

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

Docket No. IA-2001-46

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In the Matter of Interest Arbitration Between:

**COUNTY OF UNION ,**

**-Employer-  
and**

**UNION COUNTY CORRECTION OFFICERS,  
PBA LOCAL NO. 199**

**-Union-**

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**OPINION  
AND  
AWARD**

ARBITRATOR:	Robert E. Light, mutually chosen by the parties pursuant to the rules and regulations of the New Jersey Public Employment Relations Commission.
MEDIATION SESSION:	March 21, 2001
FORMAL HEARING:	November 13, 2001 Both counsel thereafter submitted voluminous briefs.
APPEARANCES:	<u>For the Employer</u> Kathryn V. Hatfield, Esq. SCHENCK, PRICE, SMITH & KING, LLP  <u>For the Union</u> Richard D. Loccke, Esq. LOCCKE & CORREIA PA

## **BACKGROUND**

The undersigned was mutually selected by respective counsel to serve as the Interest Arbitrator in this matter. The Public Employment Relations Commission made the formal appointment of my service pursuant to *N.J.A.C.* 19:16-5.6.

The parties initially met with me on March 21, 2001, in a mediation session. While progress was made, it became apparent that no voluntary settlement would be reached and, as a result, the matter was set down to be decided in a formal interest arbitration hearing with conventional authority resting in the Arbitrator, pursuant to the statute.

The hearing was held on November 13, 2001. Pursuant to the agreement of the parties, post-hearing briefs were submitted for consideration. Note should be made that all counsel, namely, Ms. Hatfield for the County and Mr. Loccke for the P.B.A., served their clients extremely well in this complex arbitration.

## **CONTROLLING STATUTE**

The statutory device to resolve labor disputes between counties or municipalities and public safety unions is set forth in *N.J.S.A.* 34:13a-16. The terminal procedure for this binding interest arbitration is outlined in *N.J.S.A.* 34:13a-16(d), which provides in pertinent part:

...d. The following procedure shall be utilized if parties fail to agree on a terminal procedure for the settlement of an impasse dispute:

(1) In the event of a failure of the parties to agree upon an acceptable terminal procedure the parties shall separately so notify the Commission in writing, indicating all issues in dispute and the reasons for their inability to agree on the procedure. The substance of a written notification shall not be the basis for any delay in effectuating the provisions of this subsection.

(2) Upon receipt of such notification from either party or on the Commission's own motion, the procedure to provide finality for the resolution of issues in dispute shall be binding arbitration under which the award on the unsettled issues is determined by conventional arbitration. The arbitrator shall separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria set forth in subsection g. of this section...

In determining which final offer to accept, the Arbitrator is required by N.J.S.A.

34:13A-16(g) to consider the following factors:

1. The interest and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40A: 4-45.1 et seq.)
2. Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours

and conditions of employment of other employees performing the same or similar service and with other employees generally:

- (a) In private employment in general: provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (b) In public employment in general; provided, however each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (c) In public employment in the same or similar comparable jurisdiction, as determined in accordance with section 5 of P.L. 1995, c. 425 (C.34:13A-16.2); provided, however that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
3. The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other benefits received.
4. Stipulations of the parties.
5. The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40A:4-45. 1 et seq.)
6. The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will effect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs

and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

7. The cost of living.
8. The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment. (N.J.S.A. 34:13A-16g)

### **FINAL OFFERS**

**PBA's FINAL OFFER** (source PBA brief, pages 1-3.) The PBA seeks the following contract modifications.

1. **Salary Increases-** across the board increases as follows:
  - 5.0% effective January 1, 2001
  - 5.0% effective January 1, 2002
  - 4.0% effective January 1, 2003
2. **Senior Officer Differential-** make the following modifications to the contract at page 15, section 4.
  - (a) Increase the current \$1365.00 level to \$1520.00
  - (b) Increase the current \$2365.00 level to \$2,500.00

(c) Highest level shall increase with the general wage increase as was negotiated and incorporated into the prior contract.

3. **SOU Stipend-** The PBA proposes a \$1500 stipend to all employees in that unit.
4. **Defense Policy-** The PBA proposes to increase the current \$135 defense policy provision in Article XII of the contract to \$158.
5. **Compensatory Time Off Bank-** The PBA proposes a 100 hour compensatory time off bank be established. This is proposed to be a floating bank which would at no time have more than 100 hours contained in it.
6. **Grievance Procedure-** The PBA proposes to delete the current statement of panel arbitrators and instead rely on the PERC panel.
7. **Food Pick Up-** The PBA proposes that one employee on each shift be allowed sufficient time to go out and pick up food and bring it back to shift personnel to eat at the Employer's facility.
8. **Orthodontic Coverage Definition-** The PBA seeks to incorporate in the contract this provision which is received by other County employees.

**THE COUNTY'S FINAL OFFER** (source County's brief, pages 1-6).

**1. Salary Increases (Article 8, Section 1)**

1.5% effective January 1, 2001

1.5% effective June 23, 2001

3.5% in guide (4.0% at max) effective January 1, 2002

3.5% in guide (4.0% at max) effective January 1, 2003

3.5% in guide (4.0% at max) effective January 1, 2004

## **2. Hours of Work (Article 7)**

Add to the provision a Section 5 as follows:

Notwithstanding any Policy to the contrary, when officers are late three (3) times and/or callout late three (3) times for their regularly scheduled shifts during a calendar year, the Administration may begin to employ progressive discipline with regard to that officer.

## **3. Personal Injury Liability Insurance (Article 12)**

Delete

## **4. Seniority (Article 14, Section 4)**

Delete preferential positions.

## **5. Vacation/Shift Schedules (Article 14, Section 6) – withdrawn by the County on April 17, 2002.**

Modify paragraph (a) to state:

(a) Based on current schedule needs there may be a total of not more than thirteen (13) officers, exclusive of posts that are not regularly replaced, on vacation, personal or compensatory time per day. All officers must take a minimum of ten (10) vacation days consisting of at least one block of 5 vacation days. All officers will pick their block(s) of 5 vacation days first. Upon completion of 5 vacation day blocks, single vacation days will then be offered on a seniority basis.

## **6. Shift Picks, Days Off and Posts (Article 14, Section 7)**

Modify as follows:

A. Administrative Positions:

Add: Detention Officers (4)

Booking Officers (2)

Releasing Officers (2)

Booking/Security Rover (2)

D. Pool Officers: Eliminate paragraph

**7. Overtime (Article 15)**

Modify as follows:

Section 2(B) Add following sentences to the end of last paragraph:

“Officers refusing forced overtime three (3) times during any three (3) month period shall be ineligible to work voluntary overtime for the following three (3) month period. An officer who gives back overtime assignments twice in one month will not be eligible for overtime in the following month.”

Section 2(P) Delete first paragraph concerning switches and modify remainder of section to eliminate references to switches.

**8. Personal Business and Religious Leave (Article 16)**

Modify as follows:

Section 4: Eliminate use of quarter days. Replace with half days.

Section 4: Delete paragraph following (C) and replace with the following language:

“Any officer who cannot work due to an illness on a holiday will be charged with a sick day and must provide a doctor’s note verifying the illness and absence. Officers scheduled to work the holiday but who do not work the holiday will not receive the benefits of Section 5 of Article 23, Holidays. For the purpose of this section, the term holiday shall include Christmas Eve and New Year’s Eve.”

Section 4: Modify last paragraph to state: (withdrawn by the County on April 17, 2002)

“The maximum number of officers permitted, during any work day, to utilize vacation, personal, and compensatory time shall be thirteen (13). Pursuant to past



practice, any officers desiring to be absent from work beyond this number will be required to utilize a sick day and will be subject to the requirements of Policy 03.10.”

## **9. Vacations (Article 17)**

Section 2, Vacation Eligibility will be modified to reflect the following schedule:

### **Vacation Eligibility:**

(a) During the first calendar year of employment, employees shall earn one (1) vacation day for each month of service during the calendar year following the date of employment.

(b) Employees with one to eight years of service shall be entitled to thirteen (13) working days vacation each year.

(c) Employees with eight completed years to ten years of service will be entitled to fourteen (14) working days vacation each year.

(d) Employees with ten completed years to fifteen years of service will be entitled to seventeen (17) working days vacation each year.

(e) Employees with fifteen completed years to twenty years of service will be entitled to nineteen (19) working days vacation each year.

(f) Employees with twenty completed years to twenty-five years of service will be entitled to twenty-two (22) working days vacation each year.

(g) Employees with twenty-five to thirty or more completed years of service will be entitled to the following number of working days vacation each year:

25 years - 27 days

26 years - 28 days

27 years - 29 days

28 years - 30 days

29 years - 31 days

30 or more - 32 days

**10. Sick Leave (Article 20, Section 6)**

Modify paragraph (c) to reflect the following schedule:

100-200 accumulated sick days – 50% of the daily rate to a max of \$10,000

201-300 accumulated sick days – 60% of the daily rate to a max of \$12,500

301-400 accumulated sick days – 70% of the daily rate to a max of \$15,000

over 401 accumulated sick days – 80% of the daily rate to a max of \$18,000

**11. Clothing Allowance (Article 22, Section 2)**

Modify Section 2 to increase the clothing allowance by \$25.00 in each of the first 3 years of the agreement (1/1/01, 1/1/02, 1/1/03)

**12. Holidays (Article 23, Section 6)**

Delete Section 6.

