STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between **COUNTY OF HUNTERDON** **"the County or Employer"** and **FOP LODGE 94** **"the FOP or Union"**	**INTEREST ARBITRATION DECISION AND AWARD** Docket No: IA-2009-103

Before: Robert M. Glasson, Arbitrator

APPEARANCES

FOR THE COUNTY:

Gaetano M. DeSapio, Esq.
Law Offices of Gaetano M. DeSapio
Of Counsel and on the Brief

FOR THE FOP:

James M. Mets, Esq.
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Of Counsel and on the Brief
Brian J. Manetta, Esq.
On the Brief

Procedural History

The County of Hunterdon (the "County") and FOP Lodge 94 (the "FOP") are parties to a collective bargaining agreement (the "CBA") which expired on December 31, 2008. Upon expiration of the CBA, the parties engaged in negotiations for a successor agreement. Negotiations reached an impasse, and the FOP filed a petition with the New Jersey Public Employment Relations Commission ("PERC") on May 20, 2009, 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 July 14, 2009, from its Special Panel of Interest Arbitrators.

I conducted several mediation sessions which proved unsuccessful. Formal interest arbitration proceedings were invoked and a hearing was conducted on February 19, 2010, when the parties presented documentary evidence and testimony in support of their positions. At the hearing, I granted the parties' request to supplement the record with financial certifications and additional exhibits which were duly submitted. Both parties filed post-hearing briefs and the record was closed on October 19, 2010.

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 agreed to extend the time limits for the issuance of the award.

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 nine 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.

(9) Statutory restrictions imposed on 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 Section 10 of P.L. 2007, c. 62 C. 40A:4-45.45)

FOP'S LAST OFFER

1. **General Provision**

All dates must be corrected throughout the Agreement to coincide with the new term.

2. **Article 2, Management**

A. Section 1:(a)

i. In subparagraph four, change "Department of Personnel" to "Civil Service Commission and Merit System."

ii. Add to subparagraph 13:

New or changes to existing rules and regulations shall be provided to the Association at least 30 days before their effective date. If the new rules or regulations or changes thereto implicate mandatory or permissive subjects of bargaining and the Association demands bargaining, they shall not be effective until bargaining is exhausted.

3. **Article 3, Grievance Procedure**

A. Step 1. Between the words "aggrieved employee" and "shall discuss" add "or the Association."

B. Throughout this Article, change the reference to "immediate superior" to "immediate supervisor."

C. Step 3. Change "American Arbitration Association" to "New Jersey State Board of Mediation or the Public Employment Relations Commission."

D. Section 4. Delete.

4. **Article 6, Adherence to Civil Service Rules**

Change "Department of Personnel" to "Civil Service Commission and Merit System Board." Change "New Jersey Department of Civil Service" to "New Jersey Department of Personnel."

5. **Article 8, Hours of Work**

Delete the last paragraph on page 13 of this Article.

Delete the last sentence in the paragraph that starts, "Employees called out..." on page 14 and replace with the following:

In the event that any officer is called to duty outside of his regular work hours, said officer is to receive a minimum of four (4) hours pay at the overtime rate. In the event that officer is required to work in excess of four (4) hours, the excess time is to be paid at said officer's regular overtime rate.

6. **Article 10, Overtime**

Section C. Increase 40 hours to 120 hours.

7. **ARTICLE 11, HOLIDAYS**

A. 2nd Paragraph (p. 18): Change "compensatory time off on an hour for hour basis (eight (8) hours)" to "eight (8) hours holiday pay plus pay in the amount of 1½ times their hourly rate for each hour worked or paid" and change "normal overtime rate" to "double time." In addition, add "Election Day" to this paragraph.

B. 3rd Paragraph (P. 18): Add the word "County" before "State of New Jersey."

8. **Article 13, Leaves of Absence**

A. In paragraph A, add:

Each Officer shall have the option to cash-in up to 35 days of accumulated, unused sick leave annually. To be eligible, the officer must maintain a minimum of 50 days of accumulated sick time and shall provide the County with 30 days' notice prior to April 1 of his intent to cash-in sick time. Payments shall be made in the first pay period of June after notice of cash-in at the officer's hourly rate of pay in effect at the time he elected to cash-in.

9. **Article 15, Medical Benefits**

If Legislation passes and is declared legal if challenged in the Courts under which employees are mandated by law to pay a fixed amount toward medical premiums, the 1.0% contribution shall be eliminated.

10. **Article 16, Workers Compensation Leave**

Change "26" to "52".

11. **Article 17, Employee Expenses**

Change "at the rate of twenty cents ($.20)" to "the I.R.S. rate."

12. **Article 19, Safety**

Add: "For officer safety, all details and prisoner transports shall require a minimum of 2 officers."

13. **Article 21, General Provisions**

Section 3 (New). The Employer agrees that there shall be no unilateral changes in terms and conditions of employment or in any terms of this Agreement during its term or during successor negotiations.

14. **Article 23, Discrimination and Discipline**

A. Delete and replace with: "No officer shall be disciplined without just cause. Minor discipline and all other discipline not covered by Civil service Commission or Merit System rules and regulations shall be subject to the grievance and arbitration procedures in this Agreement."

B. Change the title of the Article to "Discipline."

15. **Article 29, Wages**

A. Delete the current Schedule A and replace with the following Step System:

	January 2009	January 2010 (5.5%)	January 2011 (5.5%)
Academy	$32,650	$34,446	$36,341
Probation*	$35,900	$37,875	$39,958
Step 1	$37,707	$39,781	$41,969
Step 2	$43,043	$45,410	$47,908
Step 3	$45,624	$48,133	$50,780
Step 4	$50,186	$52,946	$55,858
Step 5	$55,204	$58,240	$61,443
Step 6	$64,500	$68,048	$71,791
Senior Step**	$66,113	$69,749	$73,586

*After completion of the Academy, an officer shall move to the Probation Step. An officer shall be placed on Step 1 at the completion of Probation. Thereafter, an officer shall move a Step on each subsequent January 1. Alternate route officers or officers who are already Academy certified when hired shall be placed at Probation step and shall move a Step on each January 1 after their date of hire.

**An officer shall be placed on Senior Step upon completion of 10 years of law enforcement service with the County and at least 5 years with the Sheriff. Law enforcement service shall include any time served as a County Sheriff's Officer, Corrections Officer, and/or Prosecutor's Investigator or Detective.

For 2009, initial step placement shall be as follows:

DECEMBER 31, 2008 SALARY LEVEL	STEP PLACEMENT JANUARY 1, 2009
$33,147	Step 1
$37,899	Step 2
$39,500	Step 3
$40,500	Step 4
$42,500	Step 4
$46,500	Step 5

All officers holding the "Corporal" designation shall be paid 5% above his Step on the Step Scale.

B. Delete Section A, Subsections 1, 2 and 3.

C. Delete Section B, C, D, F and G.

16. **<u>Article 30, Uniforms and Equipment</u>**

Delete paragraph B1.

17. **<u>Article 32, Attendance Bonus</u>**

Delete the first paragraph.

18. **Article 31, On-Call**

A. Revise as follows:

A. The Sheriff, under a previous contract, instituted an on-call procedure in connection with after-hour assignments. The Association recognizes the Sheriff's right to implement the procedure. Each of the two officers assigned each week to be on-call shall receive the sum of seventy-five dollars ($75) per day and 24/7 use of a County vehicle. Should an officer, pursuant to the policy, arrange for another officer to substitute for the entire week, the appropriate on-call pay will go to the other officer.

19. **Article 33, Longevity**

Delete and replace with the following:

In addition to each officer's salary, the following longevity schedule will apply. Such longevity pay shall be considered part of the employee's salary for all purposes and paid in equal installments in the employee's regular pay cycle.

After the completion of seven (7) years of County service	3%
After the completion of ten (10) years of County service	4%
After the completion of thirteen (13) years of County service	5%
After the completion of sixteen (16) years of County service	6%

20. **Article 34, Tuition Reimbursement**

A. Revise title of Article to "Article 34, Tuition Reimbursement and Education Incentive."

B. Revise as follows:

The employer will reimburse an employee for the amount actually paid for tuition, fees and textbooks (not to exceed the per credit cost of undergraduate in-State tuition at Rutgers University) for any accredited college course leading to a degree in the field of police science, criminal justice, political science, history, public / business administration, education, accounting, sociology or psychology. In order to be eligible for tuition reimbursement, the employee must receive prior written permission of the Sheriff before enrolling in the course. In addition, the employee must receive a passing grade of at least a "C" or better in order to be entitled to reimbursement. The amount will be paid at the end of the course. This payment will be a one-time lump sum payment.

