its Prosecutor's Detectives bargaining unit and in the negotiations between the County and its Corrections Officer bargaining unit. Both cases settled voluntarily. In both cases, proposals and counter proposals, and the final settlements were expressed in percentage terms excluding the cost of automatic step increments. Both parties were fully aware of the cost of automatic step increments but their costs were not included in order to make appropriate comparisons with other jurisdictions.

I shall now address the comparability data in the record. P-68 is the 2001-2004 CBA between the County and the Superior Officers in the Sheriff's Department. The unit includes three Sergeants, two Lieutenants, one Captain and a Chief. The 2001 base salaries range from \$68,853 to \$102,781. A review of the CBA shows that salaries were increased by 4.5% in 2001, 4% in 2002 and 3.5% in both 2003 and 2004. The average increase for the four-year agreement is 3.88%. I note that Superior Officers are required to carry pagers "as directed by the Sheriff" and are compensated for carrying such pagers by payment of a \$2,250 annual stipend. There are no incremental costs in this bargaining unit.

P-55 is the 2001-2003 CBA between the County and the Correction Officers. This bargaining unit is also in the Sheriff's Department. The unit includes all ranks from Correction Officer to Captain. A review of the CBA shows that maximum salaries were increased by 3.77% in 2002 and 4.48% in 2003. All steps on the eleven-step salary schedule were increased by 3% in 2002 and 2003 except step ten which was increased by 7% in 2002 and 3.5% in 2003. These increases are across-the-board and do not include the cost of automatic step increments. A Correction Officer on step three received a \$37,621 salary in 2001 and a \$44,310 salary at step five in 2003. This is an increase of \$6,689 (17.8%) over two years when automatic step increments are included. This is how a salary schedule works in nearly all public safety bargaining units in the State of New Jersey. The same is true for all State employees who are not at maximum. Also, many counties have salary schedules with annual increments and across-the-board increases for employees not at maximum. These employees receive annual increments and negotiated across-the-board salary increases.

Article II, Section B of P-55 provides as follows regarding Superior Officers in the Corrections Department:

“There shall be at least a ten (10%) percent wage differential between the top salary of C.O. and Sergeant, and so forth between each rank thereafter. Said differential shall be calculated each time there is a contractual wage adjustment. Notwithstanding the foregoing, all Sergeants shall receive a 3.75% increase in 2001, 4.25% increase in 2002 and a 4% increase in 2003. Wages for superior officers shall be as set forth in Appendix A-2 annexed.”

A review of Appendix A-2 shows that the salaries of Sergeants, Lieutenants and Captains increased by 4.25% in 2002 and 4% in 2003.

P-54 is the 2000-2002 CBA between the County/Prosecutor and the Prosecutor's Detectives. The unit includes all ranks from Detective to Captain of Detectives. A review

of the CBA shows that maximum salaries for Captains, Lieutenants, Sergeants and maximum step Detectives increased by 4% in 2000, 3.75% in 2001 and 4.25% in 2002. Annual increases, including increments, for Detectives not at maximum ranged from 4% to 14.04%. Detectives moving from Step 2 to Step 4 received a three-year increase of 41.75%.

The above internal comparability data must be given great weight in the final analysis. Two of the bargaining units are within the Sheriff's Department. All three bargaining units perform public safety functions and all are considered employees of Somerset County within either the Sheriff's Department or the Prosecutor's Office. All rank-and-file officers receive automatic step increments annually until the maximum step is reached. The rank-and-file Correction Officers and the rank-and-file Sheriff's Officers have an eleven-step salary schedule. All of the above data is derived from contracts that were mutually resolved without resort to an interest arbitration award. I served as mediator in two of the bargaining units, the Correction Officers and the Prosecutor's Detectives.

The external comparability data in the record is similar to the above internal comparability data. The FOP submitted salary data from certain municipalities in Somerset County showing an average salary increase of 3.96% in 2002 (15 municipalities), 4.06% in 2003 (15 municipalities) and 3.99% in 2004 (8 municipalities). This data does not include the cost of increments. The FOP submitted salary data from certain county Sheriff's Departments showing an average salary of 4.05% in 2002 (5 counties), 4.42% in 2003 (3 counties) and 4.5% in 2004 (3 counties). This data does not include the cost of increments.