**13. Article 25, Section 1**

Modify first sentence of second paragraph to provide as follows:

“The parties agree that the Director and the PBA President will meet on an ‘as needed’ basis, but no more than quarterly, as agreed by the Director and the PBA President, to discuss outstanding issues.”

**14. Article 26, Section 1**

PBA Delegate: Eliminate full release time. Delete last sentence of first paragraph.

**15. Article 26, Section 12**

Release Time for PBA President: Delete

**16. Article 26, Section 14 (Meals)**

Modify paragraph B as follows:

“Correction officers who work an overtime assignment will be paid \$1.35 for each assignment worked as long as the officer works at least four hours of overtime in each assignment. The \$1.35 will be paid together with the shift differential when the shift differential is paid.”

**17. Article 28, Section 4**

Delete

**18. Article 29 (Insurance)**

Modify to incorporate the following provisions:

Section 1 (a) Prescription Co-Pay – Effective January 1, 2002: Co-pay to be adjusted from Mail Order: \$0; Generic: \$3, Single-Source: \$5; Multi-Source: \$10; To: Mail Order: \$3, Single Source: \$15; Multi-Source: \$20 for all active employees.

Section 3 Retiree Health Benefits subsidy at Exhibit C will be amended as follows:

Single, under 65	\$189.67
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Single, over 65	\$138.39
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H/W, under 65	\$540.58
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PC Retiree

Family, under 65

H/W, over 65	\$276.77
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H/W Retiree, over 65	\$276.67
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H/W Spouse, over 65

Family, over 65	\$442.88
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Family Retiree, over 65	\$477.85
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Family Spouse, over 65

PC Retiree, over 65      \$338.69

Section 4, as follows:

(a) Horizon PPO (Blue Select)

Employees in Horizon PPO (Blue Select) shall contribute towards the cost of doctor's office visit as follows:

<u>2002</u>	<u>2003</u>	<u>2004</u>
\$5 per visit	\$10 per visit	\$10 per visit

Out of Network cost share shall be changed from 80/20 to 70/30 (County/employee respectively) for all employees effective upon execution of the Agreement. Deductible for any single benefit period effective January 1, 2003, shall be reduced to \$100 for each employee and an additional amount of \$200 for eligible dependents.

(b) Contribution:

Effective January 1, 2002, incumbent Employee Health Benefit Contribution shall be as follows:

Employees earning under \$65,000 = \$10.00 per month

Employees earning between \$65,000 and \$75,000 = \$25.00 per month

Employees earning over \$75,000 as follows

2002 - \$35 per month

2003 - \$40 per month

2004 - \$40 per month

Contributions are made pre-tax

(c) **Health Benefit Buyout Option (Available from January 1, 2002-June 30, 2002)**

Any employee with either Family or Husband/Wife Coverage in any of the available Health Benefits Plans may voluntarily opt out of that plan providing their spouse has either Family or Husband/Wife Coverage either through the County or through another Employer. In return for opting out, the County shall pay to the employee the sum of \$2,500.00 annually to be paid in 26 installments over the next year.

Employees opting out shall retain the right to re-enter the County's Health Benefit Plan on a monthly basis. Upon re-entering the plan, payments for opting out shall cease.

(d) **New Employee Health Benefit Contribution**

Effective January 1, 2002, new employees shall receive PHS or Blue Choice coverage only. In addition, new employees shall contribute \$15 per month for single coverage and \$25 per month for family coverage. The contribution shall be increased by the proportionate annual increase in the plan cost. Employees may opt for a different plan at their own expense (difference between PHS and Blue Choice and chosen plan). In the event these plans are changed during the term of this agreement, employees shall receive the least expensive of the then available plans.

**19. Article 31 (Duration)**

The County proposes a four year contract, running from January 1, 2001, to December 31, 2004.

**TERM OF AGREEMENT**

As set forth above, the PBA seeks a three year contract, while the County seeks a four year agreement. The parties agree that the agreement shall begin on January 1, 2001.

### **The Arguments on Behalf of the PBA's Position**

The PBA argues the following points in support of the contention that its Final Offer should be awarded in its entirety:

#### **Interest and Welfare of the Public**

The PBA asserts that its members provide an essential service to the residents of Union County. It argues that it has provided this service with professionalism and personal sacrifice during a very difficult period.

The PBA notes that approximately one-third of its bargaining unit was laid off in March, 2001. This massive lay off was not accompanied by similar reductions in the supervisory or administrative staff. The layoff resulted from the Employer's failure to negotiate an agreement with the State regarding the housing of state inmates, and because the Employer subcontracted to a drug treatment center for the housing of many other inmates. The Employer closed the older jail facility as a part of these changes in 2001.

The PBA claims that these major changes have had a direct impact on the remaining unit employees. The PBA members provide "direct supervision" of inmates. This involves officers working in the vicinity of inmates who are out of their cells and moving about. As a result of the layoffs, at certain times two officers are in direct supervision with 96 inmates. The officers face substantial risks as a result of being greatly outnumbered by the inmates, including having to break up fights. The PBA witnesses described that this is a particular problem because it appears clear that some of the inmates have AIDS but because of New Jersey law, the officers are unaware of which inmates have this disease, which could be passed through the flying of blood that occurs during fights that the officers must break up.

The PBA cites other safety problems its members face on the job. The Employer does not have a proper classification system or management custody unit. Thus, inmates accused of very serious offenses can be sharing housing with inmates accused of minor offenses. This situation can lead to serious consequences for both inmates and officers. Additionally, as a result of the closing of one of the jail facilities, the remaining jail has inmates who are triple bunked and is otherwise crowded in certain areas. Correction Officer and PBA president DeLouisa testified that the Detention area is crowded. This area houses problem inmates and includes 20 to 25 inmates who are there because they assaulted an officer. This was said to be the highest in memory.

Another result of the layoffs and the closing of one jail facility, according to the PBA, is that the alternate lock down system has caused inmates to spend more time in their cells. The inmates have less recreation available, which PBA witness DeLouisa testified has resulted in angrier inmates. This situation directly impacts on the bargaining unit employees who must guard these individuals. It was also asserted that the elevators are regularly breaking down and have caused injury to two officers. The PBA asserts that the inmate population has not been reduced as greatly as the reduction in officers. Thus, the officers have faced a greatly increased work load. Moreover, the efforts to reduce the number of inmates has been focused on those accused of fairly minor offenses. Therefore, the officers are left to deal with inmates accused of more serious and violent crimes.

The PBA contends that all of these factors have created a pressure cooker in the jail for the remaining officers to deal with.

The PBA discussed how correction officers in general have a very stressful occupation. While all safety officers face threatening encounters, 100% of the individuals that a correction officer deals with in jail have been charged with or

convicted of criminal offenses. As noted above, the staffing reductions and reorganizations of the past year have only made the Union County correction officer's job more dangerous. The PBA presented evidence of the various weapons which have been found in the jail. These weapons are created by the inmates and include items which can cut, puncture and bludgeon.

At the hearing, the PBA presented evidence concerning the Special Operations Unit (SOU). The officers in this unit receive special training and equipment. They must respond to all fights, perform cell extractions and are responsible for hostage recovery. They also respond to medical emergencies. Correction Officers are also responsible for perimeter protection outside of the jail and are trained to work with the County Police in this role.

The PBA members have labored under increased mandatory extra duty work, as a result of the Employer's layoffs and other changes in the past year. There have been increased mandatory double shifts which require officers to work 16 hours in a row. Officers have also been required to work on their regular days off, causing them to sometimes work for weeks without a day off.

The PBA points out that Union County is a very busy law enforcement community. It is in the top quarter of the counties of the state in most categories of crimes and in the top half in all but two categories.

The PBA offered a chart showing the position of Union County in comparison to other counties based on total arrests in the year 2000.

<u>Offense</u>	<u>Union County Position</u>
Murder	4
Rape	4
Robbery	4
Aggravated Assault	8



Burglary	12
Larcey theft	8
Motor Vehicle theft	4
Manslaughter	8
Simple Assault	6
Arson	14
Embezzlement	6
Stolen Property (burglarics & recovcry)	3
Weapons possession	4
Prostitution-vice	2

Based on all of these facts, the PBA contends that its members protect the interests and welfare of the public in a professional and productive manner.

### **Comparability**

The PBA compared its economic position with public safety officers in other jurisdictions. It contends that even with the huge savings that the County has obtained by reducing the number of officers and increasing the workload of the remaining officers, Union County Corrections Officers still receive below average compensation.

The PBA produced a chart, based on the evidence presented at the hearing, which compares the base annual wages of the maximum pay rate received by Union County correction officers and law enforcement officers in other jurisdictions during the year 2000.

