

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between

COUNTY OF HUDSON / OFFICE OF THE PROSECUTOR

"Public Employer"

-and-

PBA LOCAL NO. 232

"Union."

**SUPPLEMENTARY
OPINION AND
AWARD**

Docket No. IA-2009-059

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the Employer:

Sean D. Dias, Esq.
Scarinci & Hollenbeck, LLC

For the Union:

Donald B. Ross, Esq.
Lindabury, McCormick, Estabrook
& Cooper, PC

I issued an interest arbitration award on December 23, 2011 in regards to an impasse between the Hudson County Prosecutor's Office [the "Employer" or "County"] and PBA, Local 232 [the "PBA"]. The Award contained the following terms:

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

2. **Duration**

There shall be a four-year agreement effective January 1, 2009 through December 31, 2012.

3. **Article VII – Holidays**

Section 4 shall add the following language:

ABSENCE BEFORE AND AFTER HOLIDAY

An employee who is absent from work due to illness the day before and/or the day following a legal holiday, shall not be paid for the holiday unless he/she has accrued sick leave or has requested vacation time in advance, or produces a doctor's certificate. If an employee is carried on the payroll as "absent no pay" or on a leave of absence without pay, this employee does not receive holiday pay, if a holiday is observed while he/she is employed in either status.

4. **Article VI – Overtime**

Sick leave days will not count as hours worked for overtime purposes after the fifth (5th) sick day in a calendar year.

5. **Equipment Allowance**

Effective January 1, 2012, there shall be an annual \$250 equipment allowance.

6. **Vehicle Use**

The County's proposal is denied. A joint committee shall be created to study the issue of vehicles and the compensation offset in the event of their withdrawal.

7. **Mandatory Direct Deposit**

The County shall have the authority to establish a program in which all bargaining unit officers' compensation will be directly deposited into a financial institution and immediately available to officers on payday, at no cost to officers.

8. **Health Insurance**

- a. Add new section to provide as follows:

Periodically, the State Health Benefits Program may change benefits and/or benefit levels. The County has no input into or control over such changes. However, as a participating SHBP employer, the County is governed by any such changes. Accordingly, when SHBP changes a benefit/benefit level, the benefit and/or benefit level in this agreement will be changed accordingly including the cost of co-payments of prescriptions to employees. The County will not be liable for any change or the impact of any such change. In addition, no grievance or complaint against the County challenging any such change can be processed under the grievance procedures of this agreement or in any court of law or administrative agency. This provision does not preclude the Union, an individual employee or the County from filing an appropriate challenge against SHBP for any such change. This paragraph applies to any programs under the SHBP, for example the prescription drug program.

- b. Base salary contributions towards the cost of health care insurance benefits shall be governed in all respects by the terms set forth in Senate Bill 2937.

9. **Salary**

The salaries at each step of the salary schedule shall increase by 2.5% effective January 1, 2009, 2.5% effective January 1, 2010, 2.0% effective January 1, 2011 and 2.0% effective July 1, 2012. The salary schedule shall read as follows:

<u>Step</u>	2.5%	2.5%	2.0%		2.0%
	1/1/2009	1/1/2010	1/1/2011	7/1/2012	7/1/2012
Starting	\$31,775	\$32,569	\$33,220	Starting	\$33,885
1	\$32,749	\$33,567	\$34,238	1	\$34,923
2	\$33,873	\$34,720	\$35,414	2	\$36,123
3	\$36,509	\$37,422	\$38,170	3	\$38,934
4	\$44,294	\$45,402	\$46,310	4	\$47,236
5	\$49,127	\$50,355	\$51,362	5	\$52,389
6	\$53,154	\$54,483	\$55,573	6	\$56,684
7	\$57,181	\$58,610	\$59,782	7	\$60,978
8A	\$68,198	\$69,903	\$71,301	8	\$72,727
8	\$78,925	\$80,898	\$82,516	9	\$84,166
Sr. Investigator	\$82,871	\$84,943	\$86,642	10	\$88,375

A new section shall be added reflecting the discretion of the Prosecutor to appoint and compensate a "Senior Investigator." It shall state:

- d. The Prosecutor, in his or her sole discretion, may declare any investigator a "Senior Investigator" with a salary of up to 5% beyond the salary level provided at Step 10 of the salary schedule for any investigator with at least ten (10) years law enforcement experience and with at least four (4) years experience with the Hudson County Prosecutor's Office. The number of investigators shall not exceed twelve (12) unless there is a mutual agreement between the Prosecutor and PBA Local No. 232 to exceed that number. Upon appointment, the Prosecutor shall provide written notice of the terms of that appointment to PBA Local No. 232.