C. Add the following:

B. Degree Incentive: Each officer who has received an_Associate Degree, a Bachelor's Degree and/or a Master's Degree/Professional Degree/Doctorate from a recognized or accredited school shall be entitled to an annual increment of one thousand five-hundred dollars ($1,500), two thousand dollars ($2,000) and two thousand five hundred dollars ($2,500), respectively, which shall be considered part of the officer's base salary.

D. Add the following:

C. Training Incentive: Each officer who receives specialized training that certifies said officer to train or instruct fellow law enforcement officers in a particular skill is entitled to an annual increment of one thousand five-hundred dollars ($1,500), which shall be considered part of the officer's base salary.

E. Add the following:

D. Emergency Medical Technician Certification Incentive: Each officer certified by the State of New Jersey as an Emergency Medical Technician shall receive an annual increment of three thousand dollars ($3,000), which shall be considered part of the officer's base salary.

21. **<u>Article 35, Employment and Reimbursement Agreement</u>**

Delete

22. **<u>New Article, Modified Duty</u>**

If the Department enacts a "Modified Duty Policy" (also known as a "Light Duty Policy"), it shall contain the following:

A. Modified duty assignments shall be allowed for up to one (1) calendar year. Request for an extension to the one year limit shall not be unreasonably denied.

B. Modified duty assignments, if available, shall be made for on-the-job and off-the-job injury or illness.

C. If there are more modified duty eligible officers than available assignments, the assignments shall be made according to the following procedure:

1. On-the-job illnesses and injuries by overall County seniority.
2. Off –the-job illness and injuries by overall County seniority.

D. Officers on modified duty may have their schedules adjusted unless it disrupts childcare obligations or rehabilitation appointments.

E. If there is a dispute between the officer's treating physician and the County's consulting physician as to whether or not an officer shall be on modified duty, the officer and the County shall agree on a third physician whose decision shall be final. If they cannot agree on a third physician, each shall select two physicians, place there names in a container and the name shall be blindly selected. Until that third opinion is received, the advice of the officer's treating physician shall govern.

23. **Article 36, Duration of Agreement**

January 1, 2009 through December 31, 2011. Also, the terms shall apply to any employee who was on the payroll at any time during the term of the agreement.

COUNTY'S LAST OFFER

1. **Term of Agreement:** January 1, 2009 to December 31, 2011.

2. **Salary**:

a. Effective and retroactive to January 1, 2009, all employees on payroll as of the date of the Award shall receive a 1.5% across-the-board salary increase, the payment of which shall begin effective January 1, 2010. It is understood that the payment of the negotiated salary increase for 2009 shall not be implemented until 2010.

b. Effective January 1, 2010, all employees on payroll as of the date of the Award shall receive a 1.5% across-the-board salary increase on the employee's 2008 salary. Pay rates for 2010 will then be for all purposes 3% above an employee's 2008 salary.

c. Effective January 1, 2011, all employees on payroll shall receive a 2% across-the-board salary increase based upon 2010 pay rates.

d. Effective July 1, 2011, all employees on payroll shall receive a 2% across-the-board salary increase based upon 2010 pay rates.

3. **Change in Pay Dates:**

The County proposed that effective January 1, 2011, the County will pay employees on a bi-weekly basis during the calendar year based on the following schedule:

Commencing with the first payday in 2011, the payday shall be moved forward one (1) business day and thereafter be moved one (1) additional business day every second pay period until the payday has moved forward two (2) weeks (ten work days), at which time two (2) weeks pay (ten days pay) has been held back and remains that way thereafter. This means that:

a. The first paycheck in January 2011, which would have been normally issued on a Friday will be dated and issued the following Monday.

b. The next pay check will be dated and issued two weeks later on a Tuesday.

c. The third paycheck will be dated and issued two weeks later but not on Monday, but the next day, a Tuesday.

d. The fourth paycheck will be dated and issued two weeks later on a Tuesday.

e. The fifth paycheck will be dated and issued two weeks later but not on Tuesday, but the next day, a Wednesday.

f. The sixth paycheck will be dated and issued two weeks later on a Wednesday.

g. This pattern will be continued until the objective is met, that is, until the payday has moved forward two (2) weeks (ten work days) at which time two (2) weeks pay (ten days pay) has been held back and remains that way thereafter. Thereafter, pay schedules shall not be changed.

h. The first paycheck in 2012 will be for the last two weeks due in 2011, since it covers ten (10) days of pay for 2011. Each succeeding paycheck will be at the rate of pay applicable to the ten (10) day pay period which the check covers. Two weeks after an employee permanently leaves the employ of the County, two weeks pay will be owed to the employee and paid out at the employee's rate of salary at the time they terminate employment with the County for any reason.

4. The County proposes that all issues tentatively agreed to on March 11, 2009 be included in the new CBA.

PARTIES' POSITIONS

FOP POSITION

According to the FOP, the evidence shows that Hunterdon County, the wealthiest county in New Jersey and one of the wealthiest counties in the United States, pays its Sheriff's Officers an unconscionably low salary. Of the 21 counties in New Jersey, Hunterdon County ranks twentieth in Sheriff's Officer pay. (U-44A). The salaries earned by Hunterdon County Sheriff's Officers are so low that four of the Officers represented by the FOP qualify for public housing assistance. (U-16). Only one officer makes more than the "moderate income level" of the Housing and Urban Development ("HUD") Income Guidelines. (U-17). The County's economic position simply cannot justify such low pay.

The low pay earned by Sheriff's Officers has caused numerous problems within the department. The turnover rate in the County's Sheriff's Office is extremely high. Over two-thirds of the Sheriff's Officers hired since 2000 have left for more lucrative positions. (U-34A). This has caused a manpower shortage that has jeopardized the safety of the public and the Sheriff's Officers themselves. (U-29,U-30).

In 2007, Hunterdon County households have a median household income of $100,327. (U-8). In that same year, the County's median family income was $117,001.

Finances

The County's budget shows that it has the ability to fund FOP 94's requested increase in salary and benefits. (June 14, 2010 Certification of Joseph R. Petrucelli, C.P.A.). County Freeholder William G. Mennen testified that the County had a surplus of more than $13 million in 2008. (Tr. at115). By the end of 2009, that surplus had grown to more than $20 million. The County also boasts a fund balance of $33,953,504. (Petrucelli Cert., ¶4, Ex. C at p. 11). The County's budget is cap compliant without nearing the allowable spending cap limitation. The County has not maximized the miscellaneous and other revenues in the 2009 budget, and has actually lowered the tax levy from 2009 levels.

Historically, the County has been able to keep taxes low. Between 2000 and 2007, the County had a decrease in the tax rate. (August 12, 2010 Certification of Joseph R. Petrucelli, C.P.A.) County taxes increased 0% in 2008, 3.6% in 2009 and 0% in 2010. County taxes have decreased 32.59% since 2000. Freeholder Mennen testified that the County could have spent $3 million more before reaching the spending cap.

The County's own documents establish that the County is financially healthy. The County has been able to generate surplus balances since 2005, with a fund balance amounting to $33,953,504 in 2008. (Petrucelli Cert., Exh. C).

The FOP provided a chart showing that the County has been able to generate fund balances since 2005. In 2009 the fund balance was $29,254,860 of which the County utilized $12,000,000 as surplus revenue in that year's budget. (Petrucelli Cert., ¶4, Exh. C, Tab 3). This enabled the County to stabilize the tax levy while complying with the Chapter 62 Laws of 2007's tax levy cap. After using $12,000,000 of the surplus as revenue the County still had a remaining available fund balance of $17,254,860 as of December 31, 2009. The County maintains fund balances after utilizing surplus to hold down taxes, and they have ranged from 59% to 70% over the 2005 to 2010 period.

The County's 2010 proposed budget is $94,148,057. The fund balance of $29,254,860 is 31% of the budget. On December 31, 2008, the surplus balance was $33,953,505 of which the County utilized $13,000,000 as revenue in the 2009 budget.