### **PBA CHART – 2000 Base Rate Comparisons**

Jurisdiction

2000 Base

Springfield	65,572
Mountainside	63,798
Union Township	66,768
Middlesex Corrections	56,572
Clark	60,748
Rahway	60,223
Roselle	58,526
Summit	69,690
Westfield	58,382
Cranford	60,830
Fanwood	60,797
Bergen Corrections	71,048
Essex Corrections	56,419
Morris Corrections	57,879
<b>Average</b>	<b>61,941</b>
<b>Union County Corrections</b>	<b>58,635</b>
<b>Union County Corrections</b>	<b>(3,306)</b>
<b>Pay Compared to Average</b>	<b>(5.64)</b>

The PBA contends that this comparison demonstrates the fact that Union County Correction Officers lag in average compensation, and that it would take an increase of more than 5.6% back to 2000 to simply reach average pay. The PBA argues that there are no other benefits which offset this pay disparity. It points out that longevity pay is common in law enforcement. However, Union County Correction Officers do not receive longevity pay.

The PBA offered another chart based on contracts which were received in evidence that shows the value of longevity pay plans received by officers in other jurisdictions.

**PBA Chart – Longevity Pay in other jurisdictions**

Rahway	12% @ 24 years
Middlesex Corrections	\$2100 @ 21 years + 4% sr. officer pay
Passaic Sheriff Corrections	Max. 10% @ 25 years
New Providence	10% @ 20 years
Union Township	6% @ 20 years
Clark	\$2250 @ 20 years
Scotch Plains	10% @ 23 years
Roselle	10% @ 25 years
Summit	10% @ 24 years
Mountainside	8% @ 24 years
Westfield	9% @ 24 years
Springfield	8% @ 20 years
Fanwood	6% @ 23 years
Bergen Sheriff	\$1500 @ 20 years

The PBA claims that the failure of its officers to receive the average longevity payment of 10% translates into a lost benefit worth approximately \$6,000. This is another example of the poor economic position of Union County Correction Officers in comparison to other safety officers.

The PBA also contends that it is in a poor position in comparison to other jurisdictions on the issue of clothing allowances.

**PBA Chart – Annual Clothing Allowance Comparisons**

Monmouth Corrections	\$1,000
Bergen Corrections	\$800
Essex Corrections	\$700
Morris Corrections	\$800
New Providence	\$1,050
Middlesex Corrections	\$800
Clark	\$850
Rahway	\$900
Summit	\$1,150
Mountainside	\$1,100
Linden	\$1,175
Springfield	\$1,300
Cranford	\$675
Fanwood	\$600
<b>Average</b>	<b>\$921.42 Average Annual Clothing Allowance</b>
<b>Union County Corrections</b>	<b>\$600</b>
<b>Annual Clothing Allowance</b>	
<b>Union County Corrections</b>	<b>(\$321.42)</b>
<b>Allowance Compared to Average</b>	<b>(53.6%)</b>

The PBA notes that based on the above comparison, its officers would require a more than 50% increase in the clothing allowance to reach the average pay. The PBA has proposed a clothing allowance increase of \$100 per year of the contract which would nearly bring it to the average pay at the end of the contract term.

The PBA points out that the evidence submitted by the County actually demonstrates the PBA's point that its officers lag in comparison to the compensation offered in other jurisdictions. For example, Employer Exhibit 18 shows that no other Corrections Officers receive fewer personal days than the Union County officers. Employer Exhibit 17 shows that the terminal benefit for accumulated sick leave of \$10,000 provided to Union County officers is below that of all other corrections contracts offered by the Employer. For example, Middlesex officers have a \$15,000 maximum, Bergen officers a \$25,000 maximum, and Morris officers a \$12,000 maximum. Even the holiday benefit provided to Union County officers demonstrated by Employer Exhibit 21 shows only that Union County officers receive an average benefit. The PBA further notes that the County has selectively used Bergen County as a comparison. Bergen County officers receive a top step salary of \$71,048, which can be reached in 5 annual steps. Union County officers are \$12,000 behind the Bergen County rate. The County did not note that Essex County officers received a wage increase of 5% in 2001.

The PBA pointed out that in addition to being ahead of Union County Correction Officers in compensation, the average rate of increase of officers in other jurisdictions continues to rise. It presented a chart based on contracts offered into evidence which compares the average increases offered by other jurisdictions.

**PBA Chart – Rates of Base Increases**

	2001	2002	2003
NJ State Corrections	4	4	4
Middlesex Corrections	3.75	4.75	4.75
Somerset Corrections	4	4	4
New Providence	4(2/2)	4(2/2)	4(2/2)
Union Township	4.5	5	3.9

Clark	3.9		
Rahway	3.625	3.625	
Essex Corrections	5		
Bergen Corrections	5		
Roselle	3.75	3.75	4
Summit		4(2/2)	4(2/2)
Mountainside	3.95	4	
Westfield	3.8		
Fanwood	3.9		
<b>Averages</b>	<b>4.059%</b>	<b>4.125%</b>	<b>4.093%</b>

The PBA notes that the above chart is based on contracts and awards that were offered into evidence in this hearing. It claims that the County has not offered evidence of a similar quality. Moreover, it contends that the Employer's offer here is substandard even in comparison to the jurisdictions that the Employer has selected for review. The PBA presented a chart reviewing the increases offered in jurisdictions cited by the Employer.

**PBA Chart – Rate of Base Increase Among Employer Selected Comparisons**

	2001	2002	2003
Essex Co. Corr.	5%		
Middlesex Corr.	3.75%	4.75%	4.75%
Monmouth Corr.	7.6%		
Camden Co. Corr.	3.75%	3.75%	
Bergen Corr.	5.00%		

<b>AVERAGE</b>	<b>5.02%</b>	<b>4.25%</b>	<b>4.75%</b>
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The PBA argues that this review of even the Employer's own selected comparisons shows that the Employer's cannot support its low wage offer in this case.

The PBA challenges the Employer's reliance on wage increases it has offered to other County employees, such as the Sheriff's PBA and the Sheriff's SOA. It notes that those employees received a new Senior Officer stipend in addition to the percentage wage increases negotiated. The Senior Officer stipend granted to these employees is worth up to \$2,865 or a value of up to 4.5%, and is new money added to an employee's base for pension purposes. The PBA contends that a comparison with these bargaining units cannot be limited to the base wage increase but instead should include an additional 4%. The PBA notes that it is seeking an increase in the Senior Officer Differential and that the benefit was negotiated years ago by the parties.

The PBA analyzed the recent contract negotiated for the Union County Prosecutor's Detectives Superior Officers Association. The PBA contends that this agreement provided a large settlement for the covered employees as a result of the agreement to eliminate step 1 of the salary guide and advance employees to higher steps, with the final fourth step being reached as a result of normal automatic step movement, rather than previously being based on a formula which considered years of employment and years in law enforcement. The PBA calculated that this creation of a new salary guide resulted in an average first year increase for employees of 6.334%. Over the four year contract period, the average increase was 4.58%. The PBA notes that the Deputy Chief's salary increased by 8.9% under this contract's first year and 5.48% over the term of the contract.

The PBA points out that the County's contracts with the Sheriff and Sheriff supervisors' units include clothing allowance increases. The PBA states that they

provide support for the PBA's effort to obtain clothing allowance increases in this case.

The PBA argues that the settlements which the County reached with its other units support the PBA's position in this case. The County offered the same wage offer to the sheriff and sheriff's supervisor units as it offers here, but gave other substantial economic benefits to these employees, particularly the Senior Officer stipend. The Prosecutor-SOA contract also provided significant economic benefits for the employees covered by it.

The PBA rejects as insignificant any real reliance by the Employer on comparisons with the private sector. It notes that arbitrators have recognized that law enforcement officers hold a unique position which does not exist in any meaningful way in the private sector. Police officers are armed and have on and off duty obligations. Police officers have arrest power throughout the state and during off duty hours. The nature of the work includes hazard and risk which is not present in many private sector jobs. Police officers are treated differently from private sector employees in many important statutes, such as the Fair Labor Standards Act and the New Jersey Wage and Hour Law. The terms of employment for officers are regulated extensively under New Jersey law, covering a wide variety of matters such as chain of command on the job, specific qualifications to be hired as an officer, absences from duty, promotional examinations, residency requirements, hiring criteria, age limitations, retirement system, overtime hours, and hearing and appeal procedures. Private sector employees are not subject to such extensive state regulation.

The PBA asserts that local wage comparisons are more appropriate for law enforcement personnel than for private sector employees for several reasons. Private sector employees are subject to a competitive environment in which an employer may



move to another state or country. This has a depressing effect on wages. Public safety employees must live locally and respond to emergencies. Their jobs, however, are not subject to being moved out of the area.

For these reasons, the PBA contends that a law enforcement officer's wages should be given greater weight than the general private sector employee. Officers work in a very stressful environment, are specially trained, have great authority in that they carry firearms and enforce the law, and are subject to substantial state regulation. Given all of these factors, the PBA argues that law enforcement work should be considered on a higher level than the general world of private employment.

### **Stipulations of the Parties**

There were no substantive stipulations entered into by the parties.

### **Lawful Authority**

The PBA states that there is no legal prohibition to an award of the PBA's offer in this case. It also argues that such an award would have such a small financial impact as to be nearly imperceptible to the tax payer.