A new section shall be added concerning legislation that impacts upon terms and conditions of employment:

7. During the term of the collective negotiations agreement, should the New Jersey Legislature pass any law that directly or indirectly impacts the terms and working conditions of employment, the Union and the County agree to abide by such legislation unless such legislation does not preempt negotiations and creates a mandatory bargaining obligation on the parties.

A new section shall be added concerning step movement:

While the salary schedule shall, unless agreed to otherwise, remain without change upon the expiration of the agreement, salary level movement shall not occur beyond the contract expiration date of the agreement in the absence of a new collective negotiations agreement.

The Hudson County Prosecutor filed a timely appeal of the Award with the Public Employment Relations Commission limited to a section of the Award. The appeal resulted in a January 26, 2012 Order remanding the issue cited therein to the arbitrator to issue a supplemental opinion and award within forty-five (45) days.¹ In that decision, PERC stated:

The County is only appealing section nine of the award which is the salary guide. Specifically, it asserts that the arbitrator's calculations are inaccurate as to the actual cost of the new salary guide as well as other arguments related to the award of the guide.

The PBA responds that the County's calculations are incorrect; points to evidence supporting the arbitrator's calculations; and asserts that the County is mistaken in its interpretation of the award.

Because the parties have conflicting interpretations of the meaning of the salary award, we find it necessary to remand the salary issue to the arbitrator for further explanation.² Any appeal from the arbitrator's supplemental award must be filed within seven days of receipt of the award. We caution the parties that an interest arbitration appeal is not an opportunity to re-argue their case, but must comply with our review standard.³

² Both parties have served their briefs on the arbitrator, so he is informed as to their conflicting interpretations.

³ We will not vacate an award unless the appellant demonstrates that: (1) the arbitrator failed to give "due weight" to the subsection 16g factors judged relevant to the resolution of the specific dispute; (2) the arbitrator violated the standards in N.J.S.A. 2A:24-8 and 9; or (3) the award is not supported by substantial credible evidence in the record as a whole. Teaneck Tp. v. Teaneck FMBA, Local No. 42, 353 N.J. Super. 298, 299 (App. Div. 2002), aff'd o.b. 177 N.J. 560 (2003), citing Cherry Hill Tp., P.E.R.C. No. 97-119, 23 NJPER 287 (¶28131 1997).

¹ PERC No. 2012-37

The PERC decision made reference to the submissions that the parties had made in connection with the appeal and that they had, as required, served their submissions on the arbitrator. Thus, I have been informed as to their conflicting interpretations and positions on the appealed issue. Accordingly, the record before me consists of the record of the initial proceeding, the original Interest Arbitration Decision and Award², the PERC decision on appeal and the submissions that the parties have made in connection with the appeal. This Supplemental Opinion and Award is based upon that record.

As stated, the County's appeal is limited to a portion of section 9 of the Award governing salary. The County has not appealed the remaining portions of section 9 that concern the parties' obligation to abide by any new legislation that directly or indirectly impacts terms and working conditions of employment or the County's obligations, and the PBA's rights, with respect to salary movement beyond the contract expiration date of the Agreement. The relevant portion of section 9 that was appealed states the following:

The salaries at each step of the salary schedule shall increase by 2.5% effective January 1, 2009, 2.5% effective January 1, 2010, 2.0% effective January 1, 2011 and 2.0% effective July 1, 2012. The salary schedule shall read as follows:

Step	2.5% 1/1/2009	2.5% 1/1/2010	2.0% 1/1/2011	2.0% 7/1/2012	2.0% 7/1/2012
Starting	\$31,775	\$32,569	\$33,220	Starting	\$33,885
1	\$32,749	\$33,567	\$34,238	1	\$34,923
2	\$33,873	\$34,720	\$35,414	2	\$36,123
3	\$36,509	\$37,422	\$38,170	3	\$38,934

² I incorporate the original Interest Arbitration Decision and Award into this Supplementary Opinion and Award.