The County submitted salary data from certain county Sheriff's Departments showing an average salary of 4.14% in 2002 (9 counties), 4.12% in 2003 (4 counties) and 4.25% in 2004 (3 counties). This data does not include the cost of increments. The County

submitted other salary data showing that the maximum salary of Somerset County Sheriff's Officers is higher than seven other counties and lower than six other counties. A review of this data shows the relative placement of the 2001 Somerset County maximum salary of \$58,537:

Bergen	\$74,601
Ocean	\$62,350
Passaic	\$60,771
Union	\$60,406
Morris	\$59,979
Essex	\$59,240
Somerset	\$58,537
Middlesex	\$58,000
Camden	\$57,611
Monmouth	\$56,000
Sussex	\$48,303
Atlantic	\$47,000
Gloucester	\$44,832
Salem	\$38,709

The above data shows that Somerset's maximum salary is in the middle of the group when compared with the above salary data.

The County submitted salary data from certain municipalities in Somerset County showing an average salary increase of 4% in 2002 (6 municipalities), 4.13% in 2003 (9 municipalities) and 4.38% in 2004 (2 municipalities). This salary data does not include the cost of increments. The County's municipal salary data is similar to the data submitted by the FOP.⁴

⁴The County calculated the average municipal salary increase as 4.6% in 2002, 4.1% in 2003 and 4.54% in 2004.

I find that the external salary comparisons to other county Sheriff's departments is not entitled to as much weight as the internal comparisons to other Somerset County public safety employees. The external salary comparisons with municipal police officers is also not entitled to as much weight as the internal comparisons to other Somerset County public safety employees. However, the municipal salary data is entitled to more weight than comparisons to other county Sheriff's departments. Evidence in the record shows that thirteen of the twenty-one employees left the Sheriff's Department between 1998 and 2001 for police officer positions in Somerset County municipalities. This is a significant number (62%) making the municipal salary data more of a factor in measuring the competitiveness of the Sheriff's Officer salary schedule. Evidence in the record does not pinpoint the reasons why thirteen out of twenty-one employees have left for municipal police work. However, the County cannot afford to become a training ground for municipal police officers. Recruitment and retention of qualified Sheriff's Officers are significant factors in maintaining the high quality services currently provided by the Sheriff's Department. High turnover is not only expensive but it also has the potential to reduce the quality of services. Testimony of FOP witnesses confirm that morale is currently very high in the Sheriff's Department.

The County and FOP salary data is similar. The County disputes the FOP's comparison to municipal police officers arguing that the job of a Sheriff's Officer and a municipal police officer are not alike. I agree with the County that the jobs are not similar. However, it is clear that Sheriff's Officers are being hired as police officers by Somerset County municipalities. This argument would deserve more consideration if this were a "final offer" proceeding. It is not. The parties related the evidence and arguments regarding the

criteria primarily to its offer and to that of the other party. I shall not do so because, in this conventional proceeding, I have the authority and responsibility to fashion a conventional arbitration award unlike the prior statute which required an arbitrator to select the final offer of one party or the other on all economic issues as a package and then to justify that selection.

I have determined that internal comparability is the most relevant factor in this proceeding. The rank-and-file Correction Officers reached a voluntary settlement with the County. The salary increase was 3.77% in 2002 and 4.48% in 2003 at the maximum step. This settlement averages 4.12% annually exclusive of incremental costs. All of the steps were increased by 3% annually except step 10 which increased by 7% in 2002 and 3.5% in 2003. The superior officers in the Corrections Department received a 3.75% salary increase in 2001, 4.25% in 2002 and 4% in 2003. This settlement averages 4% per year. The superior officers in the Sheriff's Department settled voluntarily for 4.5% in 2001, 4% in 2002 and 3.5% in 2003 and 2004. This averages 3.87% annually. The Prosecutor's Detectives settled voluntarily for 4% in 2000, 3.75% in 2001 and 4.25% in 2002. This averages 4% annually exclusive of increments. While I have determined that internal comparability deserves more weight, I note that the internal comparability data is similar to the external salary data for both municipalities and Sheriff's departments in other counties.