The PBA notes that Cap calculations are different for county governments in that the cap is applicable on the levy. Union County has a flat tax rate historically and does not have a problem with the levy. The PBA points out that the County has achieved substantial cap banking resulting from the 1999 and 2000 budgets which created over \$6.5 million in cap flexibility. The County's cap calculation for the 2001 county budget also demonstrated a lack of cap pressure. According to the 2001 Union County Executive's Budget (P-33), the reliance on property tax decreased by 4.3%. The County Budget at line 3 also indicates that the County decided not to use

all of the cap flexibility for 2001. For all of these reasons, the PBA argues that the County clearly is not faced with a cap problem.

The PBA argues that in considering the cost of its proposals, it must be remembered that in 2001 one-third of the bargaining unit was laid off. This resulted in a huge savings for the Employer. A significant work load continued for the remaining unit employees, however. Moreover, the management staff of the Corrections Department was not reduced. The remaining unit employees face a more difficult and stressful job. The reduction in inmates has served to leave only the more serious criminals.

The present bargaining unit is composed of about 208 employees. The PBA argues that if it is assumed that all employees were at the top step rate of \$58,635 (which they are not), the Employer's total base pay obligation would be \$12,196,080. This translates into a one percentage point value of \$121,960. The PBA uses this figure to calculate the savings by the County of reducing the unit by one-third as 46.63%. The PBA argues that given such a significant savings to the County, it should reward the remaining employees who face a more difficult job with at least some portion of the saved dollars.

The PBA notes that an award in its favor would have an extremely small impact on the County budget. Even if every employee in the unit was paid at the maximum pay rate, the total cost of the bargaining unit would be \$12,196,080 out of a total county budget of \$314,689,922. The PBA points out that the County government is a bargain for Union County tax payers which has not increased its tax rate in 6 years. The PBA notes that for the last 6 years, the County has had an average \$21.9 million per year regenerating surplus. (P-32, Annual Financial Statement, Sheet 19). The County has had a substantial unexpended balance of appropriate reserves. For example, in 2000 it cancelled from 1999 \$9,819,821. (P-

32, AFS Sheet 19). The schedule of fund balances has had a substantial surplus which has averaged \$29.8 million per year for the past 8 years. (AFS, Sheet 21). The County tax rate has been flat for the past 3 years and decreased by 10% since 1994. (Official Statement, June 15, 1999). The County's reliance on the property tax has decreased by 4.3% since 1996. (2001 Executive Budget). Union County's assessed values increased by \$2.7 billion since 1993. (Report of Audit). Union County has the best credit rating available, a AAA from Moody's. The County received interest on investments of \$5,454,501 for 2000. (P-32, AFS, Sheet 9).

The PBA further points out that the County has benefited from substantial reductions in cost as a result of a reduction in police and fire pension payments because of state legislation. Senate Bill 1127 and Senate Bill 1961.

### **Cost of Living**

The PBA introduced the PERC documentation relating to New Jersey Department of Labor wage statistics.(P-28). It shows that for the period of 1999 to 2000, there was a 6.4% average increase. It also shows a 4.7% increase in Union County.

The PBA contends that these cost of living wage figures support the PBA's offer in this case.

### **Continuity and Stability of Employment**

The PBA argues this criteria encompasses the private sector concept of "area standards." It contends that the PBA employees do poorly in comparison to other law enforcement employees, as set forth above.

The PBA also asserts that there are "equity issues" which it has addressed in proposals that would have a significant impact on the quality of work life but would carry little or no cost to the Employer. The PBA has proposed to have one person released briefly to pick up food each shift. This would only result in one employee

leaving for about 20 minutes. It would help alleviate the problem that for many shifts there are no delivery services available from local restaurants. This leaves the officers with the undesirable option of eating inmate prepared food that carries the risk of adulteration. The PBA's proposal addresses this quality of life issue in a way that is essentially a no cost item for the Employer.

The PBA's proposed change in the grievance procedure is also a no-cost item. Currently, the contract contains a panel of 5 named arbitrators. The PBA wishes to change this so that a panel of arbitrators from PERC is utilized. The PBA believes that using the PERC panel would make the system easier to administer and it would be neutral. The PBA seeks to avoid the present problem of either party going to an arbitrator on an ex parte basis to discuss availability.

The PBA also proposes a compensatory time off bank. This would provide some flexibility to employees seeking time off. It would also permit officers to take overtime compensation as CTO. This proposal is a no cost item for the Employer.

The PBA has proposed a Special Operations Unit (SOU) stipend. There are approximately 30 employees who work in this unit. They perform the most dangerous work in the jail. The PBA describes its proposal to provide a \$1500 stipend to these officers as an "equity issue" because it would have an imperceptible effect on the County's budget while rewarding officers who volunteer for such difficult work. The PBA claims that this is a common benefit in the industry.

The PBA states that its proposal to permit officers to enroll in the orthodontic program is also an equity issue. It proposes that officers be able to sign up in the program and pay on their own. It will not require the Employer to incur any costs. The PBA argues that it is not being treated fairly by being excluded from this program when managerial staff in the department are included, as are other County agencies.

The PBA's final proposal concerns insurance defense. Article XII, section 2 provides for the payment of \$135 per year to the PBA per member for a Defense Fund. The rate has increased by \$23 per year. The PBA seeks to have the Employer pay the \$23 increase. This proposal would only cost the Employer \$4,784 for the entire bargaining unit.

### **The Arguments on Behalf of the County's Position**

#### **Comparability**

The County contends that the most appropriate comparisons which should be made in considering the PBA employees involved in this case are those involving the County's own employees and the compensation provided to correction officers employed by other counties. Additionally, it argues that it would be inappropriate to grant the PBA unit a higher percentage increase than other County units because it would be unfair to those employees and be very detrimental to employee relations within the County. It states that it is important that there be stable relations among the different County offices. The County further contends that comparisons to municipal police officer units are not appropriate because they perform different basic functions than correction officer units.

The County notes that under the statute, *N.J.S.A. 34:13A-16g*, and PERC regulations, *N.J.A.C. 19:16-5.14*, the factors to be considered in making comparisons to other jurisdictions include geography, financial considerations, socio-economic considerations, compensation, and conditions of employment. A simple comparison to increases granted to public safety officers in other counties or municipalities "is not the dispositive factor when evaluating this criterion." *Hillsdale PBA Local 207 v. Borough of Hillsdale*, 137 NJ 71, 192 (1994). The County contends that in applying

these criteria, the counties which are most comparable to Union County are the counties of Bergen, Camden, Essex, Hudson, Middlesex, Monmouth and Morris.

The County notes that nearly 100% of its tax base is derived from property owners, with residential owners comprising 71.3% and commercial or industrial owners comprising 12.7%. The County asserts that this means that County residents will bear the full burden of any tax increases. The County further notes that of the counties listed above, Union County has the fifth lowest population, third most population density, fourth highest rate of poverty, fourth highest per capita income and tax rate, and is in the middle regarding home values with the average Union County home having a value of \$180,500. It is also in the middle of the group regarding crime rates, with a 45.8 crime rate per 1000 residents and a 5.0 violent crime rate per 1000 residents.

The County argues that its correction officers are well paid and receive starting and top step salaries which are at the top of the rankings in comparison to the other county correction officers. The County claims that its wage offer would maintain the County's officers in the same competitive position.

The County further asserts that the value of the fringe benefits received by officers must be included in considering their wage position. The officers receive generous sick leave of 15 days per year, and the County has proposed paying officers for accumulated sick days up to \$18,000. The County currently pays the entire health insurance premium for PBA members and families, which is worth approximately \$8,300 per employee with family coverage. The County offers competitive vacation leave and bereavement, as well as 3 personal days per year. The County also provides a clothing allowance of \$600, which the County has proposed to increase to \$675 by the year 2003.

The County claims that the PBA's comparisons to municipalities are not appropriate based on the criteria established by the statute and PERC. Additionally, it argues that there are differences between correction officers and municipal police officers which must be considered. Specifically, it points out that the officers do not perform the same basic functions and do not receive the same training. Further, the County asserts that even if comparisons are made to municipal police officers, based on the PBA's own data the County correction officers are paid a competitive wage. The County notes that under its proposal for the year 2001, first year correction officers would earn \$30,891 and top step officers with ten years on the job would earn \$60,880.

#### **Comparison with other County employees**

The County stresses that it is important, and required by *N.J.S.A. 34:13a-16(g)*, that the level of increases granted to other County employees be considered in determining a fair increase for the correction officers. The County notes that the wage increases it has proposed for this unit are consistent with the pattern of settlements that it has reached with six other County bargaining units, three of which are law enforcement units. These units have also accepted the health benefit changes sought by the County. The County cited arbitration awards issued in the past covering other jurisdictions in which the interest arbitrators noted the importance of a pattern of settlements.

The County rejects any claim by the PBA that employees in the Prosecutor's Superior Officers unit received greater benefits as a result of the elimination of one step in that unit's salary guide and the conversion of the first class step to a new step 4. It cites the testimony of Director Salemmé that this change in the salary guide in fact saved money for the County. This is because under the prior guide, a detective with 10 years of service who was promoted to sergeant would automatically be

placed at the first class sergeant step, while now the employee must proceed through the salary guide.