4	\$44,294	\$45,402	\$46,310	4	\$47,236
5	\$49,127	\$50,355	\$51,362	5	\$52,389
6	\$53,154	\$54,483	\$55,573	6	\$56,684
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Sr. Investigator	\$82,871	\$84,943	\$86,642	10	\$88,375

A new section shall be added reflecting the discretion of the Prosecutor to appoint and compensate a "Senior Investigator." It shall state:

- d. The Prosecutor, in his or her sole discretion, may declare any investigator a "Senior Investigator" with a salary of up to 5% beyond the salary level provided at Step 10 of the salary schedule for any investigator with at least ten (10) years law enforcement experience and with at least four (4) years experience with the Hudson County Prosecutor's Office. The number of investigators shall not exceed twelve (12) unless there is a mutual agreement between the Prosecutor and PBA Local No. 232 to exceed that number. Upon appointment, the Prosecutor shall provide written notice of the terms of that appointment to PBA Local No. 232.

The essence of the County's appeal is reflected in the following excerpt from the brief that it filed accompanying its Notice of Appeal:

Although the arbitrator indicated otherwise, he effectively "created a new step" on the salary guide that imposes an increased economic burden on the County's already constrained fiscal budget. Thereafter, the arbitrator awards an additional 2.0% to the twenty to twenty-five investigators that are moving to the "newly created step." The arbitrator sets forth in his award:

I am persuaded that a reasonable determination of the salary issue is one that provides annual across the board increases of 2.5% in 2009, 2.5% in 2010, 2.0% in 2011 and 2.0% in 2012 to each step of the salary schedule but in a revised salary structure, effective July 1, 2012, that lifts the limitation on an investigators' advancement to the existing Senior Investigator step while, at the same time, preserving the Prosecutor's current discretion to provide an additional salary incentive of 5% for those investigators who meet the current criteria.(FN) This can be accomplished within the structure of the existing salary schedule.

That schedule currently has eleven (11) steps including starting pay and would remain at eleven (11) steps including starting pay. Effective July 1, 2012, the Senior Investigator step would be replaced by a new Step 10, the old Step 8 would become Step 9 and the old Step 8A would become Step 8. The two step six month split at the current steps 8A and 8 would give way to annual Steps 8 and 9. All remaining steps would remain as currently configured with all steps, as the parties have defined, being annual or "automatic" steps through the salary schedule.

The arbitrator's assertion that the existing eleven steps in the salary guide will remain unchanged at eleven (11) is incorrect. Upon an examination of the salary schedule set forth on page 48 of the Agreement, there exist only ten (10) salary levels. The first level is starting salary at \$31,000 and the tenth level is \$77,000. As indicated above, the arbitrator has recognized starting salary as a level under the existing salary guide and the newly awarded salary guide. Importantly, the "Sr. Investigator" level is **not** a salary step under the existing guide on page 48. Therefore, it is not counted as a salary level. As recognized by the arbitrator, advancement to the Sr. Investigator level is at the discretion of the County Prosecutor.

Under the arbitrator's revised salary schedule, there exist eleven (11) salary levels in 2012, not including the Sr. Investigator discretionary level. The first level is starting salary at \$33,885, and the newly created eleventh level is \$88,375. In following the progression of the number of Investigators listed in the County's document setting forth the cost out of its proposal (Exhibit C-145), the number of Investigators at the "new salary level" **totals forty-six (46)**.¹ The arbitrator erroneously calculated the amount of affected Investigators at "... twenty to twenty-five (25) officers ..." (See page 44 of Award). By creating the additional new level and by awarding an additional 2% salary increase, the arbitrator has awarded a **9.1%** salary increase in 2012 to forty-six Investigators. Accordingly, the arbitrator has underestimated the economic impact upon the County of his Award. The Award imposes a significant salary cost upon the County. even the arbitrator recognized this fact in his Award. On page 44, he states:

The 2012 cost over the cost of the prior years is more substantial due to the approximately twenty to twenty-five officers who would move to Step 10 at an approximate annual cost of \$100,000 in addition to the \$96,000 annual cost of the 2% increase to the salary schedule. Because of this additional cost, I have deferred the implementation of the 2012 salary award to July 1, 2012 thereby reducing the aforementioned annual costs by 50%.