The FOP submits that the County continually spends less than is has appropriated and has generated additional revenue since 2005. The excess operating result was $8,301,354 for 2009 which means that the County spent less than appropriated and had additional revenues they did not anticipate. Based on the County 2009 estimated budget of $96,810,910 the budget came in less than estimated. This also indicates that the County has the ability to generate surplus from excess results of operations. The FOP provided budget information indicating that from 2005 the Sheriff salaries and wages line item appropriated in 2009 have decreased by $73,552, from $1,618,836 to $1,545,284.

FOP 94's cost proposal was based on date of hire information provided by the County. The increase was based on a new proposed step guide being applied to the FOP 94 members for the years 2009, 2010, and 2011. An additional increase was also added due to the proposed change in the existing longevity calculation.

The 2009 County's offer of 1.5% was applied to the base salary of the existing salaries for FOP Lodge No. 94 members. The steps were determined by date of hire information provided by the County. In 2010 a 1.5% percent increase was applied. In 2011 a 2.0% increase was applied for the first 6 months and 2.5% for the second based on hire date information provided by the County to the existing salaries.

The difference between the two cost proposals for 2009 is	$ 82,711
The difference between the two cost proposals for 2010 is	$ 98,642
The difference between the two cost proposals for 2011 is	$ 104,550
Cumulative Total	$ 285,903

Unlike municipalities, the County tax levies are guaranteed. Therefore, the County does not have to reserve for uncollected taxes.

In opposition to the FOP's financial analysis, the County provided the certification of Kimberly Browne, its Finance Director, and Margaret Pasqua, the County Treasurer. Despite the County's strong financial position relative to the rest of the State and Country, it sought to bootstrap itself to those Counties suffering greatly from the recession by claiming that escalating costs and decreased revenues prevent it from paying the salaries and benefits sought by the FOP.

A review of the relevant documents, however, indicates that any economic uncertainty faced by the County is largely a result of its own policies. Moreover, the County's economic position and the cost analysis provided in the Petrucelli June 11, 2010 Report indicate that it is fully able to afford the FOP's Final Offer.

The FOP notes that the County elected to use only one half of the State imposed limits on spending. Even with this self-imposed restriction, the County still has approximately $749,550 available to be used in 2011 or 2012 if needed.

The FOP cites the testimony of Corporal Keith Yasunas and Sheriff's Officer Jesse Winfield regarding the operations and inner workings of the Sheriff's Department. Yasunas has been employed by the Sheriff's Office for approximately seven and one-half years. (Tr. 46). His annual salary is $42,500. (Tr. 49). Prior to his employment with the Sheriff's Office, he was employed as a County Correction Officer for four and one-half years. As a Correction Officer, Yasunas received twelve to fourteen weeks of training at the Monmouth County Police Academy. He became a Sheriff's Officer in 2002. After he was hired by the Hunterdon County Sheriff's Office, Yasunas spent six months at the Trenton Police Academy, where he received the same training as a municipal police officer as well as additional training specific to Sheriff's Officers. Yasunas is currently assigned to Operations. Yasunas enjoys his job. He likes the people that he works with and he likes dealing with the public. He describes his job as "a great job." However, the pay is too low.

Sheriff's Officer Jesse Winfield also testified to his first-hand experience as a Sheriff's Officer. Winfield has been employed by the County for more than five years. Prior to becoming a Sheriff's Officer, he was employed by the County as a Corrections Officer. He transferred into the Sheriff's Office approximately three years ago, and was initially assigned to Courthouse Security. Officer Winfield is currently assigned as a Detective in SIU. Officer Winfield's annual salary is $38,900 per year.

Officer Winfield recognizes that as a Sheriff's Officer for the County, his top salary would be a fraction of the salary of the County's municipal police officers. (Tr. 42). His top salary may be as low as 35% of the salary of a top-level patrolman in Raritan Township, which boasts the County's highest paid municipal police force.

Sheriff Officers play a crucial role in ensuring the safety of Hunterdon County's citizens. Several notable arrests have been made recently by Sheriff's Officers. On February 10, 2010, Sheriff's Officers John Sadusky and Lucas Schwab arrested Brian Blair, an individual who had broken into a home in Clinton Township and stabbed a woman. (U-. 35B). Blair was able to evade the State Police, who swarmed his home, but could not outrun the Sheriff's Officers and was arrested without incident following a felony motor vehicle stop. The two Sheriff Officers then transported Blair to the Hunterdon County Jail. A grand jury returned an indictment charging Blair with attempted murder, bias intimidation, aggravated assault, two counts of burglary, two counts of unlawful possession of a weapon and two counts of criminal mischief.

Hunterdon County Sheriff's Officers were also able to arrest a suspect wanted by the New York City Police Department for a series of bank robberies in Manhattan. (U-35D). Frank Jones was arrested by Officers Jesse Winfield and Lamont Garnes and Chief Warrant Officer Ed Davis at the Whitehouse, New Jersey Transit Station on July 2, 2009.

For nearly a decade, turnover rate in the Sheriff's Office has been high. (Tr. 51). Many of the officers that Yasunas worked with have left the Sheriff's Office. He testified that many of these officers would have stayed had they been paid more money. (Tr. 52). The Sheriff's Office has been unable to retain Sheriff's Officers since at least 2004. (U-1).

In August 2004, then Sheriff William D. Doyle authored a memorandum concerning the Hunterdon County Sheriff's Office's inability to retain younger officers. The reason these officers left the employ of the Sheriff was low salaries.

> The main reason given by personnel who leave this Office and go to another Police agency is the low salaries, career enhancement and the desire to work in a patrol environment. Almost without exception, the Officers that have left before their contract expires, left first because of financial hardship and secondly because of perceived chance to improve their career opportunities.

Sheriff Doyle's memo also analyzed the starting salaries provided by the Hunterdon County Sheriff's Office compared to other law enforcement agencies that hired the defecting officers. The analysis concluded that "the average pay increase received by an Officer leaving the Hunterdon County Sheriff's Office was $10,200 in first year salary. It was also noted that the difference in salary after four years with the new agency was $15,737." Sheriff Officers were compelled to leave the department despite the fact that each officer was required to sign a contract promising to stay with the department for 2.5 years, and if they fail to do so, must repay the County the cost of their academy training, salary, ammunition and pre-academy physical. (U-34D).

Exit interviews conducted by the Sheriff's Department clearly show that low salary was the main reason that Sheriff's Officers left the department. (U-1). Many officers stated that they would be happy to continue working for the County, and would stay if the salaries were consistent with other agencies.

The turnover rate in 2004 was so severe that Sheriff Doyle made an unprecedented attempt to reopen the FOP contract in order to raise salaries. (U-34D). The CBA did not expire until 2005, yet Sheriff Doyle believed that improved salaries would have a positive impact on turnover.

Since 2004, the County has continued to lose Sheriff's Officers at an alarming rate. In early 2005, Sheriff Doyle once again requested that Sheriff's Officers receive a higher starting salary. (U-34B). Slow responses to his pleas required Sheriff Doyle to turn to retired officers to staff x-ray machines and metal detectors and to provide courthouse security in less threatening areas. (U-34C).

The officer retention problem continues to dog the Hunterdon County Sheriff's Department. In 2008, an evaluation performed by ranking officers in the Sheriff's Department found that "there simply are an insufficient number of officers present in the Justice Center to respond to an incident without compromising security as the responding officers leave their assigned posts." (U-29).

In the Hunterdon County Sheriff's Office 2008 Annual Report, Sheriff Trout noted that four Sheriff Officers had departed the Sheriff's Office. Each left to take a significantly higher paying position with a municipal police department. Sheriff Trout stated: "the Sheriff's Office continues to be faced with a high turnover rate of Sheriff Officers. This has had a detrimental effect on the operation of the Office. Although the Sheriff's Office's full complement is sixteen officers and two investigators, the Sheriff reported that the Office would start 2009 with fifteen officers and one investigator.

The Hunterdon County Sheriff's Office 2009 Annual Report reads similarly to the report submitted in 2008. (U-30). Due to the low number of Sheriff's Officers, the safety concerns outlined in the 2008 evaluation remain. There continue to be too few Sheriff Officers to safely respond to an incident in the Justice Center without compromising security.

U-34A clearly shows the depth of the Hunterdon County Sheriff's Office's officer retention problem. 45 officers have been hired by the County since 2000. Of those officers, only 12 are currently employed as Sheriff's Officers. 30 officers have resigned, many taking jobs with other law enforcement agencies. Of the 4 officers hired in 2000, only one remains employed by the Sheriff's Office. None of the 10 officers hired in 2001 and 2002 remain employed by the Sheriff's Office. Only one of 5 officers hired in 2003 is a current employee of the Sheriff's Office. 4 officers were hired in 2004, none remain. 2 of the 8 officers hired in 2005 are currently employed. 2 of the 4 officers hired in 2006 remain employed by the Sheriff's Office as are 4 of the 6 officers hired in 2007. All 3 of the Sheriff's Officers hired in 2009 remain employed.