### **Comparison with the Private Sector**

The County notes that under the statute, the arbitrator must consider wages, hours, and conditions of employment in the private sector. *N.J.S.A. 34:13a-16(g)(2)(a)*. The County states that there is presently a recession, the County has been required to raise taxes for the first time in six years, and that unemployment is at the highest in a number of years. It states that these are all reasons which mitigate against the high increases sought by the PBA. It asserts that in comparison to private employment, the correction officers are well paid. In the year 2000, the average salary in the private sector was \$43,638 (P-28), while under the County's proposal for the year 2001, a top step correction officers will earn \$60,880. The County further points out that in 2001, 203 of the 211 correction officers will be at the maximum step. In 2002, 208 out of 211 unit employees will be at the maximum step. (C-29). The County also states that its proposal exceeds the average increase negotiated in the private sector for 1999, which was 3.2%. (C-33).

Based on the above, the County argues that its proposal is clearly more reasonable in comparison to private employment than the PBA's proposal. The PBA's proposal of 5% across the board exceeds anything in the private sector.

### **The Interests and Welfare of the Public**

The County notes that the interest of the public is served by professional and efficient law enforcement. The interest of the public also requires that the arbitrator consider the costs of the competing final offers. The County states that it is clear that the PBA's proposal will cost the County more money and will have an impact on morale if it is permitted to upset the pattern of settlements with other law enforcement units.



The County also maintains that its financial condition is not as strong as the PBA contends. It has suffered drawdowns averaging \$8 million dollars for each year since 1998. (P-29,P-31). It has also seen a reduction in the surplus generated from operations of \$2 million dollars in both 1999 and 2000. (P-31). Further, the utilization of all of 1999's tax levy bank and a part of the 2000 bank has had an impact on the County's cap situation. The County has also experienced reductions in revenues because of declines in its interest on investments in recent years. Thus, the County claims that its financial situation has declined in recent years.

### **Cost of Living**

The County states that the Consumer Price Index ("CPI") must be considered in accordance with the interest arbitration statutes and that, in general, it is a measure of the cost of living that is frequently used in arbitration. The County notes that the CPI for November, 2001, for the New York-Northeastern New Jersey region was 1.8%. (C-32). The County points out that its wage offer exceeds the CPI by at least 1.7%. The County further states that its health care premiums increased by over 10% for 2002. Thus, the gain to PBA members is even greater than the CPI indicates because the County has had to absorb the large health care increases.

### **Continuity and Stability of Employment**

The County states that its proposal will provide for the continuity and stability of employment in the correction department. The unit has maintained stability in the past and the County's proposal will provide reasonable salary increases in the future while permitting the Employer to continue to provide reasonable service to the public. The County asserts that the unreasonably high salary increases sought by the PBA, if granted, would have a devastating effect on the morale and stability of the County's other law enforcement units. Therefore, it argues that its proposal is the most reasonable under all of the circumstances.

## **The County's Health Care Proposals**

The County asserts that its health care proposals are an effort to stem the costs to the County arising from constantly increasing health care premiums. It states that it has proposed only minimal increases in prescription costs of no more than \$5 per prescription. It has proposed the implementation of doctor visit co-pays of only \$5 per visit for 2003 and \$10 per visit for 2003 and 2004. The County also seeks to increase the out of network cost to employees from 80/20 to 70/30, while reducing the deductible to \$100/\$200. The County proposes to implement employee contributions to the health care premium and a health benefit buyout option. It also proposes to establish new employee health benefits and contribution levels which would not apply to incumbent PBA employees.

The County argues that its health care costs have increased substantially each year and that it will continue to see increases in this area. It cites the testimony of Director Salemmme and notes that there was a 10% increase this year, resulting in a total cost to the County of \$21,083,477. (C-31).

The County contends that the interest and welfare of the public are served by its health care proposals. The escalating health care costs, if not checked, will lead to a reduction in services or tax increases simply to maintain the same level of health care coverage. Additionally, 1700 of 2700 County employees have accepted the proposals. The County argues that it is unreasonable to require the County to pay for health coverage without any employee contributions.

The County states that it is seeking a very small contribution from its employees. The County offered by way of example that in the year 2004 most unit employees will be earning \$65,000 per year, while they would only contribute \$300 per year toward health insurance. If the cost of health insurance rises by 10% in 2003 and 2004, the Employer will be paying annual premiums for family coverage of

about \$10,049 per employee. Based on these numbers, a unit employee would only be paying 2.9% of the premium, which would be on a pre-tax basis.

The County asserts that these changes in the health care provisions would not effect the continuity and stability of employment within the Corrections division. There is very low turnover among senior officers and the PBA offered no evidence that turnover would increase if officers were required to contribute to their health coverage. The County argues that the record contains sufficient evidence to support its proposals for concessions from the PBA on the health care issue.

### **The County's Operations Proposals**

The County has proposed changes in the hours of work provision (Article 7) to provide that it may begin progressive discipline of an officer who is late or calls out late three times during a year. It has proposed to delete the preferential positions provisions in the seniority provision (Article 14, Section 4). It has proposed changes in the vacation/shift schedule provision (Article 14, Section 6), the shift days off and posts provision (Article 14, Section 7), the overtime provision (Article 15, Section 2), the personal business and religious leave provision (Article 16, Section 4), the provision establishing labor management meetings (Article 25, Section 1), the PBA delegate release time provision (Article 26), and the provision relating to switching of days off (Article 28).

The County argues that its motivation in seeking these various changes is to make the jail a more efficient and better place to work by requiring officers to come to work and be responsible. It cited the testimony of Assistant Director Dougherty that the proposals concerning lateness, number of officers allowed to be absent each day, refusals of forced overtime, and illness on holidays have been drafted with the intent of creating an incentive for officers to report to work and not leave other officers having to cover the absent employees. Dougherty said that he has tried

without success to accomplish this objective by being kind but that it was now necessary to penalize officers who do not meet their commitments.

Dougherty stated that staffing is the largest issue at the jail. The County's proposals seek to address this issue in several ways. It has proposed to reduce the number of officers who are permitted to be off work for vacation or other leave. On this issue, the County notes that previously there were about 323 correction officers on staff and the parties negotiated a provision limiting the number of officers who could be out on planned absences to 20. The unit has been reduced to 208. The County states that the number of absences should be reduced in proportion to the size of the unit, to 13. The County notes that this provision will help alleviate the serious overtime issue at the jail, which involves both voluntary and forced overtime. It contends that its proposal is reasonable and that the PBA has not offered any strong reason why it should not be granted. Regarding lateness, the County seeks the contractual right to use progressive discipline if an employee is late or calls out late three times.

The County has proposed that any officer who cancels overtime twice in a month should be precluded from working voluntary overtime the next month. It states that this provision is necessary because the County has faced major problems with employees signing up for voluntary overtime and then canceling the shift before it commences. Officers do this in order to avoid forced overtime, which is not assigned to an officer who has volunteered to work overtime. The impact of an officer's cancellation of his voluntary overtime is that another officer who has already worked one shift is forced to work overtime by covering the next shift. The County presented evidence that in the year 2000, there were 2269 instances of officers canceling voluntary overtime prior to the beginning of the shift, and through October 2001, this had happened 1911 times. (C-35).

The County stated that its proposal for holidays seeks to address a similar situation. Under the current agreement, officers who are scheduled to work overtime receive double time and one-half and an additional day off. If the officers call out sick, they still receive regular pay for the day and another day off. The County states that this removes any incentive to work the holiday. Therefore, the County has proposed in Article 16 that for holidays, including Christmas Eve and New Year's Eve, the County may charge employees for a sick day and require a doctor's note demonstrating illness on the day.

The County states that its proposals to remove full release time for the PBA president and delegate are also supported by staffing concerns. The current contract permits two officers to be on full release time and not performing work at the jail. To have these employees working at the jail would alleviate some staffing problems. Additionally, the County contends that no other bargaining unit in the County has even one officer on full release time.

The County also states that its proposal to eliminate references to preferential positions and pool officers is a housekeeping measure that should be granted as the positions do not now exist. Although the PBA states that the positions may exist again, they do not now and the provisions should be eliminated.

#### **Duration of the Contract**

The County proposes a four year agreement. The PBA seeks a three year contract. The County argues that a four year agreement should be granted for several reasons. The parties will not be forced to resume negotiations soon after the interest award is issued. Specifically, a three year agreement would expire on December 31, 2003. If the interest award is issued in this case in the spring, it would only be 15 months before negotiations would have to begin again.

Further, the County states that a four year contract would bring this unit in alignment with other law enforcement bargaining units in the County. The Prosecutor's Superior Officers unit, the Sheriff's Superior Officers unit and the Sheriff's unit all have contracts expiring on December 31, 2004. This is the date of expiration that the County proposes. The County seeks to have the various units on the same negotiations cycle to achieve uniformity in negotiations. It wishes to avoid instability by having a situation in which one unit believes that it has sacrificed to the benefit of other employees. Moreover, one year has already passed, so the interest award will be providing for a three year prospective agreement.

