

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

In the Matter of Interest Arbitration Between :
 :
OCEAN COUNTY SHERIFF'S OFFICE :
 "the Sheriff or Employer" :
 :
 and :
 :
OCEAN COUNTY SHERIFF'S :
OFFICERS, PBA LOCAL 379 :
 "the PBA or Union" :

**INTEREST ARBITRATION
DECISION
AND
AWARD**

Docket No: IA-2003-026

Before: Robert M. Glasson, Arbitrator

APPEARANCES

FOR THE EMPLOYER:

Stephen F. Nemeth, Esq., Of Counsel
Mark K. Hanson, Esq., On the Brief
Matthew A. Leahey, Esq., Special Labor Counsel

FOR THE PBA:

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

Background & Procedural History

The Ocean County Sheriff's Office (the "Employer" or "Sheriff") and the Ocean County Sheriff's Officers, PBA Local 379 (Rank and File) and PBA Local 379 (SOA) (the "PBA" "SOA" or "Union") are parties to separate collective bargaining agreements (the "CBAs") which expired on March 30, 2002. Upon expiration of the CBAs, the parties engaged in negotiations for a successor agreement. Before the filing of the petitions the parties had engaged in a series of direct bargaining sessions at which time the two employee organizations met in tandem with the public employer. By consent, all negotiations and dispute resolution procedures were handled on a consolidated basis. Negotiations reached an impasse, and the parties mutually filed petitions with the New Jersey Public Employment Relations Commission ("PERC") on January 6, 2003, requesting the initiation of compulsory interest arbitration. The parties followed the arbitrator selection process contained in N.J.A.C. 19:16-5.6 that resulted in my mutual selection by the parties and my subsequent appointment by PERC on March 20, 2003 from its Special Panel of Interest Arbitrators.

I met with the parties in voluntary mediation sessions on May 13 and June 13, 2003. During direct negotiations and continued negotiations during the mediation process, the parties reached agreement on more than twenty issues. These agreements were memorialized in J-8, a document captioned "Ocean County Sheriff's PBA Local 379, PBA Proposals Agreed Upon by Public Employer During Course of Collective Bargaining" and J-9, a document captioned "Ocean County Sheriff's Superior Officers PBA Local 379 SOA Proposals Agreed Upon by Public Employer During the Course of Collective Bargaining." The mediation process did not resolve all of the issues included in the impasse. Formal interest arbitration proceedings were invoked and a hearing was conducted on August 7, 2003 when the parties presented documentary evidence and testimony in support of their positions. Before the hearing, the parties stipulated that criteria g5 and g6 are not at issue in this matter and further agreed to waive the submission of evidence, testimony and argument

regarding the Cap Law and statutory factors g5 and g6. Both parties filed post-hearing briefs. The hearing was declared closed on September 15, 2003 upon receipt of the briefs. The parties agreed to extend the time for the issuance of the award to February 20, 2004.

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

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

Statutory Criteria

The statute requires the arbitrator to:

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

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

- (c) In public employment in the same or similar jurisdictions, as determined in accordance with section 5 of P.L. 1995, c. 425 (C. 34:13A-16.2); provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976, c. 68 (C.40A:4-45.1 et seq.).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or municipality, the arbitrator or panel of arbitrators shall take into account to the extent the evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

LAST OFFERS OF THE PARTIES

PBA'S LAST OFFER

1. Wage Increase:

- a. The PBA proposes that old contract Article VI be modified by deleting paragraphs A and B and replaced with language to include that sum of money (\$1100.00) in the base salary.
- b. The PBA proposes that a first year monetary increase of \$1800 be added to each step of the guide and considered as part of the officer's base salary.
- c. Following the adjustment provided in B above, the employee organizations propose a 5% annual increase in each of 3 contract years.
- d. The PBA proposes a deletion of 2 salary guide steps.

2. Article VI, Overtime Compensation:

- a. The PBA proposes that on all hold-overs, the Sheriff's Officer be paid in one (1) hour time increments, at one and one-half (1½) times compensation.
- b. The PBA proposes that the Sheriff's Officers have the individual option of receiving either overtime at one and one-half (1½) times salary, or compensatory time off (CTO) which shall be accumulated at one and one-half (1½) hours for every one (1) hour worked. This CTO shall not exceed one-hundred (100) hours per Officer. The Sheriff's Officer may use this time at any time with proper notice, subject to Departmental approval.

3. Article XVII, Longevity:

- a. The PBA proposes a deletion of the current article provision specifying "unbroken service to the County of Ocean" from the lead paragraph of the article.
- b. The PBA proposes that the longevity guide be revised so the maximum of 8% be reached upon completion of 24 years of service as defined by the Police and Fire Retirement System Statute regulations.

4. Work Incurred Injury:

The PBA proposes the addition of the following "Work Incurred Injury" language:

Where an employee covered under this Agreement suffers a work-connected injury or disability, the employer shall continue such employee at full pay, during the

continuance of such employee's inability to work, for a period of up to one year. During this period of time, all temporary disability benefits accruing under the Workers' Compensation Act shall be paid over to the employer.

The Employee shall be required to present evidence by certificate of a responsible physician that he is unable to work, and the employer may reasonably require the said employee to present such certificate from time to time.

In the event the employee contends that he is entitled to a period of disability beyond the period established by the treating physician, or a physician employed by the employer or the insurance carrier, then and in that event, the burden shall be upon the employee to establish such additional period of disability by obtaining a judgement from the Division of Workers' Compensation establishing such further period of disability and such findings by the Division of Workers' Compensation, or by the final decision of the reviewing court shall be binding upon the parties.

For the purposes of this article, injury or illness incurred while the employee is attending an employer sanction training program shall be considered in the line of duty.

In the event a dispute arises as to whether an absence shall be computed or designated as sick leave or as an injury on duty, the parties agree to be bound by the decision of the appropriate Workers' Compensation judgement, or, if there is an appeal therefrom, the final decision of the reviewing court.

An injury on duty requiring time off for treatment, recuperation or rehabilitation shall not be construed as sick leave or a sick leave occasion under the terms of the sick leave policy heretofore agreed upon between the parties.

COUNTY'S LAST OFFER FOR RANK-AND-FILE UNIT

1. Management Rights:

Article II, B, be amended to read as follows:

All rank-and-file Sheriff's Officers shall successfully complete the basic police academy training curriculum as a condition of employment in accordance with N.J.S.A. 40A:9-117.16 and N.J.S.A. 52:17B-66 et seq. In the event that a new Sheriff's Officer is hired and does not successfully complete the basic police academy training program, it is understood and agreed that the Sheriff's Officer's employment can be terminated.

2. Duration:

The duration of this Agreement shall be from April 1, 2002 through March 31, 2006 and the terms shall remain in full force and effect until a successor agreement is negotiated.

3. Salaries:

The Ocean County Sheriff proposes across-the-board salary increases as follows: April 1, 2002, 3.75%; April 1, 2003, 3.75%; April 1, 2005, 3.75%; and April 1, 2005, 3.75%. The 3.75% increases are to be applied to every step in every year of the new Agreement. All officers not at maximum shall automatically move to the next higher step effective April 1, 2002 and on each subsequent anniversary date of this Agreement until they reach maximum salary step.

4. Uniform Maintenance Allowance:

- A. All Sheriff's Officers shall receive clothing allowance payments pursuant to the following schedule:
1. Effective April 1, 2002 - \$575 per annum.
 2. Effective April 1, 2003 - \$600 per annum.
 3. Effective April 1, 2004 - \$625 per annum.
 4. Effective April 1, 2005 - \$650 per annum.

Said monies shall be distributed on or about June 1st. Uniform specifications pertaining to weight, color, etc. will be determined by the Sheriff. The County will reimburse a new officer for the purchase of his/her uniform.

- B. All Sheriff's Officers shall receive clothing maintenance allowance payments pursuant to the following schedule:
- A. Effective April 1, 2002 - \$575 per annum.
 - B. Effective April 1, 2003 - \$600 per annum.
 - C. Effective April 1, 2004 - \$625 per annum.
 - D. Effective April 1, 2005 - \$650 per annum.

Payments for uniform maintenance shall be made semi-annually in two equal installments on or about June 1st, and on or about December 1st.

- C. Any Sheriff's Officer who is in a non-uniformed status more than six (6) continuous months out of any given year of this contract may secure \$575 for his uniform maintenance, to be increase to \$600 on April 1, 2003; to be increased to \$625 on April 1, 2004 and to be increased to \$650 on April 1, 2005. Any Sheriff's Officer out of uniform less than six (6) months of any given year of this contract shall receive the sum of \$184 per year, to be increased to \$240 on April 1, 2003; to be increased to \$284 on April 1, 2004 and to be increased to \$295 on April 1, 2005.
- D. All Sheriff's Officers shall maintain and wear the proper uniform as required by the Sheriff.
- E. If the Employer changes uniforms, the cost of the change shall be borne entirely by the Employer.

5. Overtime Compensation:

The Employer proposes that Article VII be amended to read as follows:

- A. Overtime shall be compensated for at the rate of time and one-half for each hour actually worked in an overtime status. Overtime payment shall commence after the completion of eight (8) hours in a workday or forty hours in a workweek. Sick days, legal holidays and vacation days, constitute compensable days for the computation of overtime. All other days, other than work days, sick days, legal holidays and vacation days, will not be utilized as compensable days for the purpose of computing overtime.
- B. The Sheriff or his designee, at his discretion, may require a doctor's certificate for any sick day taken by an officer during a period within which the officer has worked overtime and the sick day was actually used as a compensable day for the purposes of computing overtime.
- C. Any Sheriff's Officer called to work will be guaranteed four (4) hours of overtime, and if he/she works over five (5) hours, will be guaranteed eight (8) hours. However, an officer who is called back to work within one (1) hour of the end of his/her shift will be guaranteed one (1) hour of overtime. If an officer is called back to work and the call is cancelled after the officer leaves home, he/she will be guaranteed one (1) hour of overtime. If the call is cancelled before the officer leaves home, overtime will not be granted.
- D. All overtime shall be distributed as equally as possible among bargaining unit members.
- E. Training - If an officer requests to attend a training class outside of Ocean County and the training program requires the officer to commute to the training each day, there will be no overtime for the training or travel time. If the Department requires an officer to attend the training, overtime will not be paid for travel if the shortest distance from Ocean County to the training is 50 miles or less. If the travel distance is more than 50 miles from Ocean County via the shortest distance, overtime will be paid after the first one-half hour travel in either direction.

COUNTY'S LAST OFFER - SOA UNIT

1. Duration:

The duration of this Agreement shall be from April 1, 2002 through March 31, 2006 and the terms shall remain in full force and effect until a successor agreement is negotiated.

2. Salaries:

- A. The Ocean County Sheriff proposes across-the-board salary increases, with full retroactivity, for the ranks of Sergeant and Lieutenant as follows: April 1, 2002, 3.75%; October 1, 2002, .75%; April 1, 2003, 3.75%; April 1, 2004, 3.75%; and April 1, 2005, 3.75%.
- B. The Ocean County Sheriff proposes across-the-board salary increases, with full retroactivity, for the rank of Captain as follows: April 1, 2002, 3.75%; October 1, 2002, .50%; April 1, 2003, 3.75%; April 1, 2004, 3.75%; and April 1, 2005, 3.75%.

3. Uniform Maintenance Allowance:

All Sheriff's Superior Officers shall receive a total uniform and maintenance allowance of \$1,150 for the contract year 2002-2003 and 2003-2004. Effective April 1, 2004, separate uniform allowances shall be discontinued and an amount of \$1,200 shall be rolled into the base salary of each Superior Officer. All future uniform allowances shall be considered within the base salary structure and will not be considered as a separate economic item for negotiation.

4. Overtime and Call-In:

- A. Overtime shall be compensated for at the rate of time and one-half for each hour actually worked in an overtime status. Overtime payment shall commence after the completion of eight (8) hours in a workday or forty (40) hours in a workweek.
- B. Those officers who have completed their regular shift and are required to continue their tour of duty beyond eight (8) hours work are entitled to additional compensation at the overtime rate for each hour worked beyond eight.
- C. The Sheriff or his designee may require a doctor's certificate for any sick day taken by an officer during a period within which the officer has worked overtime and the sick day was actually used as a compensable day for the purposes of computing overtime.
- D. Any officer who leaves his work station and is required to return to work from home will be guaranteed four (4) hours overtime at the applicable rate. If he/she works five (5) hours, he/she will guaranteed eight (8) hours of overtime.

5. Overtime Compensation:

The Employer proposes that Article XIII be amended to read as follows:

Any officer called to work will be guaranteed four (4) hours of overtime, and if he/she works over five (5) hours, will be guaranteed eight (8) hours. However, an officer who is called back to work within one (1) hour of the end of his/her shift will be guaranteed one (1) hour of overtime. If an officer is called back to work and the call is cancelled after the officer leaves home, he/she will be guaranteed one (1) hour of overtime. If the call is cancelled before the officer leaves home, overtime will not be granted.

E. Training - If an officer requests to attend a training class outside of Ocean County and the training program requires the officer to commute to the training each day, there will be no overtime for the training or travel time. If the Department requires an officer to attend the training, overtime will not be paid for travel if the shortest distance from Ocean County to the training is 50 miles or less. If the travel distance is more than 50 miles from Ocean County via the shortest distance, overtime will be paid after the first one-half hour travel in either direction.

The Sheriff proposes that Captains in the Ocean County Sheriff's Office shall not be entitled to the benefit of Article XIII, Overtime.