However, the number of Investigators that will reap the benefits of a 9.1% salary increase in 2012 is forty-six. The arbitrator

approximated an annual cost of moving twenty (20) to twenty-five (25) Investigators to Step 10 at \$100,000. However, as the number of Investigators is forty-six (46), the arbitrator has underestimated the financial cost to the County. Under the Award, the salary in 2012 at Step 10 is \$88,375. The salary at Step 9 is \$82,516. The difference in the movement from Step 9 to Step 10 equals \$5,859. The salary cost to the County for the step movement of forty-six Investigators is **\$269,514**. That cost is over one and one half times greater than the arbitrator's approximated cost of \$100,000. As a result, the arbitrator has not taken into consideration the impact of the cost of \$269,514 under the statutory criteria of the Interest Arbitration Act.

By creating a new salary level, the arbitrator has significantly increased the County's salary liability cost in 2012. Instead of incurring only the cost from a 2% salary increase in 2012, the County's cost of the additional step under the Award is approximately \$269,514 before the calculation of the effect of his deferral of the increases to July 1, 2012. Importantly, the arbitrator deferred the cost of the award in 2012 as he relied upon a calculation of "only \$100,000" on step movement and indicated that, "The 2012 cost over the cost of the prior years is more substantial due to the approximately twenty to twenty-five officers who would move to Step 10 ..." As the cost of the step movement is \$269,514 and not \$100,000, the arbitrator has not set forth in his Award an analysis of the impact of that cost under the statutory criteria.

¹ Listed in the column for 2012 is the number of Investigators at the top step, which is identified as "Step 8 - \$77,000" under the expired Agreement, and the reference of "# of Emp." At that level shows 9, 5, 5, 8, and 19 respectively.

The PBA's position in opposition to the Notice of Appeal is set forth in the response brief it submitted to PERC. The essence of its response to the issue raised in the County's appeal is captured in the following excerpts from that submission:

At its core, the County's position is that the arbitrator erred because he underestimated the financial cost to the County of his ruling. That argument is based upon two premises: (1) the arbitrator erroneously calculated the number of affected investigators at top step on the salary guide under his Award and (2) he

underestimated the cost of the adjustments to top step for those affected officers which go into effect on July 1, 2012. As will be demonstrated beyond cavil below, the plain fact is that he did neither in any material way.

It may be fairly said that the County does not advance an argument that the rest of the arbitrator's modest Award should be vacated. This appeal is really about the July 1, 2012 wage adjustment contained in the Award and, like the County, we will focus on that herein. When examined closely, the County's argument fails and must be rejected summarily.

First, the arbitrator did *not* miscalculate the cost of his award based on the number of affected investigators in any meaningful way. He estimated the number to be between 20 and 25. It must be remembered that the hearing was conducted in 2010 and the adjustment is to occur in 2012 under a revised step plan. It would be impossible for anyone to identify with precision the number of affected employees more than a year and a half after the commencement of the hearing. However, we now have the benefit of time in order to assist the Commission in analyzing the Award. The arbitrator concluded that the approximate *annual* cost of his 2012 directive would be \$100,000 (based on 20-25 employees at top step) for the adjustment. He based his wage award on that assumption, among many other factors. See page 44 of the Award.

Attached hereto as Attachment A is a certification of PBA President Sean O'Leary which clarifies the record as much as possible, based upon current information provided by the County payroll supervisor. On July 1, 2012, when the adjustment takes place under the revised step guide in the Award, we know that 29 investigators will be at top step, not the 46 claimed by the County. The County included 17 investigators more than it should – 9 who not be at Top Step under the Award and 8 who have been promoted out of the bargaining unit. Therefore, using the County's methodology for calculating per capita cost, the *annual* cost of the step movement will be 29 times \$5,859 or \$169,911 -- some \$100,000 less than the amount asserted in the County's brief.