### **General Argument**

The County has proposed specific increases in benefits for PBA members. It notes that the County proposal for a sick leave buyout offers an enhanced benefit of up to \$18,000 for unit employees (from the current \$10,000 maximum). The County has also proposed an increase in the retirement health benefit subsidy from \$57.18 for a single retiree under 65, to \$189.67. The County has proposed to increase vacation time for unit members with 20 or more years on the job. The County notes that these enhancements were offered to the other bargaining units in return for their acceptance of the County's health care proposals. It warns that it would be inequitable to award the benefits without granting the County's health care proposals.

The County has also offered to increase the clothing allowance by \$25 in the first three years of the contract, up to \$675. The County states that this is a more generous allowance than that provided to correction officers in other counties, and exceeds the allowance given to other County law enforcement units, such as the Sheriff's Officers who received the \$25 per year increase, up to \$575.

The County states that the PBA's wage proposals are excessive and should be rejected for the reasons described above. The other PBA proposals should be denied

because the PBA did not offer any evidence to support them. According to the County, it is well established that a party seeking changes in a contract through interest arbitration must prove that the changes are necessary and supported by the evidence. The County notes specifically regarding the PBA's proposal to increase the Senior Officer Differential that Director Salemmé testified that the ten year senior officer stipend was included in the 1998-2000 contract because the parties agreed to lower wage increases in the salary guide. Similarly, when the stipend was included in the Sheriff Officers contract there had been give backs in that unit which funded the stipends. The County maintains that the PBA has not offered any givebacks here to fund an increase, and that any increase would carry a prohibitive cost to the County since nearly all the officers are at the maximum rate.

The County asserts that the PBA's proposal for a \$1500 stipend for SOU members is not supportable. It would cost the County \$144,000 over the term of the contract. The County notes that SOU members are the first response team, but that Mr. Longergan testified that in 2001 he had only been on one or two code red calls and only been involved in three or four cell extractions. Similarly, the County contends that there was no evidence presented to support the PBA's seeking an increase of 120% in the County's contribution to the Legal Defense Fund, an increase from \$135 to \$300. The County further states that it has proposed to eliminate the fund completely.

The County states that it opposes the PBA's proposal for compensatory time because it would make the staffing problems in the jail even worse by allowing officers to take more time off. The County states that this provision is not in the interests of the County or the officers. The County also opposes the PBA's request to allow one officer per shift to leave the jail and pick up food. It notes that officers can bring in food from home, order food, and have free food available at the jail. They

also receive a \$350 per year meal allowance. It states that the PBA's proposal on this issue is "over the top" given the entitlements that the officers already receive.

## **DISCUSSION**

A review of the statutory criteria and the proofs adduced thereunder by each party leads to the following analysis:

### **Stipulations of the Parties**

As noted above, there were no relevant stipulations.

### **Cost of Living**

The PBA asserts that this factor supports its offer. Specifically, it cites data supplied by the New Jersey Department of Labor for 1999-2000 showing a 6.4% increase in the cost of living for the state and a 4.7% increase for Union County. The County contends that the CPI data support its position. It states that the CPI for the New York-Northeastern New Jersey for November, 2001, was 1.8%. According to the County, its offer is above the latest CPI by 1.7%, while the PBA offer is excessive in comparison.

On balance, the County's offer appears to be slightly more reasonable when considering the CPI. Therefore, this criterion supports the County's position. However, the full impact of the parties final offers will be discussed in greater detail later in this award.

### **Continuity and Stability of Employment**

The record demonstrates that there have been substantial layoffs in the department recently as a result of a reorganization of the jail. There is, however, no



evidence that there has been any significant voluntary turnover among personnel, or that any significant layoffs are likely in the future.

Both parties argue that an award in favor of the other side's position may lead to instability in the department. It is noted that these arguments are based on speculation only and not supported by hard evidence. Accordingly, this criterion is not a substantial factor in rendering an award in this matter.

### **Overall Compensation Received by Correction Officers**

It is clear that Union County correction officers are reasonably well compensated and receive a range of benefits. The vast majority of unit officers are at the maximum pay rate. The average base salary of a correction officer at the maximum pay rate in 2000 was \$58,635. Correction Officers receive benefits such as a \$600 uniform allowance, rather generous vacation and holidays, health insurance, and retirement. These benefits are not unique to Union County, however, as they are commonly enjoyed by public safety employees.

The crucial issues in dispute concern salaries for the new contract and the County's effort to make changes in the health care provisions. Additionally, there are a variety of other proposals which have been made. These issues will be dealt with on an item-by-item basis below.

The County argues that it has offered Correction employees the same level of wage increases that have been accepted by other County units, including three comprised of law enforcement employees. It further notes that the other units have accepted the County's proposed health benefit changes and asserts that this pattern of settlements should carry great weight in arbitration.

In assessing the issue of overall compensation provided to correction officers it must be remembered that these employees work long hours and must be able to work

day or night, every day of the year. They face physical demands and threats to their health and safety which are greater than those faced by non-public safety employees. Because of the unique nature of their duties, it is extremely difficult to make a meaningful comparison between how they are compensated versus other public or private sector employees. The legislature has recognized the unique status of public safety officers in the statute which grants authority to an impartial arbitrator to resolve disputes and to award wage increases. Accordingly, the statistics cited by the County comparing the wages and benefits provided to correction officers with other employees must be considered in the context of the unique nature of a correction officer's duties.

#### **The Lawful Authority of the Employer**

The record indicates that Union County does not appear to have any immediate CAP problems. There was conflicting evidence regarding exactly how economically healthy the County is at the present. The County claims that it has seen a reduction in its financial condition as a result of declining revenues. This would seem to coincide with a general economic slowdown which has occurred recently in the nation. The County claims that the PBA's demands are excessive and will result in increased costs.

The Union argues that there is no legal prohibition to an award being entered in favor of its final offer. It asserts that the County is in good financial shape, that its budget does not contain any cap pressure, and that even a full award in the Union's favor would have a minimal impact on the County budget. It further points out that the County has received significant budgetary savings as a result of laying off

one-third of the bargaining unit in 2001, and because of state legislation reducing the cost of police and fire pension payments.

My conclusion on this issue is that although the County has experienced some reduction in its financial standing as a result of the recent economic slowdown, it continues to be financially fairly strong and not in any immediate CAP danger. In accordance with the statute, I have given this factor and my conclusions regarding it careful consideration in rendering the award.

### **Comparability**

#### **Private Sector**

The County argues that its has offered the correction officers a reasonable package in comparison to private sector employees. It points outs that its proposal exceeds the average increase negotiated in the private sector in 1999 of 3.2%. (C-33). The County further notes that in the year 2000, the average private sector employee was paid \$43,638 (P-28), while it has proposed to pay a top step correction officer in 2001 a salary of \$60,880. Additionally, the County points out that the unemployment rate is currently at its highest in several years. Based on this evidence, the County claims that its offer is in excess of the private sector rates and that the PBA's offer is unreasonable as it far exceeds anything in the private sector.

The PBA, in contrast, asserts that comparisons to the private sector are not particularly useful given the unique nature of the correction officer's position. It claims that there are not comparable positions in the private sector. The unit employees receive special training, have great authority in enforcing the law and carrying firearms, are subject to substantial state regulation, and work in a hazardous position. The PBA points out that the unique employment of law enforcement personnel has been recognized by various statutes such as the Fair Labor Standards

Act and the New Jersey Wage and Hour law which treat law enforcement personnel differently from private sector employees.

I have taken note of the PBA's position that law enforcement personnel have unique duties and face demands which do not exist in most, if any, private sector jobs. It is clear to this trier of fact that there are significant differences between the job of a correction officer and that of the typical private sector employee. Nevertheless, the statute requires a comparison with employees in private employment in general.

In connection with the passage of the amended Interest Arbitration statute, the Department of Labor prepares for PERC reports concerning private sector wage changes for jobs covered by unemployment insurance. The most recent comparison reveals that the average annual private sector wage in New Jersey in 1999 was \$40,805 and increased by 6.9 % to \$43,638 in 2000. In Union County, the 1999 average annual private sector wage was \$43,134 and increased by 4.7% to \$45,165 in 2000.

With respect to the issue of comparability with the private sector, it is fair to conclude that Union County correction officers compare favorably. These unit employees have neither an inexplicable monetary advantage or disadvantage over a New Jersey private sector employee.

### **Public Employment in General and within Union County**

The County rests its arguments concerning the proposed salary increases and health care changes on a comparison with the agreements reached with other County employees. According to the County, it has engaged in pattern bargaining with its unions. The County argues that its contract settlements with six other County

bargaining units, including three law enforcement units, include the wage increases it has proposed for the Correction officers, along with the changes in the health benefit system. It asserts that this pattern should be followed in this case. The County claims that the stability of its employee relations would be disrupted if the Correction officers were able to obtain additional benefits after the other unions reached collectively bargained settlements with the County. It also argues that the changes in the health benefit program are required due to the large increases in costs to the County resulting from health care costs.