Therefore, having considered all of the evidence and arguments presented by the County and the FOP and determining that the statutory criteria which are the most relevant and entitled to the most weight are *N.J.S.A. 34:13A-16(g) (1)* (the interests and welfare of the public) and *N.J.S.A. 34:13A-16(g) (2) (c)* (comparisons of wages in the same or similar jurisdictions), I award the following salary increases:

The cost of my award of 4% at maximum and 3% on steps 1-10 in 2002 is \$32,538 more than the County's proposal and \$28,443 less than the FOP's proposal. The difference in costs are similar in 2003 and 2004 with the FOP's salary proposals approximately \$30,000 higher and the County's salary proposals approximately \$30,000 lower than the cost of my awarded increase of 4% at maximum and 3% on Steps 1-10. The County will benefit from a lower Academy rate in 2003 and 2004.

The County and the FOP stipulated that the statutory criteria under N.J.S.A. 34:13A-16(g)(5)(6) are not implicated in this matter. The parties waived the submission of evidence, testimony and argument regarding the CAP Law and statutory factors (g) (5) and (6). The parties stipulated that neither proposal would have an adverse impact on the governing body, its residents or taxpayers. I find that the terms of my Award will not cause an adverse financial impact on the County, its residents or taxpayers nor do the terms conflict with the lawful authority of the County.

I deny the FOP's proposal for a Senior Officer Differential after 20 years. This is another form of longevity and is denied for the same reasons cited in my discussion on longevity. I award the County's proposal to eliminate Article II, Section 2.3 for all Sheriff's Officers hired on or after January 1, 2003. All Sheriff's Officers hired before January 1, 2003 are "grandfathered" and shall continue to be covered by Article II, Section 2.3.

I have considered the overall compensation received by Sheriff's Officers and find that the terms of my Award will maintain the existing levels of economic benefits. The current overall compensation is competitive. There is no evidence that any benefits currently received are out of the mainstream either internally or externally. The terms of my award are consistent with other internal settlements thus maintaining a consistent level of benefits for all public safety employees in the County.

The cost of living data shows that increases in the Consumer Price Index (“CPI”), as published by the U.S. Department of Labor, Bureau of Labor Statistics (“BLS”), are below the salary proposals of the County and the FOP and the terms of my Award in 2002. If the current trend continues, the awarded salary increases will exceed the CPI resulting in an increase in real earnings of bargaining unit members for the 2002-2004 duration of the new CBA. I have not placed great weight on this factor.

I conclude that the awarded salary increases, while higher than the increases in the cost of living in 2002 (and probably higher in 2003 and 2004), provide for an acceptable increase in real earnings that must be measured against the continued delivery of quality services.

Neither party emphasized private sector comparisons although the County referred to average salaries of County residents. I agree with the analysis of veteran Arbitrator William Weinberg that comparisons to the private sector are difficult because of the unique nature of law enforcement. (See excerpt on page 29 of this Award). I have given this factor very little weight.

The terms of my Award will maintain the continuity and stability of employment for Somerset County Sheriff’s Officers. The salary award in this matter will not jeopardize either employment levels or other governmental services. The salary award will maintain a competitive salary and permit the County to continue to recruit and retain qualified Sheriff’s Officers. This factor persuaded me that the County’s proposals to eliminate longevity for certain current and prospective employees would negatively affect the continuity and stability of employment of the bargaining unit. There is some evidence of retention problems. A reduction in benefits for future hires would only increase the potential

for higher turnover rates. This factor also persuaded me that the County's health and dental insurance proposals would negatively affect the continuity and stability of employment of the bargaining unit.

I am convinced that the terms of this award will maintain the continuity and stability of employment and satisfy the requirements of this factor.

Accordingly, I respectfully issue the following award:

AWARD

1. **Term of Contract:** January 1, 2002 to December 31, 2004.

2. **Salary:**

Salaries shall be increased by 3% effective January 1, 2002; 3% effective January 1, 2003; and 3% effective January 1, 2004 on Steps 1-10. All salary increases shall be fully retroactive.