THE PBA'S POSITION AND ARGUMENT

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

Interests and Welfare of the Public

The Ocean County Sheriff's Department (the Department") is a full service law enforcement agency which is an integral part of the investigation and prosecution of crimes within the County of Ocean. Besides the law enforcement role there is also a constitutional and a statutory role filled by these personnel. The Department's key role in response, investigation, processing and prosecution of criminal activity within the County places this law enforcement agency in a unique role within the County of Ocean and perhaps the most unique of all Sheriff's Departments within the State of New Jersey.

The PBA's first witness at the hearing was Chief Jeffrey Thompson of the Ocean County Sheriff's Office. The PBA notes that while Chief Thompson was appearing and testifying under a subpoena, his pride in the performance and productivity of the Department could not have been more clearly stated. Chief Thompson testified as to the history of the Department in Ocean County and its development into its present day role in the law enforcement community. Chief Thompson described the mission of the Department in what is essentially five basic subject areas.

1. The Department's primary duty is to protect life and property, preserve the peace, and fulfill the core functions of the sheriff's office.
2. Offering a general law enforcement function through a visible deterrence and by taking appropriate emergency action when necessary.
3. Offering important, highly technical, or specialized law enforcement services that individual departments do not have.
4. Offering direct assistance during emergencies, disasters, special events, or other approved events requested by other law enforcement agencies.

5. Supplementary services offered at the County level to local departments who do not have such services in their respective jurisdictions.

Chief Thompson explained the types of services offered by the Department in each of the above categories.

The Criminal Investigation Unit (CIU), founded in 1975, includes both the Ocean County Sheriff's Department Crime Laboratory, the Ocean County Sheriff's Department Forensic Photography Laboratory, and the Crime Scene Processing Unit. The Crime Scene Processing Unit is responsible for all of the evidence collected for all major crimes in Ocean County. These are core functions of the Ocean County Sheriff's Department. Chief Thompson described the progressive and unique services offered through this unit. The CIU was the first in the State of New Jersey, six years before the State Police, to provide DNA testing and record maintenance. The laser capability was available in the Ocean Sheriff's Department six years before the New Jersey State Police had such technology. The nationally renowned Criminalist, Dr. Henry Lee, then of Connecticut, came to the Ocean County Sheriff's Office to examine the criminal investigation facilities before implementing them in Connecticut and subsequently elsewhere. The PBA submits that in these areas of highly specialized investigation the Ocean County Sheriff's Department clearly has been and is on the cutting edge of law enforcement capability.

P-4 is the Department's 2002 Annual Report for the Criminal Investigation Unit. P-4 shows the substantial volume of activity. There were 9,903 investigations conducted by this unit in 2002. Items examined totaled 7,449 and the total number of tests numbered 13,423. The types of crime scene investigations enumerate investigations in virtually every area of law enforcement from homicide to car jacking, bank robberies, home invasion, suicides, arson scenes, elder abuse, and autopsies. The PBA contends that it seems highly unlikely that most of the law enforcement agencies in the State of New Jersey were ever confronted with this array of law enforcement investigations in a year.

The PBA notes that the Warrants Division is one of the most active within the department. The execution of adult and juvenile arrest warrants, as well as civil warrants, and out of state prisoner extraditions, are core functions of the Department. P-3 is a copy of the Warrant Division Report showing Warrant Division activities over the last four complete years. A total of 31,641 warrants were entered. Warrants closed were 28,254, resulting in an 89% closure rate. There were 4,349 arrests during that time emanating from the Warrant Division alone. P-2 is the 2002 Annual Warrant Division and CIV Report showing 5,931 warrants received in that year alone with 4,582 warrants discharged, a better than 77% discharge rate. More than 5800 Warrant investigations were conducted in 2002. The PBA notes that the Warrant Division generates funds. Funds received in 2002 totaled more than \$1,784,223.

The PBA notes that the Warrant Unit does not just work with warrants generated at the County level or from Ocean County Municipalities. The Warrant Unit is also an important member of the United States Marshal's Service "Regional Fugitive Task Force" unit. P-1 is a copy of a letter of commendation from Ocean County Sheriff William L. Polhemus dated July 10, 2003 acknowledging the exceptional productivity and success of the unit:

"I would like to take this opportunity to commend all of the Task Force members as well as the Warrants and ID Staff for the remarkable job they have done in the apprehension of first and second degree criminals.

The US Marshals report was given to me yesterday and I could not have been more proud. Your hard work and dedication have made us "No. 1" in the entire State not by a few arrests but by over 100 arrests. Outstanding job!

As you are aware we can't let our guard down. We must continue to maintain our lead as I know you will do."

The PBA notes that the attachment to P-1 shows that this unit not only leads all other county agencies, it even leads other agencies at the State and Inter-State level as measured by the US Marshal's Office. Agencies which are listed in productivity numbers lower than the Ocean County

Sheriff's Office include New Jersey State Police, Trenton Police, Camden Sheriff's, the Sheriff's Departments in the Counties of Mercer, Camden, Burlington, Passaic, Monmouth, Middlesex, Atlantic, Morris, Hudson, Elizabeth Police and also noted are the New York City Police, FBI, Newark Police Department, Task Force of Puerto Rico, and many other Police Departments. The PBA asserts that this is an exceptional unit performing an exceptional task while working with the US Marshal's office.

Special services offered by the Department include a significantly and uniquely trained K-9 service. Chief Thompson testified that now there are 15 specially trained dogs for various law enforcement tasks. These include bloodhounds for trace tracking humans, bomb and explosive detective dogs, cadaver detection dogs and arson detective dogs. A significant note was made during the Chief's testimony that none of these dogs are cross trained. Each is specially trained in the subject area noted. This is important because it increases the effectiveness of the dog unit as the dog is totally focused on that specific subject of training. As a practical matter such specialty services cannot reasonably be made available to the public at the municipal level. It takes a law enforcement agency such as the Department to accomplish the task. These services are available to any law enforcement agency that requests them 24 hours a day, 7 days a week. Chief Thompson gave many examples of types of calls and law enforcement investigations in which the dogs were involved. The homeland security role of those specially trained dogs in the bomb and explosive categories was also discussed.

The Department provides a well trained and equipped SWAT Unit. The Department maintains a fully functioning regional "Tactical Team." The team consists of officers throughout the department specifically trained to respond to critical incidents in the county. In addition the team is primarily responsible for all of the County Offices and property and the Sheriff's Tactical Team

is primarily responsible to the NRC Emergency Plan as first responders to the Oyster Creek Nuclear Plant. This SWAT Team therefore not only handles County level emergency law enforcement services and services to the Municipalities on an as needed basis, but is actually part of a national plan in homeland security to respond to the security and protection of the regional Nuclear Power Plant. As Chief Thompson stated, no other Sheriff's Department in the State is in this type of response plan.

The Computer Crime Investigation Unit is one of only a few in the State of New Jersey which is available to law enforcement investigations, not only in the County of Ocean, but the entire State of New Jersey. The effectiveness of this unit is based upon highly specialized equipment and extensive training. Chief Thompson described the training as approximately one year in duration and working closely with the FBI. Chief Thompson testified that only the New Jersey State Police has the capabilities comparable to those at the Ocean County Sheriff's Office in this subject area. Department personnel have been assigned to the New Jersey State Police High Tech Crime Task Force, the FBI's Innocent Images Task Force, and some are currently assigned to the Ocean County Prosecutor's Office Computer Crime Unit. These are the people with whom the Ocean County Sheriff's personnel work on a regular basis.

The PBA contends that the Sheriff's Judicial Division is perhaps one of the most diverse units in the entire Sheriff's agency. The PBA contends that portraying these officers as solely serving the Judiciary at the Court House is inaccurate. P-5 is a copy of the Sheriff's Judicial Division Annual Report for the year 2002. The Judicial Unit is broken down into ten basic subject areas which include, Outside of Court House functions, a DARE Program, Money Transfers/Deposits, prisoner transportation, Range duty, SWAT Unit, Strike Force Transportation, and Writs. The PBA maintains that personnel within the Judicial Unit do not all work in the Court House.

The Judicial Unit, as described in detail by Chief Thompson, is in large part a central unit or "pool" from which other units draw on an as needed basis. The specific activity areas performed by the traditional unit are detailed in P-5. The PBA notes that in the Court House alone, within the building, there were 475 incidents resulting in 307 arrests. The Department provides security and first aid response to the Court House, all court rooms, and all county properties. included within the Judicial function is security coverage at Miller Airpark.

The PBA notes that a core function of the Sheriff's Department is acting as the lead agency and Office of Emergency Management for Ocean County. Chief Thompson described the chain of command on the OEM obligation as leading directly to New Jersey Superintendent of State Police, who under law, is the head of OEM for the State of New Jersey.

One of the more recent additions to the Ocean County Sheriff's investigative capabilities is the development in the area of missing persons' investigations. The Department provides assistance to any municipal Police Department requesting assistance in missing persons investigations. Chief Thompson however described the relatively recent development of the new "TRAK System." This TRAK System has produced thousands of flyers for other agencies to assist in the location of missing persons. This is now an integral part of the "Amber Alert Plan" now known throughout the State of New Jersey.

The PBA notes that the Ocean County Police Academy is staffed and run by the Sheriff's Department. The Sheriff's Department provides seventeen Police Training Commission certified instructors for the Police Academy Recruit Training and is the lead agency in training new Police Officers in Ocean County Physical Fitness, Morale and Discipline. Sergeant Matthew J. Armstrong testified regarding the type of activity and specialized service required at the Academy. It appears clear from the testimony of both Chief Thompson and Sgt. Armstrong that Ocean County Sheriff's

Officers rarely, if ever, perform a single function. They are cross trained, schooled and equipped to handle multiple functions as the need arises in the law enforcement community. It must be noted additionally that local law enforcement agencies train at the Ocean County Police Academy. The Ocean County Sheriff's Officers are therefore training other law enforcement in specific subject areas.

The PBA points out that throughout all these law enforcement activities, the Ocean Sheriff's Office also has certain constitutional and statutory obligations in areas such as Sheriff's sales and civil process. These are additional court functions of the Sheriff's office in Ocean County and elsewhere.

Other functions generally provided by the Sheriff's Department in Ocean County are not always designated by division but in fact are the subject of specific assignment on an as needed basis or based upon specialized training. Officers performing such services and specialties may come from any number of units or divisions or be part of the Judicial service pool. Such functions include, but are not limited to, the following:

1. Counter terrorism services - working with the Newark FBI Office. Some officers were assigned at the post September 11 landfill as described by Chief Thompson.
2. Child Safety Seat Program
3. Crime Prevention - Elder programs
4. DARE
5. Restraining Order Service
6. Live Scan
7. Hostage Negotiation
8. Bilingual Interpretations Services
9. Honor Guard

The PBA points out that various types of law enforcement services provided by the Ocean County Sheriff's Department and the highly specialized units, equipment and facilities provided to the public through the Ocean County Sheriff's Department bring its law enforcement personnel within regular contact with other agencies, local, state, and national. Chief Thompson provided some examples as follows:

1. New Jersey State Police Criminal Investigation Unit
2. New Jersey State Governor's Office Security Unit
3. Orange Alert Services
4. Visiting Dignitaries
5. New Jersey State Police South Star - Medi-vac Units
6. United States Marshal Service
7. All Municipal Police Units
8. FBI ERT Team
9. New Jersey State Police High Tech Crime Unit
10. Ocean County Prosecutor's Office
11. FBI Innocent Images Unit

The PBA notes that the staffing of the Ocean County Sheriff's Department has not changed dramatically in recent years. P-7 is a history of the staffing of the Department dating back to 1989 showing on a year-by-year basis census and staffing patterns. The total number of Sheriff's Officers today numbers only six more sworn officers than existed in 1989. The current number of seventy-five includes five new officers who are scheduled to start the police academy and there are four current vacancies. The PBA contends that the promotional opportunities are less than they were in prior years. There are currently two captains but until 1994 there were three captains. There are currently five lieutenants however for each of the last four years there have been more lieutenants'

positions staffed. There are presently ten sergeants but until 1994 there were twelve sergeants and in 1991 there were fourteen. The PBA submits that these types of statistics have an impact on the career path of an officer. There are fewer promotional opportunities available today than there were in the past. Officers today have a greater volume of more highly specialized work to perform and clearly are an increasingly depended upon agency by other law enforcement organizations at every governmental level. These law enforcement officers not only perform admirably but also act as the focal point of many major investigations and law enforcement initiatives. The PBA contends that the peers of the Sheriff's Officers are the busier municipalities and state level agencies with whom they most regularly work.

The PBA asserts that the Sheriff's Department is an exceptional law enforcement agency which provides a high level of service and equipment to the citizens of Ocean County. The PBA points out that the morale, as noted by both Chief Thompson and Sgt. Armstrong, is very high. The PBA asserts that the Sheriff's Department is an exceptional law enforcement agency providing service in the best interests and welfare of the public.

**Comparison of the wages, salaries,
compensation, hours, and conditions of employment**

The PBA submits that the primary function of its presentation was the establishment of a record with respect to the work function of bargaining unit members and their role in the law enforcement community. The extensive testimony on the record was critical to the hearing for several reasons. First, the presentations squarely met the criteria designated as g1 under the Act. Second, the PBA asserts that it has established a proper universe of comparison so essential in making appropriate comparisons in wages and benefits. The PBA notes that the only evidence in the record regarding universal comparisons is the testimony and exhibits introduced by the PBA.