The PBA challenges the County's claim that other units have granted concessions which the PBA should be required to accept. It notes that one of the law enforcement units, the Prosecutor's Detectives Superior Officers Association, recently negotiated a contract which provides a large settlement to employees. In that unit, the County agreed to eliminate the first step of the salary guide, advance employees to higher steps, and make the final step automatic rather than based on a formula which considered years in law enforcement. The PBA argues that this change resulted in unit employees receiving a higher percentage increase than simply the yearly increase negotiated by the parties. It also noted that in the Sheriff's PBA unit and the Sheriff's SOA unit, the unit employees received a new senior officer stipend in addition to the wage increase negotiated. The settlements in those units also included clothing allowance increases. Based on these facts, the PBA contends that the County's settlements with its other unions do not support its position in this case because the County did not simply offer those employees the same wage offer as here, but instead it provided additional economic benefits to the employees.

It does appear from a review of the evidence submitted that the County has negotiated wage increases with other unions which are consistent with the wage offer presented to the PBA. However, as the PBA has pointed out, there are differences

between the bargaining units in the overall compensation provided to employees. In my discussion of the salary, health benefits and other proposals, below, I will further address the issues of pattern bargaining and comparability among County employees.

### **Comparability with other Correction Officer and Law Enforcement Units**

Both parties submitted extensive evidence concerning the economic position of Union County correction officers in comparison with correction officers and other law enforcement personnel employed in New Jersey.

The PBA contends that Union County correction officers receive below average compensation in comparison to other law enforcement officers. It compared the maximum base rate pay of these officers in the year 2000 to law enforcement personnel employed by various municipalities in Union County and to the county corrections officers in Middlesex, Bergen, Essex, and Morris counties. According to the PBA, the average salary was \$61,941, while Union County correction officers received only \$58,635, or 5.64% less than the average. It also claims that this lag in pay is actually worse because the officers do not receive longevity pay, which is common in other jurisdictions, and is usually worth about 10% of an officer's salary. The PBA states that its members also trail by \$321.42 per year in the average clothing allowance provided to law enforcement personnel. Finally, the PBA asserts that the average rate of increase for officers has been 4.059% for the year 2001, 4.125% for 2002, and 4.093% for 2003.

The County criticizes the PBA's comparisons and states that the most appropriate comparisons are to other counties' correction departments, along with other Union County units. It notes that municipal police officers perform different functions than correction officers.

According to the County, the most comparable counties to Union are Bergen, Camden, Essex, Hudson, Middlesex, Monmouth and Morris. It claims that in comparison to these counties, Union has the fifth lowest population, third most population density, fourth highest rate of poverty, fourth highest per capita income and tax rate, and is in the middle in home values. The County argues that it is important to remember that 71% of its tax base comes from residential property owners and, thus, any future tax increases will be the responsibility of these individuals.

The County contends that in comparison to the above listed counties, its correction officers are well paid and receive salaries which are at the top of the rankings. It argues that the wage offer it has presented would maintain the employees in the same comparable position.

It appears to the arbitrator that it is appropriate to compare the compensation provided to Union County correction officers with that provided to correction officers in other counties. The PBA seeks a comparison with municipal police officers also. Although some comparison with those units is valid given that they all involve a law enforcement function, it must be recognized that there are differences between correction officers and police officers. Most specifically, they receive different training and have quite different day to day responsibilities. Therefore, I have paid particular attention to the compensation provided to other correction officers.

A review of the evidence submitted reveals that Union County correction officers appear to be in the middle range of County correction officers in terms of compensation. For the year 2000, the maximum base rate of pay for Middlesex corrections was \$56,572; in Bergen it was \$71,048; in Essex it was \$56,419; in Morris it was \$57, 879; and in Union County it was \$58,635. Union County officers receive a \$600 clothing allowance, while those in Bergen receive \$800, Essex

officers receive \$700, Morris officers receive \$800, Middlesex officers receive \$800, and Monmouth officers receive \$1000.

I have also reviewed the average pay increases granted correction officers. Based on evidence submitted at the hearing, the increases were as follows: New Jersey state officers: 4% for each year-2001 through 2003; Middlesex officers: 3.75% for 2001, 4.75% for 2002 and 2003; Essex officers: 5% for 2001; Bergen officers: 5% for 2001; Monmouth officers: 7.6% for 2001; Camden officers: 3.75% for 2001 and 2002; Bergen officers: 5% for 2001.

### **Interest and Welfare of the Public**

This criterion is essentially a quality of life index. The issue before me is to determine which Final Offer or combination of the offers best serves the interests and welfare of Union County. Although financial concerns are included in this criterion, they are more fully addressed under the financial impact criterion. The role that they play in this issue is basically whether the cost of a settlement, while in the public's interest and welfare, would prove prohibitive. The answer here, as in most cases, is that it would not be.

Union County is large and diverse. It has both urban and suburban centers. Its county finances have been maintained in relatively sound fiscal health, as set forth above. Despite this relatively good economic picture, it has been effected by the recent downturn in the economy both in terms of its finances and in terms of increased unemployment. Nevertheless, it is obvious that it is in the best interests and welfare of the community to provide reasonable compensation for an essential service such as corrections. A consideration of these various issues leads to the conclusion that this factor does not clearly favor the Final Offers of either party.



### **Financial Impact on the Governing Unit, Its Residents and Taxpayers**

This criterion is best addressed as part of the rationale offered on an item-by-item basis. As set forth above, Union County's finances have been essentially stable and healthy. However, recently it has experienced a reduction in revenues. The PBA claims that the County can afford its Final Offer and that, in fact, it would have a minimal effect on the County's budget. It asserts that the County achieved significant CAP banking from its budgets in 1999 and 2000 which resulted in \$6.5 million in cap flexibility. The County did not use all of its CAP flexibility in 2001. The County responds that it has experienced drawdowns of \$8 million dollars each year since 1998 and saw a reduction in its surplus of \$2 million dollars in 1999 and 2000. As a result of declines in interest on its investments, it has also seen a reduction in revenues.

It appears that the County has followed sound budgetary practices in the past. It does not appear based on the evidence presented that the County faces a serious CAP issue. Its financial resources are, of course, not unlimited and most recently there have been increasing strains on its finances. This factor has been given due consideration in the determination of each proposal at issue in the arbitration.

### **THE FINAL OFFERS**

The Final Offers made by each side have been fairly evaluated and examined in reaching the final wage and benefit package. It is important to realize that inclusion or exclusion is decided to a great degree on the reasonableness and necessity of each demand.

### **HEALTH BENEFITS**

The County has proposed a series of changes in the health benefit plan provided to bargaining unit employees. The County contends that it has offered various other economic improvements to the Union as an inducement to accept these changes. The full description of these proposals is set forth above. In brief, the County seeks to implement employee contributions to health insurance, increases in co-payments and employee payments for prescriptions and other changes.

The County argues that these changes in the health care plan are necessary because of the significant and steady increases of about 10% per year in cost that the County has been required to assume to pay for employee health benefits. It argues that without changes in this system, the County will eventually have to reduce services or increase taxes. It notes that 1700 of the County's 2700 employees have accepted these changes. The County asserts that the changes would have a small impact on unit employees, pointing out that in the year 2004 most unit employees would earn \$65,000 per year and only contribute \$300 per year toward health insurance.

The County's health care proposal seeks significant changes in the provision of employee health insurance. It would for the first time require employee contributions to health insurance, along with a variety of other changes. Although it is claimed that the costs would be minimal to employees, the County seeks these changes because it complains of major increases in the cost of providing health insurance. Given the

significance of these changes and the fact that the current health benefits enjoyed by employees are the result of past collective bargaining between the parties, any effort to accomplish this through interest arbitration carries a substantial burden of showing that the proposal is the more reasonable offer - by a significant margin. *See generally Township of Randolph and Randolph FOP Lodge 25, PERC Docket Nos. IA-95-073,079 (Light 1996).*

A careful review of the evidence presented does not persuade me that the County has met its burden of establishing the necessity for its health care proposal. The County has demonstrated that the cost of health insurance is rising at a rate higher than the cost of living and that this results in steadily increasing costs to the County. It has also shown that a majority of the County's employees have accepted its proposed changes in health insurance. These facts are obviously significant and make the matter one appropriate for collective bargaining. The PBA, of course, has not accepted these proposals. It was not shown that correction officers in other jurisdictions have accepted such changes to their health insurance coverage.

Several of the criteria set forth in the statute are not directly relevant to this proposal. There is no CAP law issue concerning the County's health care proposal, although the County obviously considers the proposal to be a cost saving which would have a financial impact on the governing unit and favor the County's proposal. The cost of living can only be applied to present costs and is not directly relevant to an issue of future savings. It has not been shown that the failure to make these changes to employee health insurance will have an effect on the continuity and stability of employment. I consider most important the interest and welfare of the public criterion. An award in favor of the County would cause a major change in an important employee benefit through arbitration, rather than negotiation. This would be a detriment to the public given its likely negative effect on the bargaining unit and

the morale of its employees. The County's proposal is far reaching and, as such, is most appropriately dealt with by the parties through the process of collective bargaining. It would not be appropriate to direct such changes through the issuance of an interest arbitration award, absent more of a showing for their necessity than was made in this case.