Salaries shall be increased by 4% effective January 1, 2002; 4% effective January 1, 2003; and 4% effective January 1, 2004 at maximum (Step 11). All salary increases shall be fully retroactive.

A \$30,000 Academy Step shall be implemented effective January 1, 2003. The Academy Step shall be increased to \$31,500 effective January 1, 2004. Employees shall move to Step 1 upon completion of the Academy and then move to Step 2 on January 1st of the following year.

3. **Compensatory Time:** The exact terms included in Article IV, Section 4.4 of the Superior Officers CBA shall be included in the new CBA as Article V, Section 5.7. The compensatory time procedure shall be effective January 1, 2003.

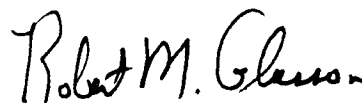
4. **Educational Reimbursement:** I remand this issue to the parties to develop contract language which adopts the specifics of the County policy as a term and condition of employment. Any changes shall not be effective until September 1, 2003 to permit the completion of courses for current enrollees. I shall retain jurisdiction in the event the parties do not agree.

5. **FOP Rights:** Article XXX, FOP Rights shall be modified as follows:

The County agrees each calendar year to grant necessary time off, without loss of pay or other benefits, to three (3) members of the FOP selected as delegates or alternate delegates to attend any State or National Convention of the Fraternal Order of Police provided that the FOP notifies the Sheriff of the date of such conventions upon the scheduling of such conventions by the State or National FOP. In addition, the FOP shall provide the Sheriff with the names of all such FOP members who will be attending such conventions at least two (2) weeks prior to such convention.

6. **Off-Duty Work Provisions:** The following provisions included in the MOA shall be included in the CBA:
1. Section 5(e)(i) of the Somerset County "Policy and Requirements for Employment for Off-Duty Personnel (hereinafter the "Policy"), adopted by the Somerset County Board of Chosen Freeholders on October 6, 1998, and implemented by the Somerset County Sheriff on December 9, 1998 in General Order 91.17, will be amended to add "FOP Lodge #39" in addition to the PBA.
 2. The hourly rate under the Policy for members of the FOP Lodge # 39 shall be \$52.50 per hour.
 4. The County of Somerset shall deduct fifteen percent (15%) from the hourly rate in effect at the time the off-duty work is performed, in order to cover its costs of administration and benefits.
 5. The procedures for selecting officers for off-duty assignments shall be as set forth in Section 5.4 and 5.5 of the current collective bargaining agreement between the Somerset County Sheriff and FOP Lodge #39.
7. **Call-In Time:** Article 6.2 shall be modified as follows:
- 6.2 Officers shall start accruing call-in time benefits as of the time that personal contact is made; provided, however, that no officer shall be paid more than 30 minutes of time spent responding to the workplace.
8. **Pager Duty:** Article XXXV, Section 35.1 (B) shall be modified as follows:
- 35.1 Officers that are working the afternoon and midnight shifts cannot sign up for pager duty.
9. **Shift Differentials:** The last sentence of Article XVII, Section 17.1 shall be deleted.
10. **Salaries:** I award the County's proposal to eliminate Article II, Section 2.3 for all Sheriff's Officers hired on or after January 1, 2003. All Sheriff's Officers hired before January 1, 2003 are "grandfathered" and shall continue to be covered by Article II, Section 2.3.

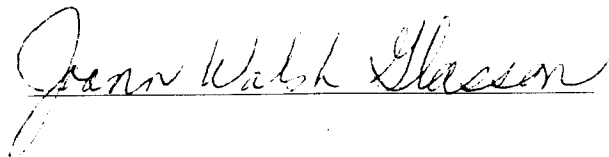
Dated: March 15, 2003
Pennington, NJ



ROBERT M. GLASSON
ARBITRATOR

STATE OF NEW JERSEY) ss.:
COUNTY OF MERCER)

On this 15th day of March 2003, before me personally came and appeared ROBERT M. GLASSON, to me known and known by me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

A handwritten signature in cursive script that reads "Joann Walsh Glasson". The signature is written in dark ink and is positioned above a horizontal line.

Joann Walsh Glasson
Notary Public
State of New Jersey
Commission Expires 12-11-06