But there is much more to this analysis. The PBA contends vigorously that the County was disingenuous in crafting its argument about the cost of the adjustment. As noted above, the arbitrator used an *annual* cost analysis of the adjustment for those at top step. He then went on to say that, because the cost is more "substantial" than prior years, he was ordering that it be implemented for only the second half of the year. Therefore,

although he identified and utilized an annual \$100,000 in his cost determination, he rendered a decision that could *actually* cost about \$50,000 for the adjustment (based on 20 to 25 employees).

The County never acknowledges the difference between the annual cost and the actual cost in 2012, other than quoting the award. Rather, it alludes time after time to its own determination that the "cost" of the Award will be \$269,514 while ignoring the true cost in 2012. Utilizing that faulty and misleading premise, the County frames its argument that the Arbitrator failed to comply with the statutory criteria. The fact is that, even if the County were correct about the number of investigators, which it is not, the cost for 2012 would be one-half of \$269,514 (based on its numbers), or \$134,757 since the adjustment is implemented half way through the year. Even \$269,514 is significant in a County of this size, but one half of that is meaningless, under any analysis. As demonstrated by Detective O'Leary's certification, using actual current numbers, the annual cost of the adjustment will be about 29 times \$5,859 or \$169,000 and the actual 2012 portion will thus be one half of that amount, or \$66,477. In the overall scheme of things, when considered as part of a four year contract, the \$66,477 more than the arbitrator *estimated* is meaningless. In striking contrast, the County's tax revenues in 2010 were nearly \$270 million dollars! See certification of Dr. Raphael Caprio, which along with the County's financial reports, was submitted after the hearing by agreement of the parties. It is attached hereto for the convenience of the Commission as Attachment B.

Parenthetically, it must also be noted that the County overstated the percentage increase represented by the July 1 adjustment. As shown on President O'Leary's certification (and indeed the Award), the increase of \$5,859 *includes both the adjustment and the 2%* and represents a 7% adjustment for 6 months of the contract. It appears that County's 9.1% figure *adds 2%* to the increase, although it is factored into the awarded amount. In short and in fact, under any analysis, the 2012 adjustment will be utterly unnoticeable in terms of the financial and public interest of Hudson County in 2012 and thereafter. Moreover, and significantly, the 7% adjustment represents a cost of 3 ½% during the term of the contract, is implemented during the final 6 months of 4 year contract, and when combined with the very modest increases awarded during the first three and ½ years, represents an entirely justifiable total increase and cost during the entire term of the contract. This is especially so when the investigators' percentages are compared with the Sheriff's Officers and the Correction Officers, as noted by the arbitrator. The investigators were and are

entitled to achieve some measure of parity with other Hudson County law enforcement officers. Accordingly, it is clear that the arbitrator complied in all respects with his obligations under the criteria and applicable law.

The County makes much of the number of salary steps under the Award. It is our view that this claim is a non-issue. The arbitrator's directive regarding the wage schedule is clear and unambiguous. The step movement for all years of the Award is also clear and unambiguous and actually elongates and slows down the process of reaching top pay. Moreover, the arbitrator's reasoning and analysis of that salary guide is cogent and amply justified by the record. He had full and complete authority, under the statute, the rules and PERC precedent, to render his Award. The PBA sought a contractually mandated "Senior Officer Differential" and the arbitrator awarded a step on the salary guide in its stead. Although the County waited until the 22d and last page of its brief to acknowledge it, the investigators covered by this proceeding are woefully underpaid. We do not intend to re-state our arguments here. The arbitrator gave due weight to the statutory criteria and explained the basis for his decision to make adjustments (to the top step only) in detail and with persuasiveness. The County has offered nothing in its brief to refute that conclusion and, more importantly, nothing in the applicable standards of review which would justify a vacation of the Award. ...

DISCUSSION

As a preliminary observation, I note that all of the issues that were in dispute in the initial proceeding were considered in an overall context by evaluating "the reasonableness of any individual issue in relation to the terms of the entire award" [IA Decision at p. 21 & 22]. Accordingly, the limited issue herein must be considered within that standard.