The PBA notes that a Sheriff under New Jersey Law is a constitutionally created officer. The

employer of these personnel covered by this Interest Arbitration proceedings are employees of the constitutionally created Office of the Sheriff. While the County may administer certain elements of employment such as payroll and pensions, the employer is the Sheriff and not the County. The PBA contends that this relationship and the hierarchy of who in fact is the employer of these employees is important when one considers the detail and depth of Chief Thompson's testimony. It is Chief Thompson who clearly established that these bargaining unit employees are an integral part of the law enforcement community and are best compared with other law enforcement agencies which he detailed and throughout his testimony explained the day-to-day working relationships with those other agencies at the Federal, State and County as well as municipal levels.

The PBA contends that the base pay rate of these bargaining unit employees is significantly below their peers. Chart 1 below compares base pay rates among those agencies properly compared with the Ocean Sheriff's Office. Each of these pay rates is established in complete contracts which were placed into evidence at hearing.

CHART 1
2002 Base Compensation Comparison For
Non-Supervisory Personnel

	2002
Lakewood	\$70,528
Freehold Township	74,720
Bradley Beach	63,645
Keyport	64,149
Holmdel	66,355
Manasquan	67,591
Matawan	63,645
Mercer Sheriff	60,951
Monmouth Prosecutor	80,000
Bergen Co. Sheriff	77,585

Middlesex Sheriff	67,608
Manchester	71,016
Brick Township	80,746
Point Pleasant	67,726
Jackson	74,516
Berkley Twp	71,480
Lacey Twp	70,496
Little Egg Harbor	67,111
Stafford Twp	63,594
Ocean Twp	69,503
Ocean Prosecutor	63,895
Average	\$ 69,379
Ocean Sheriff	62,350
Ocean Sheriff's Office compared to Average	(\$7,028) (11.3%)

The PBA contends that Chart 1 clearly establishes the poor relative position of the Ocean Sheriff's Officer in comparison to his peers. The shortfall from average is more than \$7,000. The PBA asserts that it would take more than an 11% wage increase to bring the current base to average at the beginning of 2002. The PBA notes that the current contract term commences, retroactively, at April 1, 2002. This April effective date works to the further detriment of the bargaining unit employees as they must wait those several months whereas the other listed agencies all receive their pay increases January 1. It is certainly within this Arbitrator's authority to reset the commencement date of this contract to be January 1 in each successive year. The PBA notes that an award of its full salary proposal would bring the current salary to average.

The PBA notes that comparable law enforcement agencies are receiving salary increases.

Chart 2 below analyzes the base rate component of these changes and expresses the change in percentages of change from year-to-year.

CHART 2
Base Rate Increases In Percentage of Change

	2002	2003	2004
Middlesex Sheriff	4.75	4.75	4.75
Mercer Sheriff	4 (2/2)	4.5 (2/2.5)	4.75(2/2.75)
Holmdel	4.8	4.8	4.8
Bradley Beach	4.5	4.5	
Freehold Twp.	4	4	
Freehold Twp. SOA	4	4	
Keyport	4 (2/2)	4 (2/2)	
Manasquan	4	4	4.7
Matawan	4 (2/2)	12.9	4
Monmouth Corrections		4.16	12
Monmouth Prosecutor	3.9	7.5	7
NJ State Police	4	4	4
State Police NCO	4	4	4
State Police SOA	4	4	4
Bergen Sheriff	4	4	4
Manchester	3.8		
Brick Twp	3.9	4	4
Point Pleasant	4	4	4
Berkeley Twp		3.8	4
Lakewood	3.8	3.8	4
Lacey	3.5	3.5	3.5
Little Egg Harbor	7.2	9.9	
Stafford	3.9	3.9	4.25

Ocean Twp.	4.25	4.25	
Somerset Sheriffs	4	4	4
AVERAGES	4.174%	4.84%	4.76%

The PBA submits that the established averages in Chart 2 support an award of its salary proposals. The PBA notes that it has established an 11.3% short fall from average which, if coupled with the averages in Chart 2, would require an increase of over 25% during the term of the 3-year contract ($11.3\% + 4.174\% + 4.84\% + 4.76\% = 25.074\%$). The PBA notes that its last offer does not even approach these types of numbers needed to achieve average. The PBA asserts that its last offer is fully supported by the evidence in the record.

The PBA proposed a modification of the longevity program by taking out the words "unbroken service to the County of Ocean" in the lead paragraph and also by revising the access point of the maximum longevity rate to 24 years of service. The PBA submits that both proposals are well supported in the record.

The PBA contends that the current longevity program is lacking when compared to other law enforcement agencies cited in Chart 3.

CHART 3
Comparison of Longevity Benefits

	Maximum Percentage	Yrs. service To max	Benefit Value @24 yrs.
Little Egg Harbor	10%	17 yrs.	\$6711
Bradley Beach	12%	21 yrs.	\$7637
Freehold Twp. PBA	\$4000	24 yrs.	\$4000
Keyport	7%	25 yrs.	\$4170
Holmdel	\$3000	15 yrs.	\$3000
Manasquan	9%	24 yrs.	\$6327
Matawan	15%	29 yrs.	\$7956

Mercer Sheriff	\$2850	24 yrs.	\$2850
Bergen Sheriff	\$1750	20 yrs.	\$1750
Middlesex Sheriff	7%	21 yrs.	\$4733
Manchester	10%	24 yrs.	\$7101
Brick	11.5%	17 yrs.	\$9286
Point Pleasant	10%	24 yrs.	\$6772
Berkeley Twp.	\$4100	25 yrs.	\$4100
Lakewood	8%	20 yrs.	\$5642
Lacey	10%	23 yrs.	\$7049
Stafford Twp	12%	23 yrs.	\$7049
Ocean Twp	\$5072	24 yrs.	\$5072
Average		22.2 yrs.	\$5575
Ocean Co. Sheriff		32 yrs.	\$4988

The PBA notes that the longevity benefit for Ocean County Sheriff's Officers is the lowest on Chart 3. The PBA also notes that it takes 32 years to receive the maximum longevity benefit in Ocean County whereas the maximum is reached throughout all the other law enforcement agencies after an average of slightly more than twenty-two years of service. The PBA points out that due to statutory retirement options the maximum longevity is an illusion.

The PBA notes the value of longevity when it is compared at 24 years of completed service. The current 24-year benefit in Ocean County is \$4988 which is considerably less than comparable law enforcement agencies. The PBA notes that in other comparable agencies, many of these agencies also have "Senior Officer Differential" which is another form of longevity. Chart 3 reflects only longevity. For example, the Bergen County Sheriff's Office provides a one-half step at 17 years of service where an officer would get half the distance between the current base rate of pay and the next rate of pay regardless of rank. The Middlesex County Sheriff's Office provides for a 4% Senior Officer Differential at 20 years of service.

The PBA asserts that its proposal regarding work incurred injury protection is justified. The current contract's sick leave article simply states that there will be no deductions from sick leave for worker's compensation cases. There is, however, no guarantee of any term of coverage. Chart 4 below analyzes this benefit in other contracts. The PBA seeks the one-year work incurred injury coverage period. The PBA notes that the employer says that it will protect them however there is no guarantee. The PBA seeks this guarantee in contract language.

CHART NO. 4
Work Incurred Injury Protection Comparison

Law Enforcement Agency	Work Incurred Injury coverage period.
Freehold Twp. PBA	1 year
Bradley Beach	180 days
Keyport	1 year
Manasquan	full compensation, no limit
Matawan	1 year
Mercer Sheriff	1 year
Monmouth Pros.	1 year
NJ State Police	No stated limit
Bergen Sheriff	135 working days
Manchester	1 year
Brick Twp	1 year
Point Pleasant	1 year
Berkeley Twp	1 year
Lakewood	1 year
Little Egg Harbor	1 year
Ocean Twp	1 year
Somerset Sheriff	1 year
State Police	no limit
Ocean Sheriff's	no contract provision

The PBA contends that the overall compensation program available to Sheriff's Officers in Ocean County is below average in many areas. One key example is the absence of any provision for a Detective Differential. Detective/Investigators in the various other agencies frequently have a stipend paid for officers who are doing the type of work that these sheriffs' personnel are doing regularly. Chart 5 is a comparison of differentials in other law enforcement agencies.

CHART 5
Detective Differential Benefits

Law Enforcement Agency	Annual Det. Increment
Freehold	\$1700
Bradley Beach	\$1000
Keyport	\$1036
Holmdel	\$ 500
Manasquan	\$ 500
Matawan	\$1715
Mercer Sheriff	\$ 600
Point Pleasant	\$1000
Jackson	\$1000
Lakewood	\$1000
Lacey Twp	\$1200
Ocean Twp	\$1072
Average	\$1027
Ocean Sheriff's	None

The PBA submits that there is no outstanding benefit which in any way might be argued to offset the low relative positioning of other compensation elements at the Ocean County Sheriff's Office.

The PBA contends that the Department made a minimal presentation on comparability issues. There are no contracts offered of other comparable agencies. The County relies exclusively on the Corrections Officer CBA as its sole showing on the comparability criteria. The PBA notes that it respects the work of a correction officer but asserts that it is simply a different job. The PBA concedes that there once was a functional and contractual relationship with these other types of employees. However, the PBA contends that this relationship ended decades ago. The PBA notes that it offered both evidence and testimony showing that as long as two decades ago an employee of the Sheriff's office would have to seek and achieve promotion from the position of correction officer to the position of Sheriff's officer. There was competitive testing and personnel forms executed indicating that this change in job title was the result of a promotion. Witnesses testified that they took a test and were so promoted. J-28 is an Ocean County Department of Employee Relations Transaction Form dated August 28, 1982 indicating the promotion of two individuals from correction officer to sheriff's officer. The PBA contends that all parties recognized the distinction between these two types of work and that it required competitive testing and a promotion for a correction officer to become a sheriff's officer. The testimony established that the line of authority, the "chain of command" for a correction officer ran directly through the County offices in the County of Ocean. The Chain of command for a member of the PBA or SOA of the Sheriff's office goes to the Sheriff's office. There are different chains of command, different disciplinary procedures, different job titles, different job functions, and different New Jersey Department of Personnel job criteria. The correction officer job specifications as provided by the New Jersey State Department of Personnel are included in E-20. The sheriff officer job specifications as provided by the New Jersey State Department of Personnel are included in E-8. These are significantly different job specs and are incorporated into State Law through the regulatory power of the New Jersey State Department of Personnel. Correction officers are not employees of the Sheriff. Correction Officers

work in a confined area with a specific task. The work performed by the Sheriff's officers of all ranks, as established through testimony and evidence, is distinctly different. The PBA contends that the only reason that the County sought to link the correction officers to the sheriff's officers is that the correction officers settled for a low salary increase. The PBA submits that for the Corrections Officer's settlement to have any validity for statutory evaluation, it would have to be evaluated in relation to their peers. Where are they in comparisons to compensation levels of their peers, other correction officers? Are they the highest, in the middle, or somewhere else? The PBA submits that absent such data, little weight should be given to this comparison to correction officers.

The PBA notes that the County referred to private sector employment. The PBA contends that the best comparisons are among those persons doing the same or similar work. Due to the unique statutory obligation and treatment of police officers under New Jersey Law, any comparison of said law as it applies to private sector employees as compared to police officers must result in a strong justification for significantly higher compensation to be paid to police officers. The PBA cites the decision of Interest Arbitrator Carl Kurtzman regarding the value of private sector comparisons:

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

The PBA asserts that private sector comparisons should not be considered controlling in this case. In the first instance, there is no comparable private sector job compared to that of a police

officer. A police officer has obligations both on and off duty. This is most unusual in the private sector. A police officer must be prepared to act and, under law, may be armed at all times while anywhere in the State of New Jersey. Certainly this is not seen in the private sector. The police officer operates under a statutorily created public franchise of law enforcement with on and off duty law enforcement hours. Again, such public franchise and unique provision of statutory authority is not found in the private sector. There is no portability of a pension in the law enforcement community after age thirty-five. Police officers may not take their skills and market them in other states as one may market one's own skills in the private sector. A machinist or an engineer may travel anywhere in the county to relocate and market their skills. This is not possible for a police officer. The certification is valid locally only. The nature of police work is inherently one of hazard and risk. This is not frequently seen in the private sector.

The following represents certain statutory and other precedential laws controlling the relationship of police officers to their employers. Specifically distinguished is the private sector employee from said employee's employer.

1. The Federal Fair Labor Standards Act, 29 USCA sect.201, et seq. applies different standards to private sector employees and police officers. Whereas private sector employees have the protection of the 40 hour work week and the 7 day work cycle, police officers are treated to much less protection. Police officers have only relatively recently been covered by the Act by virtue of the 7k amendment.
2. The New Jersey State Wage & Hour Law, NJSA 34:11-56a, et seq does not apply to the employment relationship between a police officer and the officer's public employer. Private sector employees are covered under New Jersey Wage and Hour Laws. Such protections as are therein available are not available to the police, Perry v. Borough of Swedesboro, 214 NJ Super. 488 (1986).
3. The very creation of a police department and its regulation is controlled by specific statutory provisions allowing for a strict chain of command and control. Included are statutory provisions for rules and regulations, specifying of powers and duties, specifics for assignments of subordinate personnel, and delegation of authority. NJSA 40A:14-118. There is no such statute covering private employment in New Jersey.