While the Sheriff's Department may be a nice place to work, the facts clearly demonstrate that it is economically unfeasible for Sheriff's Officers to live comfortably, or even to scrimp by, on their salaries. In fact, Hunterdon County Sheriff's Officers received a notice from the County of Hunterdon's Division of Housing indicating that they may be eligible for the housing choice voucher lottery because their income did not exceed certain limits. (U-15).

Private Sector Comparisons

Private sector employment wage changes compiled by the New Jersey Department of Labor and Work Force Development established that from 2007 to 2008, the net change in annual income for the private sector was $1,338 per annum, or an increase of 2.5%. The median net change however, was a $1,552 increase or a 3% increase. The total increase for State government employees in New Jersey for 2007 through 2008 was 5.8% and for local government 3.4%. The total percentage change for both the private and public sector from 2007 to 2008 was 2.6%, on average. (U-42A).

For the period 2006 through 2007, the total private sector net change on average was $2,213 increase, or a 4.3% average. The median change in the private sector for that same period was an increase of $2,073, or 4.0%. The average increase for State government employees for that same period was 5% and for local government, 3.5%. The total net change from 2006 to 2007 for both the private and public sectors was a 4.3% average increase. (U-42B).

Internal Comparability

Corrections Officers do not undergo the more rigorous training required of Sheriff's Officers. (Tr. 46-47). Corporal Yasunas testified that Corrections Officer training took approximately 12 or 14 weeks. (Tr. 46). Corporal Yasunas attended the Trenton Police Academy for six months to be properly trained as a Sheriff's Officer. (Tr. 47). However, the highest paid Corrections Officer employed by the County earned $62,992 in 2008. That is $6,512 more than a top salary Sheriff's Officer may earn pursuant to the CBA, and $16,492 more than the salary of the Sheriff's Officer with the longest tenure currently employed by the County. (U-26).

External Comparability

External comparisons have been presented by the FOP for comparable Sheriff's Officer bargaining units through the State. These charts show that Hunterdon County Sheriff's Officers earn, on average, 24.82% less than Sheriff's Officers in other jurisdictions. The average state-wide base salary for Correction Officers is $75,690. The top Hunterdon County salary is $56,480. However, due to the constant turnover in the Sheriff's Office and lack of any long-term incentive for Sheriff's Officers to remain in the employ of the County, no officer has yet reached that salary level. Therefore, the actual salary earned is much less than the published salary. (U-44A-E).

One of the most glaring benefit disparities between County Sheriff's Officers and those employed in other Counties is the lack of an automatic salary step guide. Of all the Counties surveyed, only Hunterdon County does not have a salary step guide. When questioned about a salary step guide by County Counsel, County Public Safety Director

George F. Wagner testified that step guides such as that proposed by the FOP are a "burden" on the County and create "an expectation" by the officers. (Tr. 91). However, on cross-examination, he testified that he had no knowledge if step guides were negotiated out of contracts by the County and all of its bargaining units. (Tr. 96). Moreover, he testified that while he was employed as a County Corrections Officer, he received automatic contractual increments as part of a step guide. (Tr. 93).

Interests and Welfare of the Public

The FOP submits that the County's financial health unequivocally shows that the public interest will not be harmed by awarding the FOP's Final Offer. The FOP's expert determined that the County has a surplus of over $17 million that can be used in future budgets. The County has been fiscally responsible for years and is reaping the benefits of that responsibility during the current economic downturn. Despite its financial security, the County has refused to raise the salaries of its Sheriff's Officers. In 2004, then Sheriff Doyle sought to raise Sheriff's Officer salaries in an attempt to reduce the turnover and manpower shortages plaguing the department. (U-34D). This did not occur.

Accordingly, the interest and welfare of the public will not be harmed by granting the FOP's Final Offer in its entirety. The interest and welfare of the public are better served by providing terms and conditions of employment to FOP members in accordance with the County's excellent financial stature.

The FOP submits that its Final Offer is in the interests and welfare of the public. In considering what is in the best interest and welfare of the public, an Arbitrator must consider the impact on the morale of the bargaining unit when rendering an award. Awarding the County's Final Offer will damage the morale of the bargaining unit and therefore will not be in the interests and welfare of the public. The County's offer is especially damaging to both safety and morale as it keeps wages so low that many Sheriff's Officers qualify for public assistance. On the other hand, awarding the FOP's Final Offer would benefit both the public and bargaining unit members.

The morale of a department is certainly bolstered when individual officers believe they are safe. Here, manpower shortages have placed officers in jeopardy. There are simply not enough officers to provide security in the Courthouse. Moreover, certain prison transport assignments are currently being assigned to only one officer. (Tr. 68). Fear for one's safety and well-being is not a boost to morale. The FOP's Final Offer will serve to slow the turnover rate and provide additional safety for officers. Accordingly, the Arbitrator must award FOP Lodge 94's Final Offer.

According to the FOP, the interests and welfare of the public is seriously jeopardized by the County's Offer. The County pays its Sheriff's Officers so poorly that there is massive turnover. This turnover creates manpower shortages. In turn, these manpower shortages have created a safety issue in the Justice Center. A 2008 evaluation revealed that "there are simply an insufficient number of officers present in the Justice Center to respond to an incident without compromising security as the responding officers leave their posts." (U-29). As of 2009, this problem had not been remedied. Thus, the safety and welfare of the public is seriously jeopardized each and every time they enter the Justice Center. There are simply too few officers to safeguard the public.

The high turnover rate also serves to destroy morale. Over two thirds of the Sheriff's Officers hired by Hunterdon County have left the Sheriff's Office since 2000. (U-34A). The County's proposal is not in the best interest of the public. It invites Sheriff's Officers to seek employment with another law enforcement agency. When this occurs, the public loses. The public loses trained officers, in some instances it loses the money spent training that officer and it loses time while another officer is trained. The public's interest is best served by providing Sheriff's Officers with salaries and benefits that encourage them to remain employed by the County.

<u>Comparison to Public Employment in the Same or Similar Jurisdictions</u>

The PBA asserts that Hunterdon County's Sheriff's Officers are woefully underpaid when compared to Sheriff's Officers in other counties throughout the State. As set forth above, this has caused a host of problems, including high officer turnover and manpower shortages. The FOP contends that its proposal will reduce turnover by providing salaries that will, in time, start to bridge the gap between Hunterdon County Sheriff's Officers and officers in other jurisdiction.

The FOP submits that the County most comparable to Hunterdon is Warren County. Warren County has a similar population. However, its median household income, median family income and other economic data do not compare to Hunterdon County. (U-8). Warren County employs a similar number of Sheriff's Officers.

Hunterdon County is one of the wealthiest counties in the United States. However, its Sheriff's Officers earn less than all other Sheriff's Departments in the State, except for Cumberland County. FOP unit members receive, on average, 24.12% less than their counterparts in other departments. This amounts to a salary disparity of $18,747, on average, per year. This statistic, however, is somewhat misleading as it does not take into account the fact that no Sheriff's Officer maintains employment with the County long enough to reach the top salary. (U-44A).

Article 29, Section C of the CNA provides that officers with ten years of service in 2008 are to receive $56,000. (J-1). No Sheriff's Officer, however, reached that pay level in 2008. The highest paid Hunterdon County Sheriff's Officer earned $46,500 base salary in

2008. In contrast, top level Sheriff's Officers earned a base salary of $106,385 in Bergen County; $85,726 in Morris County; $83,742 in Sussex County; $85,431 in Monmouth County; $75,968 in Passaic County; $79,972 in Middlesex County; $82,034 in Union County; $79,425 in Mercer County; $74,075 in Ocean County; $72,082 in Cape May County; $78,947 in Salem County; $73,107 in Camden County; $75,575 in Atlantic County; $74,068 in Somerset County; $75,281 in Hudson County; $70,132 in Gloucester County; $74,238 in Essex County and $62,000 in Burlington County. (U-44A).