The salary schedule under the Agreement that expired on December 31, 2008 contained eleven (11) steps commencing "Starting" and concluding with

“Senior Investigator.” The County’s contention that it does not is without merit. The Award maintains eleven (11) steps but, as stated on pages 41-42 of the Award, it does so in a “revised salary structure.” One such revision was to eliminate the six month steps of Step 8A and Step 8. These two steps created a one year split “bubble” that yielded an overall \$22,000 annual increase in salary rate. By creating the annual steps of Step 8 and Step 9 in place of the six month steps of Step 8A and Step 8, the bubble was eliminated, thereby creating cost savings to the County by slowing guide movement through those steps. Those cost savings were not factored into the analysis of the additional costs created by the overall terms of the Award but were a consideration in revising the salary schedule in the manner that was awarded.

Another revision, and the one whose cost calculations were questioned by the County, was the elimination or conversion of the Senior Investigator Step and, in its place, the insertion of Step Ten. Thus, the old agreement and the new agreement each contain eleven steps and support for this conclusion is evident from the actual salary schedules. The County’s objection arises not from the amount of steps, but rather from the fact that the Senior Investigator Step was a discretionary step that only allowed for movement to that step by the Prosecutor’s discretion. That step has been replaced by a non-discretionary Step 10 allowing for movement, on July 1, 2012, for those Investigators who previously occupied Step 8. The old six month Step 8 became the new annual Step 9. The Prosecutor’s discretion to place an Investigator was not removed

from the salary portion of the Agreement and instead was referred to new contract language authorizing the Prosecutor to exercise discretion to declare an Investigator a "Senior Investigator" with a salary of up to 5% beyond the salary level provided for at the new Step 10. The Senior Investigator step no longer exists in the salary schedule.

A summary of the considerations present in the awarding of the revised salary structure is of some guidance in evaluating the issue of cost calculations and their impact on the County. The reason for the award are set forth in the original award and will be set forth only for the purpose of context.

The prior Award, at Section 9, awarded the County's proposal to eliminate an obligation to move an Investigator automatically to a new step beyond the expiration of the Agreement. The prior Award also gave significant weight to the enormous wage disparities between the County's Investigators and those employed in various other counties. By eliminating the Senior Investigator Step and creating a tenth (10th) step in its place, the wage disparities would not be eliminated but they would be ameliorated by providing access to the 5% step that was previously reserved to those Investigators who could access that step at the Prosecutor's discretion.

Another consideration supporting this aspect of the Award was evidence on internal comparability that reflected the existence of voluntary labor

agreements between the County and other law enforcement units that created unfavorable and deepening salary comparisons within the County between the Investigators and Sheriff's and Corrections Officers. This was reflected in detail in the Award and need not be revisited. A cursory re-summarization reflects 6% annual increases for Sheriff's Officers in 2008, 2009, 2010, 2011 and 2012, 4% increases for Corrections Superior Officers in 2008, 2009 and 2010 and 4% increases for Correction Officers in 2008 and 2009. These increases were negotiated in a different economic and financial climate and were not awarded herein due to that fact and instead, across the board increases of 2.5%, 2.5%, 2.0% and 2.0% were awarded for 2009, 2010, 2011 and 2012. These increases were also deemed insufficient to address the significant wage disparities at top step among Prosecutor's Detectives and Investigators on a statewide basis. The evidence on this point was overwhelming. It supported the awarding of top step pay at the level that was previously set at the Senior Investigator step. Averaged over a four (4) year period, the movement to this step represented an average of an additional 1 ¼% per year for Investigators who occupied the step below the Senior Prosecutor step. By awarding this revision in the final six months of a four (4) year contract, it eliminated all cumulative costs that the County would have borne from any earlier effort to address the top step pay issue.

The duration of the Agreement was also at issue. The December 31, 2102 expiration date in the award was consistent with setting the terms of the Award within the existing pattern of 2012 expiration dates that existed in the

other law enforcement agreements in evidence. No other units have agreements going beyond 2012. I concluded that the terms of the Investigator agreement should not extend beyond 2012. Thus, the terms of the Award do not set a pattern and do not coincide with contract years that extend beyond 2012. They resolve the disputed issues well within the scope of the County's other settlements without creating a standard that goes beyond the terms of all existing agreements.