In sum, I have considered the County's health insurance proposal and concluded that it has not met its substantial burden of showing the necessity for making the extensive changes sought in this proposal. Accordingly, I reject the County's Final Offer on this issue.

The PBA seeks one change in the health insurance area. It proposes to include orthodontia coverage in the dental plan. After reviewing the arguments and evidence presented, I decline to award the PBA's proposal. As set forth above, the issue of health insurance is certainly appropriate for collective bargaining and there are reasons why the parties may wish to directly address these matters. In sum, I have not been convinced of the reasonableness of either party's proposals in this area and they are denied.

#### SALARY INCREASES

The PBA seeks the following increases during the contract term:

5.0% effective January 1, 2001

5.0% effective January 1, 2002

4.0% effective January 1, 2003

The County proposes the following:

1.5% effective January 1, 2001

1.5% effective June 23, 2001

3.5% in guide (4.0% at max) effective January 1, 2002

3.5% in guide (4.0% at max) effective January 1, 2003

3.5% in guide (4.0% at max) effective January 1, 2004

Both offers, for the purpose of reaching the most reasonable resolution, are not acceptable. I have reviewed all of the economic data presented, the testimony offered, the CPI figures, recent settlements and awards among County correction departments and municipal police officers, the increases negotiated by other County bargaining units, the general public and private sector increases within the state, and the economic condition of the County. I have also considered the numerous documents and pages of transcripts submitted by the parties. I have determined that the most reasonable wage increase is as follows:

Effective and retroactive to January 1, 2001 – 4.0%

Effective and retroactive to January 1, 2002 – 4.0%

Effective January 1, 2003 – 4.0%

#### SENIOR OFFICER DIFFERENTIAL

The PBA seeks increases in the senior officer differential. It notes that the County has provided senior officer stipends of up to \$2,865 to employees in the Sheriff's and Sheriff's SOA units, in addition to the wage increases negotiated. The County opposes the proposal. It notes that the senior officer differential was negotiated in the prior contract and was achieved by the PBA as a result of agreeing to a lower wage increase. It further notes that the increases in this payment made to employees in other units were paid through give backs in other areas. The PBA has

not offered to pay for any increases in the senior officer differential, and it would be costly to the County since nearly all officers are at the maximum pay rate.

I conclude that there has not been a sufficient showing, beyond a desire to obtain an increase in this benefit, to justify granting the proposal. Accordingly, it is denied.

### SOU STIPEND

The PBA seeks a new contract term providing a benefit of \$1,500 to all employees serving in the Special Operations Unit (SOU). It argues that the employees in this unit voluntarily perform the most dangerous work in the jail. It contends that this is really an "equity" issue because it would have little cost to the County and would reward employees performing very difficult work. It also argues that it is a common benefit in the industry. The County opposes this demand. It states that it would cost the County approximately \$144,000 over the term of the contract. Additionally, the employees in the SOU are not frequently called to service.

Although the PBA contends that other jurisdictions provide this benefit, a simple "me too" argument is insufficient to obtain such a new economic benefit in arbitration. I will not order it included in this contract.

### COMPENSATORY TIME OFF BANK

The PBA proposes that a 100 hour compensatory time off bank be established. This would permit officers to take overtime compensation as compensatory time off. The PBA asserts that it would provide flexibility to officers seeking time off. It claims that this is a no cost item to the County. The County opposes the PBA demand, contending that it would make staffing problems in the jail even worse than they are now. It argues that there are currently staffing problems which have resulted

in increased overtime. The PBA's proposal would allow officers to take more time off. The County maintains that this is not in the best interests of either the County or the officers.

Although it would be beneficial to officers to have the option of taking compensatory time off, as the PBA proposes, the County has raised a legitimate concern that it would harm its ability to staff the jail. The record does not indicate any reason to doubt this concern. I will not include this proposal in the contract.

### OTHER PBA PROPOSALS

The PBA has made four other proposals to modify the contract. Most of these proposals have been described by the PBA as "equity" issues because they allegedly should be granted as a matter of fairness to PBA officers and they do not raise cost issues for the County. I will review these proposals together. The PBA proposes to increase the current \$135 defense policy in Article XII, to \$158. It seeks to change the grievance procedure to delete the current listed panel arbitrators and replace that provision with a requirement that arbitrators be sought through the PERC panel. It requests that one employee per shift be permitted sufficient time to leave the facility, pick up food, and bring it back for other shift personnel to eat at the jail.

The County opposes these demands for a variety of reasons, including both cost concerns and simple opposition to the merits of the proposed changes.

I have reviewed each of these proposals. They raise particular issues which are certainly appropriate for discussion between the parties. There may be good reason for some of the proposals to be accepted. However, given the County's opposition to them, and the lack of showing that there is a pressing need for these new provisions, I do not view it appropriate for an interest arbitrator to order their inclusion in the new contract. Accordingly, the remaining PBA proposals are denied.

## OTHER COUNTY PROPOSALS

The County has made a significant number of other proposals to change the contract. The proposals address a large variety of matters. The County seeks changes in the hours of work provision (Article 7), to delete a requirement for personal injury liability insurance (Article 12), to delete preferential positions in the seniority provision (Article 14, Section 4), to change the vacation/shift schedules provision (Article 14, Section 6), to change the shift picks, days off and posts provision (Article 14, Section 7), to change the overtime provision (Article 15), to change the personal business and religious leave provision (Article 16), to change vacation eligibility (Article 17), to modify the sick leave provision (Article 20, Section 6), to change the clothing allowance provision (Article 22, Section 2), to delete section 6 of the Holiday provision (Article 23), to change the provision regarding labor/management meetings (Article 25, Section 1), to eliminate PBA delegate and PBA president release time (Article 26), to change the meals provision (Article 26), and to delete Article 28.

I note that some of these proposals involve economic improvements offered to the Union which the County has represented that it did not intend to be granted to the PBA, if the County's proposed changes in the health benefit system were not accepted. Other proposals are simply concessions the County seeks in bargaining. I note that there was one day of hearing held in this interest arbitration. Some of these matters were not supported by evidence showing their necessity, although the post-hearing brief submitted did address the proposals generally.

In considering these remaining extensive proposals, I am of the same view as I expressed above concerning the remaining PBA proposals. I do not view it as appropriate for an interest arbitrator to essentially re-write the contract through an



interest arbitration award. This is particularly so here where the remaining proposals are extensive and involve complex matters. Although the County has presented legitimate concerns in some of these matters, this long list of proposals is properly dealt with in collective bargaining. Indeed, the parties may wish to revisit some of these matters in direct negotiations. I, however, will not direct that they be included in the contract.

### CONTRACT DURATION

The PBA seeks a three year agreement. The County has proposed a four year contract. The County points out that since the agreement will begin retroactive to January 1, 2001, a three year agreement will expire at the end of 2003. The County considers this undesirable because the parties will have only a brief period before they will be back in the process of negotiating a successor agreement.

The County's concerns are reasonable. However, they are mitigated by the fact that three year contracts continue to be the general norm in public and private sector labor relations. Additionally, a return to bargaining next year may not be such a negative in this case, given the extensive number of proposals which were not resolved by the parties and were instead submitted to arbitration. Perhaps the parties will be able resolve these matters during the next round of negotiations. Finally, it is noted that there continues to be a significant amount of time before a three year contract would expire on December 31, 2003.

For the reasons stated above, I conclude that the new contract should have a three year duration, beginning retroactive to January 1, 2001, and continuing through December 31, 2003.

## **CONCLUSION**

The Arbitrator has listened to testimony, reviewed many exhibits and absorbed hours of counsels' arguments in oral argument and written briefs. Union County is a large and diverse community. It has maintained sound budgetary practices over the years. It also faces the challenges of economic change and recent decreases in growth. This award seeks to stabilize wage increases over the three year term of the agreement. Although the wage increases exceed those proposed by the County, this is appropriate given the special demands facing correction officers. The PBA's other demands were not awarded. Conversely, a significant give-back sought by the County in the form of changes in the health insurance system was not awarded because the County failed to prove the necessity and reasonableness of this proposal. The fact that this may have been accepted by other units, although supportive of the proposal, was not persuasive. The remaining County proposals have also been denied for the reasons set forth above.

Having well considered all of the proposals under each of the statutory criteria, I award the following:

## **AWARD**

### **TERM OF AGREEMENT**

Effective January 1, 2001, and ending December 31, 2003.

### **SALARY INCREASES**

Effective and retroactive to January 1, 2001 – 4.0%

Effective and retroactive to January 1, 2002 – 4.0%

Effective January 1, 2003 – 4.0%

CLOTHING ALLOWANCE

The County's offer of an increase in Clothing Allowance of \$25.00 effective on January 1 of each year of the contract is **ACCEPTED**.


REMAINING PROPOSALS

The remaining proposals of both the County and the PBA are **DENIED**.

  
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ROBERT E. LIGHT, Interest Arbitrator

STATE OF NEW JERSEY :  
:SS  
COUNTY OF MIDDLESEX:

On this 15th day of May, 2002, before me personally came and appeared ROBERT E. LIGHT, 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.

  
\_\_\_\_\_  
ELLEN ORLANDINI  
Notary Public of NJ  
my commission exp. 5/17/05