In Warren County, the maximum salary for Sheriff's Officers in 2008 was $62,738. This is $6,258 more than the hypothetical top salary provided to County Sheriff's Officers. Under the County's salary offer, a maximum pay Sheriff's Officer would earn only $60,318 on July 1, 2011. This raise will keep Hunterdon County as one of the two lowest paid Sheriff Departments in the State. Hunterdon County Sheriff Officers will earn $2,420 less in July 2011 than Warren County Sheriff's Officers earned in 2008. If we apply the County's proposed raises to Warren and Burlington County Sheriff's Officers, the gap becomes even more considerable:

	2009	**2010**	**2011**	**Difference**
Hunterdon	$56,840	$57,093	$60,318	
Burlington	$62,930	$63,634	$66,780	+$6,462
Warren	$63,679	$64,634	$67,575	+$7,257

The FOP's proposal will keep Hunterdon County at the bottom of the known salary rankings for Sheriff's Officers, but it will consistently raise salaries. Under the FOP's proposal, a top step Sheriff's Officer will earn $66,113 in 2009. (U-44C). The current salary disparity between the average top-level Sheriff's Officer in New Jersey and Hunterdon

County is 24.12%. (Exh. 44A). The FOP's proposal reduces this disparity to 13.04%. The County's Final Offer, however, will increase the pay disparity to 25.35%.

In 2010, a top level Sheriff's Officer will earn $69,749 pursuant to the FOP's Final Offer. Once again, this will keep FOP Lodge 94 members at or near the bottom of the list of statewide Sheriff's Officer salaries, but the disparity will be reduced to 11.04% below average whereas the County's offer will broaden the disparity to 25.16%. Hunterdon County Sheriff's Officers need substantial raises to reduce the high rate of turnover that has plagued the department.

In *Monmouth County Sheriff -and- PBA Local 314*, P.E.R.C. Docket No. I.A. 2002-061 (2003), Arbitrator Mastriani recognized that a substantial increase in salary fosters the interest and welfare of the public by reducing turnover. In this regard, he stated: "the record reflects that there has been turnover in the Sheriff's Office and the interests and welfare of the public are served by a stable and well-trained workforce and the continuity and stability of employment will be enhanced as a result of the salary guide compression and increase in salary maximums."

The FOP also seeks a 5% pay increase for officers assigned to the rank of corporal. Currently, corporals do not earn any additional salary for performing duties similar to those of a sergeant.

FOP Lodge 94 does not seek to bridge the gap between its salaries and the salaries of other Sheriff's Departments in one contract. Rather, it seeks to introduce a step system into the Sheriff's Office salary guide, which will raise officers salaries gradually. Step systems are advantageous in both the long and the short term. In the short term, morale will improve because officers will receive a contractual raise and a raise on their anniversary date.

In the long term, turnover will decrease because officers will have a clear roadmap of their financial future when hired.

A salary system based on steps is the industry standard. All other Sheriff's Offices in the State have a system that encompasses at least six steps. (U-44A). The FOP's proposal will simply align bargaining unit members with similarly situated Sheriff's Officers throughout the State. Accordingly, the FOP's Final Offer must be awarded in its entirety.

The FOP submits that its Final Offer is an attempt to remedy the growing void between Hunterdon County Sheriff's Officers and Sheriff's Officers in other counties. The County's proposal, on the other hand, will broaden this gap, and the high rate of turnover and consistent manpower shortages will continue. Upon further examination, the County's proposal will barely raise salary in light of recent legislation requiring officers to contribute 1.5% of pensionable salary to medical costs and do nothing to ensure a continuous and steady workforce. Moreover, the County's Final Offer actually takes money away from FOP members, as it seeks to withhold ten days pay from each officer when it switches pay periods from weekly to bi-weekly.

The County's proposed wage increases are extremely inadequate. Accordingly, FOP Lodge 94 members will continue to fall behind other similarly situated Sheriff's Offices in terms of compensation. The raises offered by the County ensure that Hunterdon County is, and continues to be the lowest paid Sheriff's Office in the State. This will cause even more turnover.

<u>Financial Impact on the Governing Unit, its Residents and Taxpayers</u>

The FOP contends that the County has not presented any evidence of an inability to pay. Rather, the economic evidence presented clearly and unequivocally shows that the County has the ability to pay. (Petrucelli Cert., Petrucelli Cert. II). Accordingly, the

Arbitrator must grant the FOP's Final Offer in its entirety. P.L. 2010 c. 44 caps the amount of any County tax increase at 2.0%. However, the relevant financial data clearly shows that the County will not be forced to raise taxes if the Arbitrator awards the FOP's Final Offer.

Moreover, there is no evidence that the County has been forced to cut back on services to its residents or taxpayers. Rather, the evidence shows an efficient and fiscally healthy County government that has been innovative and creative in dealing with and delivering new services, despite the recent economic troubles.

Cost of Living

According to the FOP, the cost of living increased by 2.7% (before seasonal adjustment) for the twelve month period ending December 2009. In April 2010, the CPI for all Urban Consumers declined 0.1%. However, in the twelve preceding months, the CPI rose 2.2% before seasonal adjustment. (U-41E). The FOP acknowledges that it is seeking a salary increase above the cost of living for 2009, 2010 and 2011. This increase is necessary for several reasons. First and foremost, current FOP salary levels are so low that bargaining unit members cannot afford to live in the County in which they work and in which they are required to live. Second, the increase is necessary to narrow the gap between bargaining unit wages and salaries earned by Sheriff's Officers in other counties. Finally, an increase is needed because recent legislation will further erode unit member compensation and prevent FOP members from ever making up ground if the cost of living is not exceeded. Accordingly, FOP Lodge 94's Final Offer is justified and must be awarded.

Continuity and Stability of Employment

The FOP's proposal seeks to end the Hunterdon County Sheriff's retention problem by providing a competitive compensation package to bargaining unit members. A competitive compensation package will encourage officers to remain with Hunterdon County and allow the County to develop and maintain senior leadership.

The most cited reason for the high turnover is low salaries. Twelve exit interviews conducted in 2004 revealed that officers left the department because they were dissatisfied with their pay and had secured other employment. (U-1). The interviews, provided by officers who had left the Hunterdon County Sheriff's Department since 1998, reveal the seriousness of the problem. One officer wrote: "If you get the pay salary up, people would stay. It is a good place to work. But you can't live and support a family in this County on that salary." Another stated: "Start paying salary. Salary that is at poverty level is not acceptable to live on. People and conditions great...stop tricking individuals to sign those silly contracts." Almost all of these officers left despite the fact that they had to reimburse the County for costs associated with their training.

The officer retention problem was so severe that then Sheriff Doyle attempted to reopen contract negotiations to raise salaries in 2004. (U-34D). This unprecedented attempt was caused by the fact that officers leaving the Hunterdon County Sheriff's Office received an average pay increase of $10,200 when they joined a subsequent law enforcement agency. After 4 years, the salary disparity grew to $15,787.

The FOP's Final Offer seeks to raise salaries to a level that will retain officers. Thus, the simple remedy to this problem is to raise salaries to a reasonable level. The FOP's Final Offer provides competitive salaries that will help in reducing the County's officer retention problem.

The County's Final Offer provides low percentage salary increases, most of which will be eaten up by mandatory health benefit contributions pursuant to P.L. 2010 c. 2. Moreover, the County actually seeks to strip Sheriff's Officers of one pay period by implementing a confounding pay-date change that will eventually result in the withholding of ten days of officer salary. This offer will not change the massive employer turnover experienced by the Hunterdon County Sheriff's Office. In fact, it will likely exacerbate the problem.

A fair compensation package is necessary to maintain the morale and outstanding level of services provided by the members of this bargaining unit. The FOP's proposal is one such package, and as such, the Arbitrator must award it in its entirety.

Statutory Restrictions

As set forth above, the County will have no CAP issues if the FOP's Final Offer is awarded. This is true even under P.L. 2010 c. 44 which was recently enacted to impose 2.0% cap on tax levy increases at the County level effective for tax year 2011 and beyond. This replaced the previously enacted 4% tax levy cap that is in operation for the first two years of the Agreement.

The levy cap that operates is not relevant to the County's financial position because its surplus is so substantial and the economic position of the County so viable that it is not a factor that supports the County's offer. The levy cap excludes health care costs and pension as well as debt service.

As a result of the County's budget surplus, ability to continue amassing a large surplus, its unanticipated revenues and other financial data, the County will not have to raise taxes to fund the FOP's Final Offer.

Fro all of the above reasons, the FOP asks that is Last Offer be awarded.