4. **NJS 40A:14-122** provides for specific qualifications which are statutorily mandated for police officer employment. Such requirements as US Citizenship, physical health, moral character, a record free of conviction, and numerous other requirements are set forth therein. No such requirement exists by statute for private employment in this state.
5. If an employee in a police department is absent from duty without just cause or leave of absence for a continuous period of five days said person, by statute, may be deemed to cease to be a member of such police department or force, **NJS 40A:14-122**. No such provision exists as to private employment.
6. Statutorily controlled promotional examinations exist for certain classes of police officers in New Jersey under title 11 and other specific statutory provisions exist under **40A:14-122.2**. There are no such private sector limitations on promotion.
7. A police officer in New Jersey must be resident of the State of New Jersey, **NJS 40A:14-122.8**. No such restriction exists for private sector employees.
8. Hiring criteria and order of preference is set by statute **40A:14-123.1a**. No such provision exists for private employees in New Jersey.
9. There are age minimums and age maximums for initial hire as a police officer in New Jersey. No such maximum age requirements exist for private employment in this state. Even if an employee in a police department who has left service seeks to be rehired there are statutory restrictions on such rehire with respect to age, **40A:14-127.1**. No such provision exists for private employees in this state.
10. As a condition for employment in a police department in the State of New Jersey there must be acceptance into the applicable Police Retirement System, **NJS 40A:14-127.3**. No such requirement exists in private sector. The actual statutorily created minimum salary for policemen in New Jersey is set at below minimum wage **NJS 40A:14-131**. Private employees are protected under the Fair Labor Standards Act. Days of employment and days off, with particular reference to emergency requirements are unique to police work. A police officer's work shall not exceed 6 days in any one week, "except in cases of emergency". **NJS 40A:14-133**. The Fair Labor Standards Act gives superior protection to private sector employees.
11. **NJS 40A:14-134** permits extra duty work to be paid not in excess of time and one-half. This prohibits the higher pyramided wage rates which may be negotiated in private sector. There is no such prohibition in the law applying to private sector employees.
12. The maximum age of employment of a police officer is 65 years. No such 65 year maximum applies to private sector employees.
13. Police Officer pensions are not covered by the federal ERISA Pension Protection Act. Private sector employees pensions are covered under ERISA.

14. Police officers are subject to unique statutorily created hearing procedures and complaint procedures regarding departmental charges. Appeals are only available to the court after exhaustion of these unique internal proceedings, NJS 40A:14-147 to 40A:14-151. No such restrictions to due process protections for private employees exist. Private employees, through collective bargaining agreements, may also negotiate and enforce broad disciplinary review procedures. The scope is much different with police personnel.

The PBA submits that the greatest differentiation between police officers and private employees generally is the obligation to act as a law enforcement officer at all times of the day, without regard to whether one is on duty status within the state or not. Police officers are statutorily conferred with specific authority and "...have full power of arrest for any crime committed in said officer's presence and committed anywhere within the territorial limits of the State of New Jersey." NJS 40A:14-152.1. A police officer is specially exempted from the fire arms law of the State of New Jersey and may carry a weapon off duty. Such carrying of deadly force and around the clock obligation at all times within the State is not found in the private sector. Police officers are trained in the basic police academy and regularly retrain in such specialties as fire arms qualifications. This basic and follow up training schedule is a matter of New Jersey Statutory law and is controlled by the Police Training Commission, a New Jersey statutorily-created agency. Such initial and follow up training is not generally found in the private sector. Failure to maintain certain required training can lead to a loss of police officer certification and the police officer's job. This is rarely found in the private sector.

Mobility of private sector employees is certainly a factor in the setting of wages and terms and conditions generally for private sector employees. Where a company may move from one state to another, there is more of a global competition to be considered. The New Jersey private sector employee must consider the possibility that his industrial employer might move that plant to a another state or even another country. This creates a depressing factor on wages. This is not possible in the public sector. The employees must work locally and must be available to respond promptly

to local emergencies. The residency restriction has been above mentioned. In a private sector labor market one might compare the price of production of an item in New Jersey with the price of production of that item in other states, even in Mexico.

The PBA contends that local comparisons are more relevant with police wages. These types of issues were considered in the decision issued by Interest Arbitrator William Weinberg.

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

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

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

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

The PBA argues that any time there is a comparison made between a police officer and a private employee generally, the police officer's position must gain weight and be given greater support by such comparisons. The police officer lives and works within a narrowly structured statutorily created environment in a paramilitary setting with little or no mobility. The level of scrutiny, accountability and authority are unparalleled in employment generally. The police officer carries deadly force and is licensed to use said force within a great discretionary area. A police officer is charged with access to the most personal and private information of individuals and citizens generally. His highly specialized and highly trained environment puts great stress and demand on the individual. Private employment generally is an overly generalized category that includes virtually every type of employment. To be sure in such a wide array of titles as the nearly infinite number covered in the general category of "private employment" there are highly specialized and unique situations. The majority, however, must by definition be more generalized and less demanding. Specialized skills and standards are not generally as high as in police work. A police officer is a career committed 25-year statutorily oriented specialist who is given by law the highest authority and most important public franchise. The police officer should be considered on a higher wage plane than private employment generally.

Stipulations of the Parties

The parties entered several significant stipulations which will have a direct bearing on this case. The first stipulation is to proceed jointly, with both the PBA and SOA submitting to the same interest arbitration process. The arbitration award will cover both bargaining units, but the rank-and-file and superior officer contracts will be executed separately. The most significant stipulation is the mutual agreement to waive the submission of evidence, testimony and argument regarding the Cap Law and statutory factors g5 and g6.

The Cost of Living

The PBA contends that a threshold consideration in cost of living analysis is comparable compensation for comparable work. It has already been established that these bargaining unit employees received significantly less compensation than their truly comparable peers. The cost of living appropriately compared to comparable jobs should logically begin with a similar base pay for those jobs. If these employees are brought up to the average, as established by the earlier charts in this brief, then the CPI figure would be more meaningful. The PBA asserts that it is seeking a wage adjustment, not just a wage increase. The PBA submits that once an equity adjustment is achieved then going rate changes are more relevant.

E-17 is a document concerning private sector increases which referenced an earlier Public Employment Relations Commission Report. It was agreed that the entire PERC Report (September 26, 2001) would be submitted with the post-hearing brief. The second page of the entire report shows a total private sector change of 6.9%. The third page of the entire report shows a total private sector change in Ocean County of 5.4%. The PBA contends that these private sector percentage salary increases support its last offer on salaries.

The Continuity and Stability of Employment

The PBA contends that this statutory factor requires an evaluation under the traditional labor principles of "area standards" and "going rate". The PBA contends that an analysis of the evidence and testimony in the record, and consideration of the data in Charts 1 and 2 fully support these private sector standards of comparison.

The PBA asks that I rule in favor of its last offer on the outstanding economic and noneconomic issues.

THE EMPLOYER'S POSITION AND ARGUMENT

The Employer submits that the principal issue in this arbitration is the salary increases to be awarded during the term of the new contract. The Employer proposes a 3.75% across-the-board increase for all rank-and-file Sheriff's Officers over the proposed four-year contract to be effective in each year on April 1. The Employer proposes a 3.75% annual salary increase for all rank-and-file SOA bargaining unit members to be effective on April 1 of each year. The Employer proposes 3.75% each year for the SOA bargaining unit plus a $\frac{3}{4}$ of 1% base salary adjustment on October 1, 2002 for Sergeants and Lieutenants and a $\frac{1}{2}$ of 1% base salary adjustment on October 1, 2002 for Captains. These mid-year adjustments bring the total salary rate increase to 4.5% for Sergeants and Lieutenants and 4.25% for Captains. The Employer also proposes that the \$1,100 clothing allowance be added into the base salary on April 1, 2002 before the 3.75% salary adjustment for SOA bargaining unit members. This is not applicable to rank-and-file bargaining unit members.

The Union proposes a 5% increase per step per year plus a one time \$1,800 lump sum salary adjustment in April 1, 2002, before the 5% increase plus a \$1,100 clothing allowance adjustment to the base salary before the 5% increase on April 1, 2004. These increases are applicable to rank-and-file and SOA bargaining unit members. The Employer calculates that the Union's three-year salary proposal increases the base salary costs by 34.9% between April 1, 2002 and April 1, 2005. These costs do not include the additional costs associated with longevity, social security, pension, overtime, sick pay, holiday pay, vacation pay or other costs which are driven by salary. The Employer further notes that the PBA proposes the deletion of two steps in the salary schedule.

The Employer bases its 3.75% annual across-the-board salary increases on: (i) current inflation data of approximately 2% for 2002 derived from a regional Consumer Price Index for Urban Wage Earners and Clerical Workers in the Northeast; and (ii) a comparison of wages of other

Employer's Cost-out of Union's Rank-and-File Salary Proposal

The Union proposes salary increases of 5.0% for each step and each year of a new contract to be effective April 1, 2002 through March 31, 2005 plus a one time \$1,800 lump sum adjustment in April 1, 2004, before the 5% increase. The cost of the Union's final offer for each of the three contract years is set forth below:

Step	# of ees	<u>04/01/02</u>		<u>04/01/03</u>		<u>04/01/04</u>	
		Total Salary	# of ees	Total Salary	# of ees	Total Salary	# of ees
probation	13	\$427,668	3	\$103,627	0	\$0	
step 1	6	\$221,325	8	\$309,855	0	\$0	
step 2	9	\$366,263	11	\$470,038	11	\$493,540	
step 3	4	\$181,994	9	\$429,962	11	\$551,784	
step 4	2	\$100,855	4	\$211,795	9	\$500,365	
step 5	4	\$221,411	2	\$116,241	4	\$244,106	
step 6	3	\$180,653	4	\$252,914	2	\$132,780	
step 7	11	\$723,377	3	\$207,149	4	\$290,008	
Max	22	\$1,481,865	32	\$2,263,212	35	\$2,599,158	
TOTAL	74	\$3,905,411	76	\$4,364,792	76	\$4,811,740	

Under the Union's proposal, the employees would continue to advance one step on the salary guide for each year of the new contract. Pursuant to the terms of the contract which expired on March 31, 2002, the employees have already advanced one step on April 1, 2002.

On the issue of longevity, the Union proposes to delete the term "unbroken service". The Union also has proposed additional changes to the percent of base salary for each level of years of service. Under the prior contract, for up to seven years of service, the longevity adjustment was 3% of base salary. Twelve years of service reflected a 4.6% of base salary adjustment. Seventeen years of service reflected a 5.7% of base salary adjustment. Twenty-two years of service reflected a 6.5% of base salary adjustment. Twenty-seven years of service reflected a 7.3% of base salary adjustment, and thirty-two years of service reflected an 8% of base salary adjustment.

On the issue of overtime and call-in, Sheriff's Officers called in or held over must be guaranteed four (4) hours at time and a half. Sheriff's Officers held over for longer than four (4)

hours would be paid the full amount of time employed at one and one-half times the rate. The Union also proposes that the Sheriff's Officers have the option of taking overtime pay or compensatory time off.

On the work incurred injury issue, the Union proposes that a work connected injury or disability suffered by a Sheriff Officer shall receive full pay for a period of up to one (1) year. All temporary disability benefits under the Workers' Compensation Act shall be paid to the Employer. Under the prior contract, there is no contract position on work incurred injuries.

Employer's Cost-out of Rank-and-File Salary Proposals

The Employer costed out the Union's salary proposal for the rank-and-file bargaining unit as follows:

1. The total cost of the Union's salary proposal in 2002-2003 is \$3,905,411. The increase over 2001-2002 is \$695,959 which is equivalent to 21.68 %.
2. The total cost of the Union's salary proposal in 2003-2004 is \$4,364,792. The increase over 2002-2003 is \$459,381 which is equivalent to 11.7 %.
3. The total cost of the Union's salary proposal in 2004-2005 is \$4,811,740. The increase over 2001-2002 is \$446,948 which is equivalent to 10.24%.

The Employer costed out its rank-and-file salary proposal in each of the four years of the new contract as follows:

1. The total cost of the Employer's salary proposal in 2002-2003 is \$3,720,723. The increase over 2001-2002 is \$511,271 which is equivalent to 15.93 %.
2. The total cost of the Employer's salary proposal in 2003-2004 is \$4,114,235. The increase over 2002-2003 is \$393,512 which is equivalent to 10.58 %.
3. The total cost of the Employer's salary proposal in 2004-2005 is \$4,489,156. The increase over 2001-2002 is \$374,921 which is equivalent to 9.11%.
4. The total cost of the Employer's salary proposal in 2005-2006 is \$4,865,290. The increase over 2001-2002 is \$376,135 which is equivalent to 8.38%.

The Employer points out that the cost does not include the additional impact on longevity, social security, pension, overtime, sick pay, holiday pay, vacation pay or other costs which are driven by salary. The Employer calculates the total cost of the Union's salary proposal is 6.76% higher than its proposal. The Union is seeking a three-year contract. The Employer calculated the Union's hypothetical fourth year at 5%. The Employer submits that its proposal is generous considering that the cost of living has increased in the market area during the period 1998 through 2002 at approximately 2.67% per year or a total of 10.67% over the four years. (E-17.)

Cost-out of Union's SOA Salary Proposal

The SOA bargaining unit in the Ocean County Sheriff's Office comprised 17 employees as of April 1, 2002. The unit includes 2 Captains, 5 Lieutenants, and 10 Sergeants. The total salary as of March 31, 2002 was \$1,211,095.

The Union proposes annual salary increases of 5% in each year of a new contract to be effective April 1, 2002 through March 31, 2005 plus a one time \$1,800 lump sum adjustment on April 1, 2002. The Union further proposes that the \$1,100 clothing allowance be rolled into the base salary on April 1, 2004. The Employer calculates the cost of the Union's proposal as follows:

Year 1 (2002-2003)	\$1,303,780
Year 2 (2003-2004)	\$1,368,969
Year 3 (2004-2005)	\$1,457,052

On the issue of longevity, the Union proposes to delete the term "unbroken service". The Union also has proposed additional changes to the percent of base salary for each level of years of service. Under the prior contract, for up to 7 years of service, the longevity was 3% of base salary; 12 years of service was 4.6% of base salary; 17 years of service was 5.7% of base salary; 22 years was 6.5% of base salary; 27 years was 7.3% of base salary; and 32 years was 8% of base salary.