Within the above context, the costs of rendering the Award were calculated. I noted that the costs could not be calculated with absolute precision given the fluctuations that normally occur through the passage of time. I had estimated that 20 to 25 Investigators would be implicated in the move to Step 10 at an annual cost in 2012 of approximately \$100,000, less a 50% offset in cost for that year by deferring the effective date to July 1, 2012. In its appeal, the County contended that the number of Investigators was 46 at a cost of \$269,512. In its response to the County's appeal, the PBA submits a certification from Sean T. O'Leary, President of PBA Local 232 dated January 4, 2012. O'Leary certifies that he prepared his certification after conferring with the County's payroll supervisor. His certification is unopposed. O'Leary certified that there are 29 Detectives who would move the top step. He included the wage adjustment of 2% to the overall schedule in his calculation of the costs for movement to the top step. He contends that the total annual cost is \$169,911 rather than the County's

figure of \$269,514. Because the increase is effective for one half of the year, he submits the total actual cost to be \$84,955.

In my evaluation of the record as supplemented by the parties, I will, as directed, provide an explanation of the calculations in an attempt to resolve the parties' conflicting interpretations as to the Step 10 costs. I have calculated the 2.0% increase as \$1,733 per Investigator using 29 as the total for an annualized amount of \$50,257 and the cost of the movement to the top step at an annualized amount of \$122,061 for a total annualized cost of \$172,318. Because of the deferral of all 2012 increases to July 1, 2012, the actual payout cost for 2012 is \$86,159. That figure is \$36,159 above the actual projected cost as calculated in the award which was \$50,000 based upon an estimated annual cost of \$100,000.

The record reflects that 1% of salary cost is approximately \$44,000 based upon 71 employees as of January 1, 2009.³ Because the cost of the last year of the Award exceeds the projected estimated cost as set forth in the award by \$36,159, a modification of this aspect of the Award is required in order to maintain the balance in how the statutory criteria was applied and, in particular, to the overall financial impact of the terms of the Award on the County, its residents and taxpayers. While the PBA argues, citing Dr. Caprio's report, that the additional cost as originally estimated is de minimus and meaningless, it is

³ It appears that the bargaining unit has decreased in number since that time which would serve as a cost reduction. This has not been factored into this clarification of cost.

appropriate that the actual costs should fall within a reasonable range of the original costs that were estimated.

Accordingly, I amend the Award by retaining the revised salary structure as awarded with the exception of modifying the 2.5% across the board increase effective January 1, 2010 to 2.25%. The 0.25% change in 2010 also modifies the schedule and costs by that amount in 2011 and 2012, yielding an estimated cost reduction of \$11,000 in 2010, an additional \$11,000 in 2011 and an additional \$11,000 in 2012 for a total reduction of \$33,000 which reasonably corresponds to the amount required to fund the award at the clarified projected cost.

Based upon all of the above, I respectfully offer a Supplementary Award as follows:

SUPPLEMENTARY AWARD

Section 9 of the December 18, 2011 Award is amended to reflect a modified salary schedule as follows:

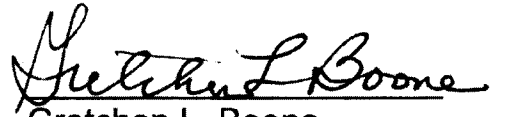
Step	2.5% 1/1/2009	2.25% 1/1/2010	2.0% 1/1/2011	7/1/2012	2.0% 7/1/2012
Starting	\$31,775	\$32,490	\$33,140	Starting	\$33,803
1	\$32,749	\$33,486	\$34,156	1	\$34,839
2	\$33,873	\$34,635	\$35,328	2	\$36,034
3	\$36,509	\$37,330	\$38,077	3	\$38,839
4	\$44,294	\$45,291	\$46,196	4	\$47,120
5	\$49,127	\$50,232	\$51,237	5	\$52,262
6	\$53,154	\$54,350	\$55,437	6	\$56,546
7	\$57,181	\$58,468	\$59,637	7	\$60,830
8A	\$68,198	\$69,732	\$71,127	8	\$72,550
8	\$78,925	\$80,701	\$82,315	9	\$83,961
Sr. Investigator	\$82,871	\$84,736	\$86,430	10	\$88,159

Dated: March 12, 2012
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth } ss:

On this 12th day of March, 2012, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.


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