COUNTY POSITION

The County submits that the arbitrator must give due deference to the policy decisions made by the elected officials, in this case the Freeholders, as to how to govern their community and the ability of their population to sustain increased taxes. In Hunterdon County, the Freeholders and the Sheriff have determined that they can efficiently run the Sheriff's department by paying the employees increases averaging 2.5% per year which are reflective of the economic circumstances. The Freeholders could only accomplish this, and fund similar raises for other employee groups, by making substantial reductions in expenditures in other areas of the Budget. Services were eliminated or reduced. These were difficult decisions for the Freeholders to make. They have not asked the Sheriff's Officers to accept reduced wages or furloughs, but instead asked them to acknowledge the economic crisis by accepting a limited increase in light of the economic crisis. However, to increase the package above the amount of the County's offer is not fair or equitable, nor in the best interest of the public whom the Freeholders serve.

The FOP proposes that the Arbitrator award the implementation of a salary guide system. The testimony and the exhibits furnished by the County reflect that salary guides were voluntarily negotiated out of the Sheriff's Officers' CBA a number of years ago. That was the case with other bargaining units within the County as well.

Salary guides lock the employer into pay increases every year, well beyond the end of an expiring CBA. As experience has taught other public employers that presently have salary guides, it is not prudent or always possible to predict the employer's ability to pay into the future. Communities with salary guides are now forced to lay off employees in order to fund guaranteed annual salary increases which are part of guides. Employees should not be guaranteed wage increases beyond the end of an existing contract, without negotiating those increases in light of then prevailing economic conditions.

The Arbitrator should not alter a long-standing pattern in Hunterdon County of no salary guides, which is a system that has worked well with all bargaining units, and which has been freely and deliberately negotiated. It is not as if Hunterdon never had salary guides and an effort was now being made to introduce the concept for the first time. The testimony and Certifications clearly indicate that not only the Sheriff's Officers, but all other Unions in the County agreed to eliminate salary guides years ago. This occurred during a period of time when the County was not able to sustain wage increases beyond the increments included in the contracts. As a result, negotiations became tedious, frustrating and acrimonious since employees felt they were not "receiving anything," if the offer was to pay only the increment. All of the Unions acknowledged this practical difficulty in negotiations and understood that it is impossible to predict with certainty the County's ability to pay in the future.

Salary increases should be negotiated for future CBAs without the County being locked in to fund a certain percentage increases, irrespective of the economic conditions.

The County

Hunterdon County is in rural central New Jersey, adjacent to the Delaware River. It has an estimated population of 129,031. It provides the standard governmental operations which are the statutory responsibilities of the County. It has 623 employees. It negotiates contracts with nine bargaining units. The County's 2010 Budget is $94,148,057 (C2-1). C2-2 shows that the County's spending has been reduced dramatically.

2007 Budget	$99,438,654
2008 Budget	$96,942,564
2009 Budget	$96,810,910
2010 Budget	$94,148,057

These spending reductions were compelled by a number of factors:

(a) The rateable base for the County decreased significantly because of the recession from $25,547,162,906 in 2007, to $23,910,185,571 in 2010.

(b) The County's surplus decreased dramatically from $40,550,034 in 2007 to $29,254,860 in 2010.

(c) Dramatically escalating costs, over which, the County had no control at a time of dramatically decreasing revenues, as described in the Certifications of Browne and Pasqua. (See paragraphs 8 and 9 of C1-1).

Financial Crisis

The Nation and the State of New Jersey are both facing a universally acknowledged financial crisis. The national unemployment rate continues to hover around 10%, the highest rate in a number of years. New Jersey's rate hovers around the same percentage. This national unemployment trend continues without any projected date when joblessness will begin to decrease. Hunterdon's residents are affected as well.

While newspaper articles and some statistics tout Hunterdon as one of the wealthiest counties in the Nation, those assertions do not presently apply. Many of Hunterdon County's residents, who earned those wages, are the same individuals who have lost their jobs in the financial and insurance sectors and pharmaceutical industries in New Jersey. This economic recession spares no segment of society, including Hunterdon County and its residents. Even before the recession, Hunterdon County residents were living in one of the most highly taxed counties in the country. (C-2-[10A-10D] and testimony of Freeholder Robert Walton). Now when the economy has come to a halt and, in fact, is retracting, Hunterdon County has dramatically lost tax ratables which negatively affect the County's available tax resources (County tax ratables in 2007 were $25,547,162,906, and are now $23,910,185,571, a decrease of 6.53%), resulting in a decrease in tax revenues of more than $2,000,000. (C2-2).

The County Freeholders have made every effort to reduce spending to avoid raising taxes. As described above, the County has decreased spending each year from 2007 to 2010, for a total reduction of $5,290,588.

The County Finance Director, Kimberley Browne, and County Treasurer, Margaret Pasqua, in their Certification dated April 22, 2010, set forth the internal factors exerting financial pressure on the County. (C1-1).

As they set forth in paragraph 3, on page 2 of their Certification:

> "3. The County finds itself faced with the following difficulties:
> Escalating costs, including significant escalation in costs, over which the County has no control, such as utilities, insurance, pension and healthcare.
> A decrease in revenues from most sources, including fees which are paid for services, such as recording, reimbursements from the State of New Jersey, etc.
>
> A decrease in the tax ratable base which serves as the foundation for the County's ability to raise money to fund governmental services.
> County residents and taxpayers who have had significant setbacks/impacts in their lives affecting their ability to contribute toward County services.
> One or more of these factors would be difficult enough to deal with, but their combination, together with the economic recession which the State and the Nation are experiencing, make the financial administration of County government difficult."

Some of the costs which increased dramatically are set forth in paragraph 8, on page 4 of their Certification.

(a) Pension contributions increased $592,000 from 2008 to 2009. They increased an additional $331,102 from 2009 to 2010.
(b) Group insurance increased $888,000 from 2008 to 2009, and an additional $450,000 from 2009 to 2010.
(c) The cost of maintaining patients in psychiatric facilities increased from $220,169 in 2008, to $531,295 in 2010, an increase of $311,126.
(d) Natural gas costs increased by $100,000, from 2008 to 2010.
(e) Worker's Compensation costs increased $90,000 between 2008 and 2010.

Revenues from sources other than real estate taxes decreased approximately $5,600,000 from 2008 to 2010. (C1-1 at paragraph 9). These are the same difficult realities which the State of New Jersey is facing. In C2-11, the State of New Jersey Budget message of March 19, 2010, Governor Christie stated:

> "Today, New Jersey faces perhaps the most challenging budget in our history. The effects of a structural budget deficit and the ongoing national recession have deteriorated our fiscal outlook and produced a $10.7 billion deficit -- over one-third of our projected revenues. Our state continues to grapple with an unemployment rate of nearly 10%, the highest tax burden in the country, and the worst climate for business development in America."

Statutory changes have been made to public employees' benefits and pension programs, including a requirement that all employees must contribute a minimum of 1.5% of salary toward health care costs. Governor Chris Christie will be signing a law putting in place a new 2% cap on municipal tax increases. (Proposed Exhibit C2-41). This cap will force local public officials to make difficult decisions about cutting services and programs. This cap should also result in public employees understanding that they need to moderate pay increase requests and the level of benefits, so that the cap can be complied with. By coincidence, the County's Final Offer to the FOP proposes a minimum 2.5% increase for each employee in each of the years. The cap legislation is an element which should weigh in favor of the County's proposal.

The Hunterdon County Freeholders has engaged in comparable efforts at the County level to reduce costs and spending. In a resolution dated April 14, 2009, the Freeholders acknowledged the crisis and imposed a hiring and promotion freeze. (C1-10). Sixty-five positions have gone unfilled since 1/1/08. (C1-6).

In the 2009 Budget, all Department Heads were directed to submit budgets proposing a reduction of at least 10% in operating costs. In 2010, they were given a directive to submit budgets with an additional 5% reduction. (C1-1 at paragraph 14).