Cost-out of Employer's SOA Salary Proposal

The Employer proposes annual salary increases of 3.75 % effective April 1, 2002; .75% salary increase for Sergeants and Lieutenants and .5% salary increase for Captains effective October 1, 2002; and 3.75% salary increases effective April 1, 2003, April 1,2004 and April 1, 2005. The Employer further proposes that the \$1,200 clothing allowance be rolled into the base salary on April 1, 2004. The Employer calculates the cost of its proposal as follows:

Year 1 (2002-2003)	\$1,265,512
Year 2 (2003-2004)	\$1,312,969
Year 3 (2004-2005)	\$1,382,605
Year 4 (2005-2006)	\$1,434,453

The Employer calculates the four-year cost of its proposal as \$223,258 which is 18.4% above the March 31, 2002 base. The Employer calculates that the average salary of bargaining unit members will increase from \$71,241 to \$84,380.

The Employer relies on essentially the same arguments that it presented with respect to the rank-and-file bargaining unit. The Employer specifically cites the voluntary salary agreement with the Corrections Officer SOA bargaining unit for the same time contract period (2002-2006) in support of its position that its salary proposal comports with the statutory sub-factor requiring analysis of settlements in "*the same or similar comparable jurisdiction.*" The Employer notes that its offer to the Sheriff's Officers SOA bargaining unit is identical to its settlement with the Corrections Officers SOA bargaining unit. The Employer submits that this bargaining unit is most similar to the Sheriff's Officers SOA bargaining unit. The Employer asserts, for the same reasons detailed in the rank-and-file analysis, that it established a pattern of settlement throughout all of its negotiations and that these settlements must be given substantial weight under the statutory criteria. The Employer contends that there is nothing in the record to support the salary proposals made by the SOA.

The Employer contends that its proposal provides for a reasonable real wage increase whereas the Union's proposal far exceeds any level of reasonableness for salary increases.

Statutory Criteria

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

The Employer submits that the factors which should be given the greatest amount of weight are: (a) comparison of wages, salaries, hours and conditions of employment internally among Ocean County bargaining units; (b) the cost of living; and (c) the continuity and stability of employment.

Comparison of the wages, salaries, compensation, hours, and conditions of employment

The Employer notes that N.J.S.A. 34:13A-16g(2) directs the Arbitrator to give due weight to a "comparison of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally: (a) In public employment in the same or similar comparable jurisdiction..." (emphasis added)

The Union has submitted into evidence an exhibit comprising salary comparisons between Ocean County municipalities and their respective police departments. This exhibit was submitted to compare the Union's salaries and benefits with those of law enforcement personnel elsewhere in the County.

The Employer disputes the Union's reliance on comparisons with police officers. The Employer submits that the risks experienced by municipal police officers while on duty are much greater than those faced by Sheriff's Officers. Indeed, police officers are routinely exposed to much greater risks than those to which the Sheriff's Officers are exposed based upon the nature of their duties. While police officers are required to respond to crime scenes while a crime is occurring,

Sheriff's Officers normally arrive at the scene after the crime has been committed. There is no record of any gun-related injuries to any Ocean County Sheriff's Officers. Nor is there any evidence of the firing of a gun by a Sheriff's Officer while on duty. Therefore, due to the great disparity in the risks associated with their respective job duties, the Employer submits that the salaries and benefits received by police officers are not comparable to those received by Sheriff's Officers.

The County contends that the most similar bargaining units to which comparisons must be made are those of the same employer. A comparison of the salaries of the Corrections Officers with those of the Sheriff's Officers in this unit reflects the close similarity in the average salaries received by the units. Citing N.J.S.A. 34:13A-16g(2), the Employer submits that the maintenance of the salary step guide provides the Union with salaries comparable to those of Corrections Officers.

The Employer notes that it reached a settlement with the Correction Officers on May 7, 2003 on a four-year CBA. In so doing, it established a pattern of settlement throughout all of its negotiations which is entitled to substantial weight in rendering the award.

The Employer also submitted salary data confirming relevant internal settlements comparable to its proposal in this matter.

<u>Duration of Contract</u>	<u>Union Code & Name of Union</u>	<u>Salary Increases</u>	<u>#of Members</u>	<u>Base Salary</u>
4/1/00-3/31/03	(I) O.C. Prosecutor's Sgts. Assn.	4/1/00 - Sgts. At \$66,523 or \$64,860 advance to \$69,301	12	\$74,250
	4/1/01 - \$71,711			
	4/1/02 - \$74,205			
	4/1/00 - Sgts. At \$62,000 advance to \$66,368			
	4/1/01 - \$70,287			
	4/1/02 - \$74,205			
	Salary includes \$450. uniform allowance which Had been paid separately.			
	Eff. 4/1/02 - min. at \$4,000 above Step 7 of Pros. Investigator's salary guide.			
4/1/00-3/31/03	(5) O.C. Prosecutor's Superiors	<u>Lieutenants</u>	10	\$83,600
	4/1/00-3.75% or new min. of \$76,950			
	4/1/01-3.75% or new min. of \$79,836			
	4/1/02-3.75% or new min. of \$82,830			
4/1/00-3/31/03	(5) O.C. Prosecutor's Superiors	<u>Captains</u>	4	\$92,571
	4/1/02-3.75% or new min. of \$92,571			
4/1/02 - Mins. Increased by \$500				

4/1/02 - \$1,500.				
4/1/01-3/31/04	(JM)OPEIU #32-Data Processing Employees Is great	See Appendix A 4/1/01, 4/1/02 & 4/1/03-3.75% or new min. or \$1,400, whichever	25	\$40,700
4/1/01-3/31/04	(S) OPEIU #32-Engineering 4/1/01, 4/1/02 & 4/1/03-3.75% or new min. or \$1,400, whichever is greatest	See Appendix A	43	\$32,200
4/1/02-3/31/05	(CI) OC Construction Insp. Sub-Code Officials	4/1/02, 4/1/03 & 4/1/04 - 3.5% or not less than \$1,500. Emps. Possessing Sub-Code License-Stipend of \$1,000	17	\$51,600
4/1/02-3/31/05	(14) Supv. Con. Insp. Officials 4/1/03 - 3.5% 4/1/04 - 3.5% 16% is base pay differential to be maintained between the Supervisors and the Sub-Code Officials.	4/1/02 - 3.5%	5	\$63,600
4/1/02-3/31/06	(F) PBA#258-C/O (Rank/File)	Salary Guide: 3.75% annual increases	116	\$56,275
4/1/00-3/31/04	(B)CWA Local #1034-Blue Collar 4/1/01 - \$1,400 4/1/02 - \$1,300 4/1/03 - 2.5%	4/1/00 - \$1,500 or new minimum	454	\$25,500

The Employer asserts there is nothing in the record to substantiate the Union's demand for 5% annual increases, step guide adjustments and the \$1,800 lump sum adjustment in 2002. The Employer submits that the bargaining unit which is most similar to the Sheriff's Officers bargaining unit is the Corrections Officers, which received annual salary increases of 3.75% in the 2002-2006 CBA.

The Employer submits that salary increases received by the Correction Officers bargaining unit compare favorably with those received by local government employees and the private sector in Ocean County and New Jersey. The average salary of all local government employees in New Jersey for the years 2001 and 2002 has been estimated as \$42,612 and \$43,714, respectively. The average annual wages for the private sector in Ocean County and New Jersey for 2001 was \$28,919 and \$44,153, respectively. Further, the average annual wages of New Jersey's private sector increased by only 1.2% from 2000 to 2001, while the average annual wages for Ocean County's private sector increased by 2.3%. A comparison of these figures with the Union's proposed average salary of \$52,776 shows the superior levels of wages already in place for Sheriff's Officers.

The Cost of Living

N.J.S.A. 34:13A-16g(7) requires an analysis of the cost of living as it applies to the parties' positions. The Employer submits that under that analysis, the Union's salary proposals far exceed reasonable wage levels.

The Employer cites statistics furnished by the United States Department of Labor, indicating that the percent change in the regional Consumer Price Index for Urban Wage Earners and Clerical Workers from January 1998 to December 2002 reflected an annual rate of 2.1%. (See E-17.) Further, according to the Department of Labor, Bureau of Labor Statistics, the percent change in the Consumer Price Index for the Northeast Urban area was 1.1% from January to June 2003, which, when annualized, reflects a projected rate of 2.2% for 2003.

The Employer contends that applying this data to the offers of the parties shows that its offer is clearly the more reasonable. The Employer asserts that its proposal for the maintenance of the step guide which provides annual salary increases of 3.75% will give bargaining unit members salary increases that are more than 70% higher than the CPI. The Employer contends that the Union's proposal for a salary increase significantly higher than the CPI over three years is unreasonable. There is absolutely nothing to suggest that the CPI will rise to a level where the Sheriff's Officers will suffer a real earnings loss during the term of the new contract. Therefore, an examination of the parties' proposals in light of the CPI data mandates a finding that the Employer's offer is more reasonable.

The Continuity and Stability of Employment

The Employer submits that its package will best allow the County to maintain and continue a stable work force. The Employer contends that the Union's offer, which provides enormous salary increases, would impose unanticipated additional expenditures on the County which could force the

County to reduce personnel and/or services and could hamper the County's ability to maintain the continuity and stability of employment in this department and other County departments.

The Employer, in an effort to promote stability and continuity, has previously agreed to a longevity adjustment in base salary in the prior collective bargaining agreement. The Employer accepts this approach in the current negotiating process as a rational method to retain experienced personnel provided the existing longevity adjustments are retained from the prior contract.

Further, as reflected on E-1, the Sheriff's Officers' roster as of 8/1/03, there are 35 officers out of a total of 76 officers (46% of total workforce) with over 8 years of experience, which also demonstrates the continuity of employment. During the arbitration hearing, Chief Thompson and Sergeant Armstrong of PBA Local 379 testified about the positive morale within the Sheriff's Officer's unit. This level of morale is indicative of an environment that promotes continuity and stability within the Sheriff's Office.

Therefore, the Employer asserts that its last offer better protects the continuity and stability of employment, while the Union's last offer would impose unexpected additional costs on the County which could jeopardize continuity and stability of employment.

Interests and Welfare of the Public

N.J.S.A. 34:13A-16g(1) requires an Arbitrator to consider the interests and welfare of the public. As stated by the court in Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 N.J. 82 (1994) "Although compulsory interest arbitration is essentially adversarial, the public is a silent party to the process." The court in Hillsdale further stated that "[a]n award runs the risk of being found deficient if it does not expressly consider '[t]he interests and welfare of the public.'" Hillsdale, supra at 83, quoting N.J.S.A. 34:13A-16g(1). The Employer contends that the interests and welfare of the public cannot possibly be assisted by salary demands as proposed by the Union over a three-year period, especially in light of prevailing stagnant economic conditions. Further, the interests and

welfare of the public is adversely affected by the financial impact such an award would have on the governing unit. The Employer maintains that its package supports the public interest because it considers the taxpayers' interests while providing the Union with generous salary increases reflecting real growth in wages.

Stipulations of the Parties

The Parties have stipulated that criteria N.J.S.A. 34:13A-16(g)(5) and (g)(6) under the Act are not relevant in this case.

The Employer asks that I rule in favor of its last offer on the outstanding economic and noneconomic issues.

Discussion and Analysis

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

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

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

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

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

The interests and welfare of the public require the arbitrator to balance a number of considerations. These considerations traditionally include the Employer's desire to provide the

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

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

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

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

The New Jersey Supreme Court in Hillsdale determined that the interests and welfare of the public must always be considered in the rendering of an interest arbitration award and that an award which failed to consider this might be deficient. The County and the PBA stipulated that the statutory criteria under N.J.S.A. 34:13A-16(g)(5)(6) are not implicated in this matter. The parties waived the submission of evidence, testimony and argument regarding the CAP Law and statutory factors (g) (5) and (6). (J-10 & J-11). The parties stipulated that neither proposal would have an adverse impact on the governing body, its residents or taxpayers. I find that the terms of this Award will not cause an adverse financial impact on the County, its residents or taxpayers nor do the terms conflict with the lawful authority of the County.

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

Duration of Agreement

The first issue for determination is the duration of the new CBA. The Union proposes a three-year contract whereas the Employer proposes a four-year contract. An important consideration in providing stability in a bargaining relationship is the need to have "labor peace" following the completion of negotiations and interest arbitration proceedings. Another important consideration is the time and expense that is required by negotiations and interest arbitration proceedings. The current CBA expired nearly two years ago on April 1, 2002. A finding in favor of the PBA's proposal for a three-year contract would find the parties back at the bargaining table in less than one year. This is at odds with the need to promote continuity and stability in employment and is not in accord with the interests and welfare of the public. A four-year agreement will provide an additional year of stability before commencing negotiations for a new agreement. Accordingly, the new agreement shall be effective April 1, 2002 and continue to March 31, 2006.

The PBA, in its arguments regarding salary, suggested that I have the authority to move the effective date of the new agreement back to January 1, 2002 or in the alternative effective January 1 in 2003 or 2004. I find no merit in the PBA's proposal. There is a long-standing history of CBAs being effective on April 1st with these bargaining units and other Ocean County bargaining units. I would be more sympathetic to the PBA's position if the County was seeking to deny the employees full retroactivity. However, the County's proposal includes full retroactivity and is consistent with its current settlements with other bargaining units and long history with these bargaining units and other County bargaining units. Accordingly, the new CBA shall be effective April 1, 2002 and continue to March 31, 2006.