Even with these efforts, it was necessary to find an additional $2.66 million reduction in spending in the 2010 Budget, in order to avoid a tax increase (C1-1 at Paragraph 15). The Freeholders determined that a reduction of $1,000,000 should be made in salaries and wage costs. (See paragraph 16 and 17 of the Finance Department Certification)

COMPARISON OF PROPOSALS

FOP's Final Offer

The FOP proposes a three-year contract. The County agrees. In that three-year contract, the FOP proposes the establishment of a nine-step salary guide. Under that guide, employees would progress to the next step on the guide, based upon a year's experience, without the need for any collective negotiations. 2009 increments in the guide range from a $9,296 annual increase between steps 5 and 6, to a $1,807 annual increase between Probation and Step 1. The average increment is $4,183, or 9.31% of base salary. On top of that, the FOP proposes that each step be increased by 5.5% in 2010 and 5.5% in 2011. This results in an employee receiving not only the increment, but a salary adjustment on top of the increment each year. As a result employees in the unit would receive pay increases of between 47.38% and 77.26% over the three years.

The County has calculated the proposed percentage increases that employees would receive under each year of the FOP's proposal. Each of these salary increases results in totally unrealistic percentage increases. The total additional salary cost to the County of the FOP's proposal for each of the three years is as follows:

2009	2010	2011	Total
$89,599	$107,180	$118,236	$315,015

In addition, the county calculates the cost of the FOP's other economic proposals as follows:

Proposal 5 - increase minimum call in guarantee from 3 to 4 hours - this results in a 25% increase in the County's costs in this area - currently not quantifiable in dollar amount.

Proposal 6 - increase the amount of compensatory time which can be accrued from 40 hours to 120 hours. This will increase the County's overtime costs 300% in order to covering the scheduling of this time. Changing how and when overtime is computed will increase the County's overtime costs by 50% for 2009. This would result in an increased cost of approximately $21,000.

Proposal 7 - would increase the cost of providing coverage on the day after Thanksgiving by 50%.

Proposal 8 - would entitle each officer to "sell back" 35 hours of sick leave annually to the County. The FOP's proposal provides for an average hourly rate of $21.11 in 2009, $ 24.54 in 2010, and $ 28.33 in 2011. (Total annual salaries divided by 15 officers divided by 2080 work hours per year). Therefore this proposal would cost the County $ 11,080 in 2009, $ $12,883 in 2010 and $ 14,873 in 2011. (35 hours pay for each officer)

Proposal 10 - Would cost the County 26 weeks pay for each officer who might be entitled to this increased Workmen's Compensation leave benefit.

Proposal 11 - This would increase the County's cost for mileage by 250% (from $.20 per mile to $.50 cents per mile) in those instances where officers are entitled to it.

Proposal 18 - The cost of providing an on-call officer a yearly vehicle for their own use to take home with a complete police package is $25,000 for the vehicle, $581 for insurance, and an estimated $1,500 for gas dependent on where the officer's home is located.

Proposal 19 - The cost of the longevity package as demanded by the Union would be $4,955 in 2009, $6,296 in 2010, and $10,443 in 2011 as calculated in Attachment 5.
Proposal 20 - The current CBA caps the public's responsibility to contribute toward continuing education to $50 per credit/ $300 per semester. Under the Union's proposal this cost would be unlimited. The cost of providing the "incentive money" would be $ 1,500; $2,000; or $ 2,500 annually as a part of base salary - an approximately 3.42% to 5.69% increase in cost based upon the average annual salary of $ 43,900 under the FOP's 2009 proposal.

The County notes that the parties stipulated that certain items agreed to on March 11, 2009 shall be incorporated into the Award. They are as follows:

1. All references in the Contract to "Department of Personnel" shall be changed to "Civil Services Commission and Merit System".

2. The County agrees to Item 3(c) of the Union's proposals. (Item 3(C) of Union's Final Offer changing reference to "New Jersey State Board of Mediation or Public Employment Relations Commission).

3. The title of Article 23 will be changed to read simply "Discipline".

In addition, the County stipulated its agreement to the following FOP proposals:

1. Proposal 1. All dates to be corrected.

2. Proposal 2. The County has no objection to incorporation of Proposal 2(A)i (Changing title to Civil Service Commission).

3. Proposal 3. The County has no objection to the inclusion of these portions of the Proposal:

    a. Paragraph 3(A) inserting the words "or the Association"

    b. Paragraph 3(C). The County has no objection to changing the reference to "New Jersey State Board of Mediation or The Public Employment Relations Commission."

    c. Proposal 4. The County has no objection to the change of the title to "New Jersey Department of Personnel."

    d. Proposal 23. The County agrees that the Agreement should run through December 31, 2011.

The County is opposed to all of the other FOP proposals.

<u>County's Final Offer</u>

The County's final offer is as follows:

1. The County proposes a three-year agreement covering the period January 2009 to December of 2011.

2. The County proposes wages be established in a manner typical of collective negotiations between the parties going back 15 years or longer. Employees would receive negotiated wage increases for each year of the CBA. The County's proposal to the Sheriff's Officers mirrors the Agreement with the CWA (the County's largest bargaining unit): 1.5% on base deferred in 2009; 1.5% on base in 2010; 2% on base on January 1, 2011; and, 2.5% on base on July 1, 2011.

3. The County proposes that the Correction Officers become a part of the new pay system which was implemented for CWA employees and all unclassified employees on 1/1/10. Under that new pay system:

> "Commencing with the first pay day in 2011, the pay day shall be moved forward one business day and thereafter be moved forward one additional business day every second pay period, until the pay day has moved forward two weeks (10 work days) at which time two weeks pay (10 pay days) has been held back and remains that way thereafter."

This pay system is the same system which has already been implemented for all CWA employees (Rank and File as well as Supervisors), and all unclassified employees in the County. This pay system was negotiated with the CWA as a part of a comprehensive proposal to avoid the implementation of 12 furlough days throughout the County.

This new pay system will result in each officer receiving only 25 pay checks in 2011, rather than 26 which they normally would receive. However, the new system does not result in a permanent loss of pay to the employee. Correction Officers are currently paid up to the date when they receive a pay check. Once an employee is fully integrated into the new system, when an employee receives their pay check, it will be for the pay period ending two weeks prior. When an employee leaves the County employ, they would receive an additional pay check two weeks after their termination, so that there would be no loss in pay. It is important to the County that all employees are integrated into this system. Only members of the law enforcement units, who are either in arbitration or have contracts that have not expired, are not a part of the pay system. There is an expense to the County in operating two pay systems. In addition, the implementation of this pay system in 2011 would effectively result in the County having a cash outlay of 3.85% less in the final year of the agreement.

The savings to the County in cash outlay in implementing this system in 2011, would be $51,884.29 (.0385 x $1,347,644).

The annual and total cost for the County's proposal is:

	2009	2010	2011	Total Cost
	$60,116	$58,334	$39,179	$157,629
Less Payroll System Savings Savings:			-51,884.29	-51,884.29

A Comparison of the County and FOP Proposals

Imposition of a Salary Guide

A critical difference between the FOP proposal and the County proposal is the introduction of the concept of increments, a salary guide. The FOP proposes that an increment system be imposed rather than negotiated within Hunterdon County. Increment systems, having once existed in the County and having been freely bargained out of every CBA by employee representatives, including this one, should not be reimposed involuntarily by the Arbitrator, especially in view of the uncertainty of future budgets and costs.

In the increment system as proposed by the FOP, proposed average increases for employees of $4,183 on average per year (9.3%) are guaranteed in perpetuity. On top of the increment, the Union proposes a 5.5% adjustment to the guide in 2010 and an additional 5.5% in 2011 (average increases of $6,921 per year – 15.32%). (Attachment 2). Thereafter, employees will expect to negotiate salary increases on top of the annual increments. For an Arbitrator to award the implementation of such a system in this economic environment is not appropriate, especially when the trend in New Jersey government is to flatten out the raises and salary increases awarded to public employees, at least until such period of time when the economic situation changes. If salary guides were the only appropriate techniques to compensate public employees, they would be mandated by State regulation. There is no State law that an increment system is compulsory thus the arbitrator should not make an award that reimposes a system that voluntarily ended with the consent of both parties years ago.

The County submits that awarding the FOP's proposal for an increment system will have an adverse impact on bargaining throughout the County.

The County objects to all of the other FOP proposals. The County submits that there has been virtually no discussions of these provisions at the bargaining table, nor was there any live testimony presented as to why these changes are necessary or desirable for this bargaining unit or the County. The FOP in offering these proposals has the burden of proving that they should be included in the Agreement, which burden has clearly not been met. The County offered a comprehensive response on all of the other FOP economic and non-economic proposals which I shall address in the award. The County notes that the total cost of all of the FOP's economic proposal is $521,476 whereas the total cost of the County's economic proposal is $36,677.