SALARY

Cost of Salary Proposals

I have calculated that the 2002 base salary that the 2002 salary increases will be applied to is \$3,586,239 for the seventy-four officers in the rank-and-file bargaining unit and \$1,211,095 for seventeen superior officers in the SOA bargaining unit. The total base in 2002 is \$4,797,334. The Employer calculates the incremental costs for the rank-and-file unit to be \$376,787 in 2002-2003. The County's calculations include not only increments but the impact of seven additional unit members as of April 1, 2002. The actual incremental costs in 2002-2003 are much less than \$367,787. There are no incremental costs in the SOA unit. Historically, incremental costs have not been factored in by the parties. These incremental costs fluctuate depending on the amount of turnover in a bargaining unit. High turnover, while not desirable, tends to keep the public employer's average salary costs down because senior officers are replaced by entry level officers making in some cases less than 50% of the maximum officer's salary. The calculations of the parties' last offers do not include incremental step increases and roll up costs nor do they assume any resignations, retirements, promotions or additional new hires. Changes since the close of the hearing are not relevant since the parties' salary proposals are based on the same complement of officers. The costing out of the PBA and County proposals do not include the cost of increments.

2002-2003

The PBA proposed a 5% across-the-board salary increase in 2002-2003. The PBA also proposed an \$1,800 increase to each step of the salary schedule on April 1, 2002 before the application of the first 5% increase. The cost of this \$1,800 increase for the rank-and-file and SOA units is \$163,800. This is 3.4% of the base. The total increase sought by the PBA in 2002-2003 is

8.4%. The total cost of the PBA's proposal salary schedule in 2002-2003 is \$5,209,191. The increase over 2001-2002 base salary (exclusive of increments) is \$403,667.

The Employer proposed a 3.75% across-the-board salary increase in 2002-2003 for rank-and-file officers; a 4.5% increase for Sergeants and Lieutenants; and a 4.25% increase for Captains. The Employer's 2003-2004, 4.5% salary base increase has three components: 3.75% effective April 1, 2003; .75% effective October 1, 2003 for Sergeants and Lieutenants; and .5% effective October 1, 2003 for Captains. The delayed implementation reduces the actual payout but the rate is effectively increased by 4.5% and 4.25%. I shall use the 4.5% and 4.25% increases in calculating the costs. The total cost of the Employer's salary proposal in 2002-2003 is \$1,265,512 for SOA and \$3,720,723 for rank-and file for a total salary in 2002-2003 of \$4,986,235. The increase over the 2001-2002 base salary base (exclusive of increments) is \$188,901.

2003-2004

The PBA proposed a 5% across-the-board salary increase in 2003-2004. The total cost of the PBA's salary proposal in 2003-2004 is \$5,733,761. The increase over the 2002-2003 salary base (excluding increments) is \$260,459. The Employer proposed a 3.75% across-the-board salary increase in 2003-2004. The total cost of the Employer's salary proposal in 2003-2004 is \$5,427,214. The Employer's calculations show an increase from seventy-four to seventy-six officers on the scattergram effective April 1, 2004. The increase over the 2002-2003 salary base (excluding increments) is \$186,983.

2004-2005

The PBA proposed a 5% across-the-board salary increase in 2004-2005. The total cost of the PBA's salary proposal in 2004-2005 is \$6,268,522. The increase over the 2003-2004 salary base

(excluding increments) is \$286,688. The Employer proposed a 3.75% across-the-board salary increase in 2004-2005. The total cost of the Employer's salary proposal in 2004-2005 is \$5,871,761. The increase over the 2003-2004 salary base (excluding increments) is \$203,520.

2005-2006

The Employer proposed a 3.75% across-the-board salary increase in 2005-2006. The total cost of the Employer's salary proposal in 2005-2006 is \$6,395,195. The increase over the 2004-2005 salary base (excluding increments) is \$219,441. The PBA proposed a three-year contract. For comparison purposes only, I shall assume a 3.75% increase and a 5% increase for the PBA in 2005-2006. A 3.75% across-the-board increase yields a total salary of \$6,503,591 in 2005-2006. The increase over the 2004-2005 salary base (excluding increments) is \$235,070. A 5% across-the-board increase yields a total salary of \$6,581,948 in 2005-2006. The increase over the 2004-2005 salary base (excluding increments) is \$313,426.

Both the Employer and the Union propose that the clothing allowance be included in base pay for all SOA bargaining unit members. The Employer proposes \$1,200 effective April 1, 2004. The Union proposes \$1,100 effective April 1, 2004 for both SOA and rank-and-file unit members. The Employer has not proposed that the clothing allowance be included in base pay for all rank-and-file bargaining unit members. In the alternative, the Employer has proposed \$25 annual increases in both the clothing allowance and the clothing maintenance allowance. This would bring the total to \$1,300 effective April 1, 2006. The Employer has factored the SOA roll-in into its costs in 2004-2005 and 2005-2006. This is not a real increase since the SOA unit members would receive \$1,100 annually under Article IV of the 1998-2002 CBA. The Employer is entitled to be credited for the additional increase of \$200 for rank-and-file unit members and \$100 for SOA members.

The parties' salary positions have been summarized in great detail. The PBA and Employer positions on salary are far apart. The PBA seeks a three-year salary increase of 18.4% for an average of more than 6% annually. The Employer's proposal during the same three years is 11.25% for rank-and file bargaining unit members; for Sergeants and Lieutenants; and 11.75% for Captains. The annual average of the Employer's three-year salary proposal ranges from 3.75% to 4%. These increases are exclusive of increments which are common to both proposals and virtually identical in cost except for the roll-up increases of higher across-the-board increases. Comparing "apples to apples", the PBA's salary proposal is more than 6% higher than the Employer's during the first three years of the new CBA.

The Employer relies on internal comparability with other Ocean County bargaining units, particularly the four-year settlements with the rank-and-file and SOA Corrections Officer bargaining units; current inflation data; and external comparisons with other public employees in Ocean County.

The PBA asserts that the Sheriff's Office is a full service law enforcement agency which plays a key role in the response, investigation, processing and prosecution of criminal activity within the County. The PBA further relies on salary comparisons with certain municipal police departments and certain county settlements throughout the State. Essentially, the PBA contends that the County's reliance on the settlement with the Correction Officers is misplaced. The PBA argues that the job of a Sheriff's Officer is more like the job of a municipal police officer and thus the comparisons for settlement should be to other municipal police departments.

I have determined that the job of a Sheriff's Officer is not comparable to that of a municipal police officer. This is for several reasons.

First, it is important to note that it is undisputed that the Ocean County Sheriff's Office is a highly productive department that enjoys high morale. Chief Thompson's testimony confirms that

members of the department perform a variety of functions to promote and enhance law enforcement in the County. The testimony of Chief Thompson and Sergeant Armstrong confirm that Ocean County Sheriff's Officers perform their functions at a very high level.

Second, E-19 is the *Mission Statement* of the Ocean County Sheriff's Department and provides in relevant part as follows:

Mission Statement of Ocean County Sheriff's Department

The Mission of the Ocean County Sheriff's Department is to promote and enhance Countywide Law Enforcement through:

1. Direct assistance during emergencies, disaster, special events or on an approved request by local Departments.
2. Providing access control to the Superior Court and performing the civil process functions of the Superior Court.
3. Completing the important highly technical or specialized law enforcement services that individual Departments do not have the resources to provide.
4. Performing a general law enforcement function through visible deterrence and by taking appropriate emergency actions when necessary.
5. Proving a County-wide communications system and 911 Emergency Dispatching to ensure an effective means of coordinating activities.

The *Mission Statement* goes on to list the specific objectives. The first six objectives listed are: 1) ensuring the effective security of the Superior Court; 2) provide for an up-to-date, countywide radio or telecommunications systems; 3) provide immediate response to 911 emergency calls through trained dispatchers; 4) professional process of crime scenes for physical evidence, proper analysis identification and expert presentation in court; 5) maintaining a criminal history file on persons coming in contact with the Sheriff's Department; and 6) cataloging latent fingerprints to identify unknown crime perpetrators through local and state records. The tenth objective on the list is to ensure the ability to respond to police tactical situations when requested.

The *Mission Statement* clearly shows that the primary responsibility of the Sheriff's Office is to provide and ensure the effective security of the Superior Court. This is confirmed by E-1 which shows that 45 of the 92 rank-and-file and SOA Sheriff's Officers are assigned to the "Judicial Functions" division within the department. E-1 also shows that 19 officers are assigned to the "Warrants and Criminal ID Bureau", 12 officers are assigned to the "Criminal Investigation" unit, and 9 officers are assigned to the "Emergency Management" unit. The vast majority of the bargaining unit members are assigned to functions that are dissimilar to the functions of a municipal police officer. Chief Thompson testified on cross-examination that the primary responsibility of the Sheriff's Officer is the judicial function and the responsibility to provide security in the court system.

E-4 is the N.J. Department of Personnel ("DOP") "Job Specification" for a municipal Police Officer. E-4 provides the following definition and certain distinguishing characteristics of a Police Officer:

POLICE OFFICER

DEFINITION

During an assigned tour of duty, on foot, or in an automobile, patrols a designated area to provide assistance and protection for persons, to safeguard property, to assure observation fo the law, and to apprehend lawbreakers; does other related work as required.

DISTINGUISHING CHARACTERISTICS

Police officers provide services to the public and enforce laws by issuing summonses, apprehending, warning, or taking into custody any lawbreakers.

Police officers patrol designated areas in a patrol car, on a bicycle, or on foot to protect life and property, maintain order, assure the observation of statutes and local ordinances, and apprehend lawbreakers.

Police officers receive dispatches via radio concerning complaints or disturbances which require immediate attention. They investigate complaints of misconduct, suspicious behavior, illegal activities, improper

conditions, and other matters. They check the condition of occupied buildings and report anything which appears significant or suspicious. They investigate if signs of tampering are discovered and notify interested persons or headquarters. They also check out cars parked in restricted areas.

E-8 is the DOP "Job Specification" for a Sheriff's Officer. E-8 provides the following definition and certain distinguishing characteristics of a Sheriff's Officer:

SHERIFF'S OFFICER

DEFINITION

Under direction, performs one or more functions in the following areas: maintaining order and security in the courtroom, serving court processes, criminal investigation, ballistics and investigations, and apprehension of violators of the law; does other related duties as required.

DISTINGUISHING CHARACTERISTICS

Makes arrangements for the sequestering of juries such as arranging for their lodging, food and general welfare during trials.

Executes bench warrants when issued by the court in the failure of a witness who has been subpoenaed to appear in court and who has failed to obey such subpoena.

Guards prisoners in a courtroom and subdues, restrains, and physically removes unruly individuals from a courtroom.

In accord with state statutes, may apprehend or arrest suspected offenders.

Performs the office and field work necessary to serve and execute writs and other legal papers and documents such as court orders, summonses subpoenas, writs of attachment, writs of replevin, writs of arrest and indictment, and such other matters as directed by the Sheriff.

Executes writs requiring the detention of chattels or goods as directed by the Court.

Executes complaints directed by the Superior Court, County Court and Chancery Division of the Superior Court.

Collects monies to satisfy legal debts as ordered by the court.

Post notices on public sales, records daily writs, papers and documents processed, served and executed.

The DOP job descriptions confirm that the primary responsibility of most Sheriff's Officers is court related and that the normal duties of a Sheriff's Officer do not rise to the same level of law enforcement as a Police Officer. The definition and distinguishing characteristics of the DOP job description for a Police Officer, when compared with that of a Sheriff's Officer, show that the day-to-day responsibilities of a Sheriff's Officer are unlike those of a Police Officer.

Third, a comparison between Sheriff's Officers and Police Officers requires a full analysis of all of the terms and conditions of employment of a municipal officer in relation to those of a Sheriff's Officer. It is undisputed that the vast majority of all Ocean County Sheriff's Officers work an eight-hour day shift; do not work on holidays or weekends; and do not work a second or third shift and therefore are not subject to rotating shifts. On the other hand, police work is a 24/7 operation with police officers working on weekends and holidays and being subject to rotating shifts. These differences in terms and conditions of employment are quality of life issues which make the job of a Sheriff's Officer unlike that of a Police Officer.

According, I find that the PBA's reliance on comparability with municipal Police Officers is not persuasive. This finding means that the PBA's contention that the base pay rate of Sheriff's Officers is significantly below their peers is not credited. Chart 1 in the PBA brief identified certain municipal police departments to show that the salaries of Sheriff's Officers in Ocean County were \$7,028 below the average salary of their "peers." Had the PBA prevailed on this comparison to police officers, an analysis of its 18.4% salary increase would be required. However, the PBA has not met its burden that an 18.4% three-year salary increase is justified. Thus, a more traditional salary analysis is called for. Let me be clear on this. I have found that the maximum salaries for local police officers are not comparable. However, the average annual percentage salary increases for police officers are relevant in determining comparisons of average increases within Ocean County and throughout the State.

The Employer relies on internal comparability with other Ocean County bargaining units, particularly the four-year settlements with the rank-and-file and SOA Corrections Officer bargaining units; current inflation data; and external comparisons with other public employees in Ocean County. The Employer is essentially arguing that it has a "pattern" of settlement that is shown by its settlements with other Ocean County bargaining units and particularly, its four-year settlement with the Correction Officers.

The Employer has submitted salary data showing that it has developed a pattern of settlement at 3.75% annually in its negotiations with other County law enforcement and civilian bargaining units. The Employer emphasizes its 2002-2006 salary settlement with the rank-and-file and SOA Correction Officer bargaining units asserting that these bargaining units are the most relevant for comparison purposes to Sheriff's Officers.

It is undisputed that Correction Officers and Sheriff's Officers were included in one rank-and-file bargaining unit and one SOA bargaining unit and that the 1998-2002 rank-and-file and SOA CBAs covered both Sheriff's Officers and Correction Officers. It is undisputed that Correction Officers and Sheriff's Officers, SOA and rank-and file alike, have received the same exact salaries for many years and that the rank-and-file salary schedules applied to both Correction Officers and Sheriff's Officers. Sometime after the negotiations of the 1998-2002 CBAs, the Sheriff's Officers were severed from the bargaining unit with the Correction Officers and certified by PERC to be in two separate bargaining units (rank-and-file and SOA) that included only Sheriff's Officers.

The Employer is essentially arguing that Correction Officers and Sheriff's Officers should continue to receive uniform salaries. On this record, I find that there is no basis to disturb the long history of uniform salaries for Correction Officers and Sheriff's Officers and conclude that the salary increases negotiated with the Correction Officers SOA bargaining unit shall be awarded to the Sheriff's Officers rank-and-file and SOA bargaining units. This is for several reasons.

First, I find no basis in this record to justify a differentiated settlement for the Sheriff's Officer SOA and rank-and-file bargaining units. The Employer has submitted no evidence to justify a lower salary increase for Sheriff's Officer rank-and-file bargaining unit members. I also note that the County's agreement to 4.5% and 4.25% increases in 2002-2003 and the inclusion of the \$1,200 uniform allowance in base salary effective April 1, 2003, with the SOA Corrections Officer bargaining unit was voluntary and was not subjected to the same rigorous examination as a salary dispute in an interest arbitration matter. I also find that on this record there is no basis to differentiate the settlement for Captains. Captains shall receive the same salary increases as Sergeants and Lieutenants thereby maintaining the integrity of the current rank differentials.

Second, I find that the salary increases negotiated with the SOA and rank-and-file Corrections Officer bargaining units, while somewhat different, are more comparable to settlements both internally with County bargaining units and externally with other non-County bargaining units in Ocean County and throughout the State. The four-year salary increases in the Corrections SOA bargaining unit are 4.5% in 2002-2003 for Sergeants and Lieutenants (3.75% effective April 1, 2002 and .75% effective October 1, 2002) and 4.25% for Captains (3.75% effective April 1, 2002 and .5% effective October 1, 2002) followed by 3.75% annual increases effective April 1, 2003, April 1, 2004 and April 1, 2005. This provides an average annual salary increase of 3.94%. In addition, the \$1,200 clothing allowance was added to base salary effective April 1, 2003 after the application of the 3.75% salary increase. These salary increases are consistent with salary increases in Ocean County bargaining units and municipal law enforcement bargaining units in Ocean County.

Third, the 3.94% average annual salary increase is somewhat higher than the average salary increase in interest arbitration awards issued in 2002 (3.83%) and 2003 (3.82%) and somewhat lower than the average increases of voluntary settlements in 2002 (4.05%) and 2003 (4.01%) as reported

by PERC. The 3.94% average salary increase is also consistent with salary increases throughout the State of New Jersey. This is true for municipal police and fire salary increase and County law enforcement settlements. The County law enforcement settlements include Correction Officers and Sheriff's Officers.

Fourth, I have taken arbitral notice of salary data comparing the maximum salary of a rank-and-file Sheriff's Officer in Ocean County to the maximum salary of other Sheriff's Officers in New Jersey counties in 2002. I have served as interest arbitrator in more than twenty-five cases involving Sheriff's Officers and Correction Officers in the last five years. I find that the awarded salary increases will permit Ocean County Sheriff's Officers to maintain their relatively high standing when compared with other Sheriff's Officers in other New Jersey counties. The following is a comparison of Sheriff's Officer salaries in New Jersey counties in 2002:

Bergen	\$77,585
Union	\$65,687
Passaic	\$65,623
Ocean	\$65,173
Middlesex	\$63,104
Morris	\$62,079
Mercer	\$60,951
Somerset	\$60,878
Monmouth	\$60,000
Essex	\$59,240 (2001)
Camden	\$55,996
Hudson	\$53,608
Sussex	\$50,115
Atlantic	\$50,290
Warren	\$48,780
Hunterdon	\$48,800
Cape May	\$46,118

Gloucester	\$45,841
Burlington	\$41,250
Salem	\$40,870
Cumberland	\$38,770

The above salary data shows that the 2002 maximum salary of Sheriff's Officers compares very favorably to salaries received by Sheriff's Officers in other New Jersey counties. The application of the awarded salary increases will bring the maximum salary to \$74,075 effective April 1, 2005. This will allow the maximum salary for Ocean County Sheriff's Officers to maintain its relative position in comparison to Sheriff's Officers in other New Jersey counties.

Fifth, the awarding of the same percentage salary increases to all rank-and-file and all SOA bargaining unit members will allow the SOA bargaining unit members to maintain the rank differential that currently exists between rank-and file and superior Sheriff's Officers. The preserving of the current rank differential will allow the maximum salary for Ocean County SOA Sheriff's Officers to maintain its relative position in comparison to Sheriff's Officers in similar ranks in other New Jersey counties.

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

Salaries for all rank-and-file and SOA Sheriff's Officer bargaining unit members shall increase by 3.75% effective April 1, 2002; .75% effective October 1, 2002; 3.75% effective April 1, 2003; 3.75% effective April 1, 2004; and 3.75% effective April 1, 2005. In addition, effective

April 1, 2003, after the application of the April 1, 2003, 3.75% salary increase, \$1,200 shall be rolled into each step of the rank-and-file salary schedule and applied to the salary of all Sergeants, Lieutenants and Captains. All rank-and-file salary increases are across-the-board and all salary increases are fully retroactive to April 1, 2002.

I have determined that the net annual economic changes for each year of the 2002-2006 Agreement are reasonable in relation to the statutory criteria. The total cost of the awarded salary increases in 2002-2003 is \$1,265,935 for SOA and \$3,748,828 for rank-and file for a total salary of \$5,014,563 in 2002-2003. The increase over the 2001-2002 salary base (exclusive of increments) is \$217,229. This is \$28,328 more than the Employer's proposal and \$186,438 less than the PBA's salary proposal. I note that the Employer increased the complement of rank-and-file Sheriff's Officers from sixty-seven to seventy-four from 2001-2002 to 2002-2003.

The total cost of the awarded salary increases in 2003-2004 is \$1,333,807 for SOA and \$4,236,291 for rank-and file for a total salary of \$5,570,099 in 2003-2004. The increase over the 2002-2003 salary base (exclusive of increments) is \$188,046. This is virtually the same as the Employer's proposal and \$74,021 less than the PBA's salary proposal. The actual base includes an additional \$91,200 which is attributed to the seventy-six rank-and-file Sheriff's Officers that received a salary base increase of \$1,200 resulting from the inclusion of the clothing allowance. The addition of the clothing allowance to base for rank-and-file has a minimal cost since the Employer would pay this \$1,200 in one form or another. I note that the Employer increased the complement of rank-and-file Sheriff's Officers from seven-four to seventy-six from 2002-2003 to 2003-2004.

The total cost of the awarded salary increases in 2004-2005 is \$1,383,825 for SOA and \$4,617,444 for rank-and file for a total salary of \$6,001,269 in 2004-2005. The increase over the 2003-2004 base salary base (exclusive of increments) is \$208,878. This is \$5,358 more than the Employer's proposal and \$77,810 less than the PBA's salary proposal.

The total cost of the awarded salary increases in 2005-2006 is \$1,435,719 for SOA and \$4,999,948 for rank-and file for a total salary of \$6,435,667 in 2004-2005. The increase over the 2003-2004 base salary base (exclusive of increments) is \$225,047. This is \$5,606 more than the Employer's proposal and \$88,379 less than the PBA's salary proposal.

The PBA's salary proposal is excessive when compared with other settlements and awards throughout the State. The Employer's salary proposal is more in line with average salary increases within the County and throughout the State. The awarded salary increases are somewhat higher than the Employer's in 2002-2003 for rank-and-file and include the application of the clothing allowance to base salary for both rank-and-file and SOA bargaining unit members. The addition of the clothing allowance to base for rank-and-file has a minimal cost since the Employer would pay this \$1,200 in one form or another.

The interests and welfare of the public are relevant and entitled to substantial weight in this matter. After all, the public is a party affected by the terms of the successor CBA. As previously stated, a reasonable level of compensation is a necessary ingredient in maintaining a productive work force with requisite high morale. The interest and welfare of the public are best served by a stable and well-trained work force. I believe that the terms of my award will maintain the high morale that currently exists in the Sheriff's Office. I am required to balance the competing and diverse needs of the Employer and the PBA in order to satisfy the interests and welfare of the public. I believe that the awarded salary increases achieve that balance. The new terms provide reasonable compensation for Sheriff's Officers who perform duties that directly and intimately affect the public's health, safety and welfare.

The interests and welfare of the public will be best served by the implementation of the 2002-2006 salary schedules that I have awarded.

Other Issues

Before addressing the other issues, I note that these parties reached agreement on twenty separate issues during the mediation phase of this matter. Those twenty agreements are memorialized in J-8 and J-9 and incorporated by reference in this Award. The parties deserve much credit for effectively using the mediation process which significantly narrowed the issues before the arbitration hearing. The parties' agreement on these issues must be factored into my evaluation of the total package in this round of bargaining.

Uniform Maintenance Allowance

The current uniform and uniform maintenance allowance is \$550 per annum for a total of \$1,100 annually. I have awarded a \$1,200 addition to base salary effective April 1, 2003. I shall award a \$25 increase in the uniform allowance and a \$25 increase in the uniform maintenance allowance to be effective April 1, 2002. This is consistent with the increase negotiated with the SOA Corrections bargaining unit. The new uniform allowance and uniform maintenance allowance shall be \$575 per annum for a total of \$1,150 annually. The \$1,150 total annual uniform allowance and uniform maintenance allowance shall cease upon the \$1,200 addition to base salary on April 1, 2003. The 2002-2006 CBA shall include the following:

1. All Sheriff's Officers (and Superior Officers) shall maintain and wear the proper uniform as required by the Sheriff.
2. If the Sheriff changes uniforms (either the style or the color of the uniform), the cost of such change shall be borne entirely by the Sheriff.

Reduction of Steps

The PBA proposed the deletion of two steps from the current salary schedule. In light of my conclusion that there is no basis to disturb the long history of uniform salaries for Correction Officers and Sheriff's Officers, I find no basis to award the PBA's proposal to restructure the current salary schedule by reducing the number of steps. The PBA's proposal would be given consideration if there

was any evidence in the record that there are current problems with the recruitment and retention of Sheriff's Officers or evidence that the number of steps are not comparable to other Sheriff's Officer salary schedules. There is no such evidence in the record. Accordingly, the PBA's proposal to delete two steps from the salary schedule is denied.

Longevity

The PBA proposed the following changes in longevity pay:

- a. The PBA proposes a deletion of the current article provision specifying "unbroken service to the County of Ocean" from the lead paragraph of the article.
- b. The PBA proposes that the longevity guide be revised so the maximum of 8% be reached upon completion of 24 years of service as defined by the Police and Fire Retirement System Statute regulations.

The PBA submitted data showing maximum longevity payments and the number of years needed to reach the maximum longevity payment. The PBA notes that it takes thirty-two years to receive the maximum longevity benefit in Ocean County. The data submitted by the PBA primarily includes longevity benefits for municipal police officers and certain Sheriff's Officer bargaining units. I have found that the PBA's reliance on comparability with municipal Police Officers is not persuasive.

A review of longevity benefits for Sheriff's Officers in other counties is more relevant. The data shows that the maximum longevity for Sheriff's Officers in Mercer County is \$2,200 after twenty-four years; the maximum longevity for Sheriff's Officers in Bergen County is \$1,750 after twenty-four years; the maximum longevity for Sheriff's Officers in Camden County is 7% after twenty-four years; the maximum longevity for Sheriff's Officers in Hudson County is \$1,000 after twenty-five years; the maximum longevity for Sheriff's Officers in Somerset County is 3.75% after twenty-six years; the maximum longevity for Sheriff's Officers in Sussex County is 7% after twenty-

five years; the maximum longevity (Senior Officer Pay) for Sheriff's Officers in Union County is \$2,865 after twenty years; the maximum longevity for Sheriff's Officers in Passaic County is 10% after twenty-five years; and the maximum longevity for Sheriff's Officers in Morris County is 9% after twenty-one years but this benefit is "grandfathered" as of January 1, 1995. I note that Essex County Sheriff's Officers had longevity benefits "grandfathered" effective December 31, 1974. Very few, if any, current Essex County Sheriff's Officers receive longevity pay. I further note that Monmouth County Sheriff's Officers do not receive any longevity pay.

Ocean County rank-and-file and SOA Sheriff's Officers currently receive 6.5% longevity pay after twenty-two years and 7.3% after 27 years. This is equivalent to \$4,472 and \$5,022 for rank-and-file Sheriff's Officers with Captains receiving \$5,806 and \$6,520 following the April 1, 2003 salary increase and clothing allowance roll-in. The above data shows that the current Sheriff's Officer longevity benefits are competitive with longevity benefits enjoyed by other Sheriff's Officers in the State.

I note that the current longevity benefits are the same longevity benefits received by other County public safety bargaining units including the Corrections Officer bargaining units and the Prosecutor's Detectives and Investigators bargaining units. Longevity is another form of salary. I find that there is no basis to disturb the long history of uniform salaries.

Accordingly, I conclude that the PBA has not met its burden to justify a change in the current longevity benefits. The PBA's longevity proposals are hereby denied.

Work Incurred Injury

The PBA seeks a one-year work incurred injury coverage period. The PBA proposal provides: "Where an employee covered under this Agreement suffers a work-connected injury or disability, the employer shall continue such employee at full pay, during the continuance of such

employee's inability to work, for a period of up to one year." The PBA notes that the 1998-2002 CBA simply states in the sick leave provision that there will be no deductions from sick leave for worker's compensation cases but there is no guarantee of any term of coverage.

I note that this issue is addressed by the following identical new language in both the rank-and-file and SOA 2002-2006 CBAs covering Correction Officers:

ON THE JOB INJURY POLICY

The County's on the job injury policy as it affects Officers (Corrections Superior Officers) represented by PBA Local 258 shall be modified, effective the date of the execution of this Collective Bargaining Agreement, to provide that when an injury occurs on the job the affected Officer shall now be covered up to ninety (90) days at full pay. All other existing County policies relating to on the job injury benefits shall be continued.

I further note that Article 8, Section 5 in the 2000-2003 CBA between Ocean County Prosecutor and the Ocean County Prosecutor's Detectives and Investigators Association provides the following:

The employer agrees to pay employees at their regular rate of pay during periods of job connected disability due to illness, injury or recuperation therefrom for a maximum period of sixty (60) days from the date of such disability, provided such employee is incapable of performing his or her duties as an employee and that such disability is established by a competent physician. The employer retains the right in its discretion to extend the period of this payment for such job connected disability due to illness or injury beyond the sixty (60) days. (P-25).

The PBA notes that there is no guarantee of any term of coverage under the 1998-2002 CBA. The PBA seeks a one-year guarantee where none currently exists. I shall award the above Corrections Officer "On the Job Injury Policy" language guaranteeing ninety (90) days at full pay. This shall be effective March 1, 2004.

Overtime Compensation

The PBA proposed the following modification of the overtime provisions:

- a. The PBA proposes that on all hold-overs, the Sheriff's Officer be paid in one (1) hour time increments, at one and one-half (1½) times compensation.
- b. The PBA proposes that the Sheriff's Officers have the individual option of receiving either overtime at one and one-half (1½) times salary, or compensatory time off (CTO) which shall be accumulated at one and one-half (1½) hours for every one (1) hour worked. This CTO shall not exceed one-hundred (100) hours per Officer. The Sheriff's Officer may use this time at any time with proper notice, subject to Departmental approval.

The Employer proposed the following modification of the overtime provisions for the rank-and-file bargaining unit:

- A. Overtime shall be compensated for at the rate of time and one-half for each hour actually worked in an overtime status. Overtime payment shall commence after the completion of eight (8) hours in a workday or forty hours in a workweek. Sick days, legal holidays and vacation days, constitute compensable days for the computation of overtime. All other days, other than work days, sick days, legal holidays and vacation days, will not be utilized as compensable days for the purpose of computing overtime.
- B. The Sheriff or his designee, at his discretion, may require a doctor's certificate for any sick day taken by an officer during a period within which the officer has worked overtime and the sick day was actually used as a compensable day for the purposes of computing overtime.
- C. Any Sheriff's Officer called to work will be guaranteed four (4) hours of overtime, and if he/she works over five (5) hours, will be guaranteed eight (8) hours. However, an officer who is called back to work within one (1) hour of the end of his/her shift will be guaranteed one (1) hour of overtime. If an officer is called back to work and the call is cancelled after the officer leaves home, he/she will be guaranteed one (1) hour of overtime. If the call is cancelled before the officer leaves home, overtime will not be granted.

- D. All overtime shall be distributed as equally as possible among bargaining unit members.
- E. Training - If an officer requests to attend a training class outside of Ocean County and the training program requires the officer to commute to the training each day, there will be no overtime for the training or travel time. If the Department requires an officer to attend the training, overtime will not be paid for travel if the shortest distance from Ocean County to the training is 50 miles or less. If the travel distance is more than 50 miles from Ocean County via the shortest distance, overtime will be paid after the first one-half hour travel in either direction.

The Employer proposed the following modification of the overtime provisions for the SOA bargaining unit:

Overtime and Call-In:

- A. Overtime shall be compensated for at the rate of time and one-half for each hour actually worked in an overtime status. Overtime payment shall commence after the completion of eight (8) hours in a workday or forty (40) hours in a workweek.
- B. Those officers who have completed their regular shift and are required to continue their tour of duty beyond eight (8) hours work are entitled to additional compensation at the overtime rate for each hour worked beyond eight.
- C. The Sheriff or his designee may require a doctor's certificate for any sick day taken by an officer during a period within which the officer has worked overtime and the sick day was actually used as a compensable day for the purposes of computing overtime.
- D. Any officer who leaves his work station and is required to return to work from home will be guaranteed four (4) hours overtime at the applicable rate. If he/she works five (5) hours, he/she will guaranteed eight (8) hours of overtime.

Overtime Compensation:

The Employer proposes that Article XIII be amended to read as follows:

Any officer called to work will be guaranteed four (4) hours of overtime, and if he/she works over five (5) hours, will be guaranteed eight (8) hours. However, an officer who is called back to work within one (1) hour of the end of his/her shift will be guaranteed one (1) hour of overtime. If an

officer is called back to work and the call is cancelled after the officer leaves home, he/she will be guaranteed one (1) hour of overtime. If the call is cancelled before the officer leaves home, overtime will not be granted.

E. Training - If an officer requests to attend a training class outside of Ocean County and the training program requires the officer to commute to the training each day, there will be no overtime for the training or travel time. If the Department requires an officer to attend the training, overtime will not be paid for travel if the shortest distance from Ocean County to the training is 50 miles or less. If the travel distance is more than 50 miles from Ocean County via the shortest distance, overtime will be paid after the first one-half hour travel in either direction.

The Sheriff proposes that Captains in the Ocean County Sheriff's Office shall not be entitled to the benefit of Article XIII, Overtime.

I note that J-8 includes the following agreement concerning overtime for a rank-and-file Sheriff's Officers:

4. Article VII, Overtime Compensation (pg 6) - The parties agreed that paragraph A of this Article be modified by including the category of "personal leave" in the computation and calculation formula at line 4. This proposal appeared as PBA proposal 7a and was agreed upon at the meeting of May 13, 2003.

I recommend no change in the current overtime language included in the 1998-2002 CBAs that covered Sheriff's Officers. The parties did reach the above agreement which is memorialized in J-8. This agreement shall be included in the 2002-2006 rank-and-file CBA. Neither party has offered any basis to modify the existing overtime language. Neither party has met its burden to justify a change in the existing overtime language. Therefore, the parties' overtime proposals are hereby denied.

Management Rights

The Employer proposed the following amendment to the current language in Article III.B, Management Rights, applicable to rank-and-file Sheriff's Officers:

All rank-and-file Sheriff's Officers shall successfully complete the basic police academy training curriculum as a condition of employment in accordance with N.J.S.A. 40A:9-117.16 and N.J.S.A. 52:17B-66 et seq. In the event that a new Sheriff's Officer is hired and does not successfully complete the basic police academy training program, it is understood and agreed that the Sheriff's Officer's employment can be terminated.

The Employer's proposal appears to simply make the current language in the 1998-2002 applicable to Sheriff's Officers. However, a review of the language in the 1998-2002 CBA reveals that Article III.B only refers to Correction Officers. Neither party has provided any reasons to award or deny this proposal. Therefore, I shall remand this issue back to the parties for sixty days and retain jurisdiction to rule on this proposal failing voluntary resolution.

Other Criteria

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

The *cost of living* data shows that increases in the Consumer Price Index ("CPI"), as published by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS"), are below the salary proposals and the terms of my Award in 2002 and 2003. If the current trend continues, the awarded salary increases will exceed the CPI resulting in an increase in real earnings of bargaining unit members for the 2002-2006 duration of the new CBA. I have not placed great weight on this factor. I conclude that the awarded salary increases, while higher than the increases in the cost of living in 2002 (and probably higher in 2003 and 2004), provide for an acceptable increase in real earnings that must be measured against the continued delivery of quality services.

Neither party emphasized *private sector comparisons* although the County referred to average private salaries. I agree with the analysis of veteran Arbitrator William Weinberg that comparisons to the private sector are difficult because of the unique nature of law enforcement. (See excerpt on page 32 of this Award). I have given this factor very little weight.

The terms of my Award will maintain the *continuity and stability of employment* for Ocean County Sheriff's Officers. The salary award in this matter will not jeopardize either employment levels or other governmental services. The salary award will maintain a competitive salary and permit the County to continue to recruit and retain qualified Sheriff's Officers. I am convinced that the terms of this award will maintain the continuity and stability of employment and satisfy the requirements of this factor.

I have carefully considered the evidentiary record in this matter including the testimony of the parties' witnesses and the eighty exhibits in the record. I have calculated the cost of the award each year. I have also carefully considered the arguments advanced by the parties in support of their respective positions. I have considered the evidence and arguments in relation to the statutory criteria which I am bound to consider and apply.

Accordingly, I respectfully issue the following award:

AWARD

1. **Duration of Agreement:**

There shall be a four-year agreement effective April 1, 2002 through March 31, 2006.

2. **Salary:**

Salaries for all rank-and-file and SOA Sheriff's Officer bargaining unit members shall increase by 3.75% effective April 1, 2002; .75% effective October 1, 2002; 3.75% effective April 1, 2003; 3.75% effective April 1, 2004; and 3.75% effective April 1, 2005. In addition, effective April 1, 2003, after the application of the April 1, 2003, 3.75% salary increase, \$1,200 shall be rolled into each step of the rank-and-file salary schedule and applied to the salary of all Sergeants, Lieutenants and Captains. All rank-and-file salary increases are across-the-board and all salary increases are fully retroactive to April 1, 2002. The following is the rank-and-file salary schedule:

Rank-and-File Salary Schedule

	4/1/2002	10/1/2002	4/1/2003	4/1/2004	4/1/2005
Step	Salary	Salary	Salary	Salary	Salary
Probation	\$30,638	\$30,868	\$33,226	\$34,472	\$35,764
Step 1	\$34,581	\$34,840	\$37,347	\$38,747	\$40,200
Step 2	\$38,344	\$38,632	\$41,280	\$42,828	\$44,434
Step 3	\$43,089	\$43,413	\$46,241	\$47,975	\$49,774
Step 4	\$47,959	\$48,319	\$51,331	\$53,256	\$55,253
Step 5	\$52,826	\$53,223	\$56,418	\$58,534	\$60,729
Step 6	\$57,633	\$58,065	\$61,443	\$63,747	\$66,137
Step 7	\$63,111	\$63,584	\$67,169	\$69,688	\$72,301
Max	\$64,688	\$65,173	\$68,817	\$71,398	\$74,075

The following is the 2002-2006 salary schedule for SOA Sheriff's Officers:

SOA Salary Schedule

	4/1/2002	10/1/2002	4/1/2003	4/1/2004	4/1/2005
Rank	Salary	Salary	Salary	Salary	Salary
Captain	\$84,520	\$85,154	\$89,547	\$92,905	\$96,389
Lieutenant	\$77,307	\$77,887	\$82,008	\$85,083	\$88,274
Sergeant	\$70,094	\$70,319	\$74,467	\$77,260	\$80,157

3. **On the Job Injury Policy:**

The following language shall be included in the 2002-2006 rank-and-file and SOA CBAs to be effective March 1, 2004:

On the Job Injury Policy

The County's on the job injury policy as it affects Officers represented by PBA Local 379 shall be modified to provide that when an injury occurs on the job the affected Officer shall now be covered up to ninety (90) days at full pay. All other existing County policies relating to on the job injury benefits shall be continued.

4. **Management Rights:**

I shall remand this issue back to the parties for sixty days and retain jurisdiction to rule on this proposal failing voluntary resolution.

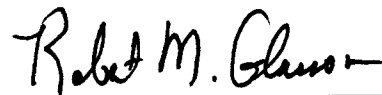
5. **Uniform Allowance:**

I shall award a \$25 increase in the uniform allowance and a \$25 increase in the uniform maintenance allowance to be effective April 1, 2002. The new uniform allowance and uniform maintenance allowance shall be \$575 per annum for a total of \$1,150 annually. The \$1,150 total annual uniform allowance and uniform maintenance allowance shall cease upon the \$1,200 addition to base salary on April 1, 2003. The 2002-2006 CBA shall include the following:

1. All Sheriff's Officers (and Superior Officers) shall maintain and wear the proper uniform as required by the Sheriff.
2. If the Sheriff changes uniforms (either the style or the color of the uniform), the cost of such change shall be borne entirely by the Sheriff.

6. All proposals of the PBA and the Employer not awarded herein are denied and dismissed. All provisions of the existing agreements shall be carried forward except for those modified by the terms of this Award.

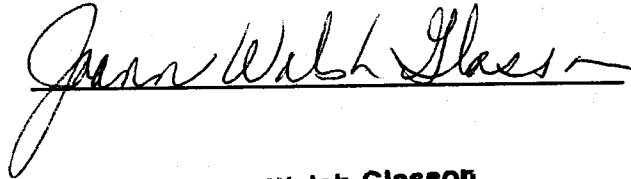
Dated: February 16, 2004
Pennington, NJ



ROBERT M. GLASSON
ARBITRATOR

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

On this 16th day of February 2004, before me personally came and appeared ROBERT M. GLASSON, to me known and known by me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



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