Statutory Criteria

The following are the County's arguments and contentions in support of the statutory criteria:

Interests and Welfare of the Public

It is said that the "interest and welfare of the public" require an arbitrator to balance many considerations. One of the considerations is the employer's statutory duty to provide an appropriate level of governmental services in a cost-effective way, taking into account the impact of the costs on the tax rate. It has also been said that a factor is maintaining "fairness to employees", in regard to morale and working conditions in order to promote productivity, efficiency, and the "absence of labor unrest." The present economy creates unusual circumstances. It may not be possible to serve both ends of the scale -- to create an equitable equipoise -- that serves both interests.

The morale and spirit of the public in general has been negatively affected in a significant way by the overall general economic climate. The governors of the States of New Jersey and New York are engaged in significant arguments with their legislatures, employee groups, and various public groups with their own agenda, to find ways to cut costs, particularly salaries and wages, and benefits. Governor Christie proposes that teachers freeze their wages to avoid layoffs. When the NJEA resisted, voters rejected school budgets in significant numbers. (C2-34). In Hunterdon County the majority of school budgets were rejected in this year's elections. (C2-33).

Private industry lays off people in record numbers resulting in an unemployment rate which has hovered around 10% for months. State government imposes furloughs, reduces force, does not refill vacant positions, and cuts back on, or eliminates, promotions.

In Hunterdon County, the Freeholders imposed a hiring freeze and do not fill vacant positions. Approximately 65 jobs have been eliminated since 2008. The Freeholders do not make any promotions. They considered furloughing employees for 12 days per year. (C1-10). After meeting with the CWA, a means to avoid furloughs was developed when the largest employer representative agreed to a three-year settlement with a 1.5% increase in base for the year 2009, which is not paid to the employees (no 2009 cost to the County), a 1.5% increase in 2010, a 2% increase on 1/1/11 and a 2.5% increase on 7/1/11. (An average 2.5% increase for each of three years). However, the 2010 increase is accompanied by an agreement (proposed by the Union to avoid furloughs) where the employees (both in the supervisory and rank and file units) entered a new pay system in 2010. Under that new pay system, employees receive only 25 paychecks in 2010, instead of 26. The additional paycheck is deferred until an employee retires or leaves, the County. This reduces the County's payroll costs in 2010 by 3.85% for these employees. (C1-13 & 14). As a result, the 7.5% cost over three years is cut by more than half to a 3.65% cost for the employer over the three years. (An average of 1.22% per year). This agreement was reached after CWA State officials had the opportunity to examine the County's finances. (C1-8). The CWA concluded that the furlough proposal was not an idle threat. In fact, it is not a threat at all -- but a simple statement of the reality that the Freeholders were facing in this economic climate. In a sense, the bulk of the County employees acknowledged by the settlement, that at this period in time they were fortunate to have a stable position, fortunate to not be laid off or furloughed or have their hours reduced. In a sense, they acknowledged the value of a stable position in public employment in Hunterdon County, accompanied by an exceptional health care plan, life insurance, and a defined benefit pension.

It is acknowledged that this employment reality meant a flattening out of pay rate increases (or in 2009, elimination of them all together). This reality was accepted by hard working and dedicated employees. There is no suggestion that their pay is not earned, nor that public employees in Hunterdon County are not entitled to the compensation they receive. The County did not look for "give backs" or other concessions. It asked simply that wage increases be flattened out until the fiscal crisis passed. The members of the CWA acknowledged that request and voluntarily agreed to the settlement. It is acknowledged that they would have preferred that things would have been different, that their salaries would have been increased more dramatically, that they would have had more disposable income for their families in these hard times, but reality dictated otherwise. There has not been any perceptible decrease in morale as a result.

What is going on in the real economic world should play a critical role in the Arbitrator's Award. It is respectfully suggested that most of the economic factors weigh in favor of the County's proposal. But one should not look solely at statistics or numbers to determine what is logical, makes common sense, and is in the public's interest at this time. Public employees are not being asked to surrender their right to increases in compensation forever. The Arbitrator is not being asked to make that ruling. The Arbitrator is only asked to temper increases for now, flatten them out, assist the taxpaying public. It is in the primary interest and welfare of the public that such moderation occurs at this time. It overrides even other perceived imperatives.

This criterion (a) requires the Arbitrator to consider N.J.S.A. 40A:4-45.1. That statute, in its policy statement, indicates:

> **40A:4-45.1. Legislative policy**
>
> "It is hereby declared to be the policy of the Legislature that the spiraling cost of local government must be controlled to protect the homeowners of the State and enable them to maintain their homesteads.
>
> At the same time the Legislature recognizes that local government cannot be constrained to the point that it is impossible to provide necessary services to its residents."

The legislative policy emphasizes the fact that "spiraling costs" must be controlled. This can only be done if salary awards to public employees are set at realistic levels given the economic climate.

Hunterdon County Sheriff's Officers have lived from January 2009 through July 2010 without a salary increase. They have not left County employment in droves. There are virtually no jobs to look for or accept elsewhere. The County notes that officers laid off in Passaic County have sought and been appointed to positions in Hunterdon County. (C2-43).

In addition, the award of the FOP's proposal imposing a salary guide would have a drastically negative impact on labor relations throughout the County, and on the morale of other employee units. As the testimony and Certifications reflect (Exhibit C1-12; plus the testimony of George Wagner), all bargaining units in the County, including the CWA and all law enforcement units, formerly had salary guides in their contracts. Each labor union voluntarily agreed with the County to eliminate those guides in return for concessions the County chose to provide in the years the guides were voluntarily removed. The County's motivation for the removal of the guides was that they created unreasonable pay increase expectations which the County could not financially meet in certain years. From the County's perspective (and all employee units voluntarily concurred), it would be best to negotiate true pay increases each year, based on what was fair for employees and what the County could afford. This concern was acknowledged and agreed to even by law enforcement units who had at that time binding arbitration as the final step of the negotiation process. If maintaining salary guides was critically important to employee morale, or the workplace in Hunterdon, the law enforcement units which voluntarily conceded their elimination could have forced the issue at that time into arbitration. It is reasonable to predict that the County would have had a difficult time back then meeting its burden of proof by asking an Arbitrator to award elimination of the salary guides, particularly when they are common place in other units throughout the State. This is one example of how voluntarily negotiated provisions are important and should not be disturbed from the outside, except in dire and compelling circumstances. To a certain extent, individual counties must be free to establish labor relations standards and patterns which work for them and their employees, even if they are not the same as in other public entities.

Contracts without salary guides have worked well in Hunterdon County, having been voluntarily accepted by all employee units. Once voluntarily eliminated, an Arbitrator should not involuntarily reimpose them, especially at the time when public employers are concerned about their ability to deal with increasing labor costs in the future, in light of economic conditions. Since labor stability and employees' moral are an important part of this criterion, the County respectfully suggests that the imposition of a salary guide system for one set of employees will wreak havoc on the County's relationship with all of the other units, and lead to years of frustrating negotiations and countless arbitrations over the issues of the reestablishment of salary guides. This will occur at the time when the County does not have the money to fund their reimplementation in the future. The continuing, frustrating arguments over the implementation of salary guides which would occur as a result, plus the fiscal stress resulting from their imposition, is not in the best interest of the public.

The County asserts that its proposal is fair and the interests and welfare of the public criterion weighs heavily in its favor.

1. The Freeholders acknowledge that they can pay the amount set forth in their proposal without increasing taxes. The decision to maintain a flat tax rate, is a public policy decision for the elected officials to make. The arbitrator should not disturb that by imposing an award, based upon a value judgment that the taxpayers might be able to afford a tax increase.

2. The Freeholders' proposal is reasonable in the present economic climate.

3. The Freeholders' proposal, while fair to employees, would not make the public feel that its interests are not being served by their representatives, or that public employees are class privileged beyond private employees.

4. The Freeholders' proposal should not unduly affect morale since Sheriff Officers can understand that they are being paid comparably to their fellow County employees, but being treated as their own unique unit, in light of the additional compensation being offered to the employees with less time in each.

5. The imposition of a salary guide will create employee unrest throughout the County since no other bargaining unit has such a pay system. There is no factual basis, nor any testimony, to project that the cost of maintaining a salary guide in future years will be

affordable for the County. There has been no testimony as to the compelling need to alter bargaining practices in Hunterdon County to implement a guide at this time.

Comparison of Wages and Salaries with Other Employees in Public Employment

The County argues that a comparison of Hunterdon County pay rates for Sheriff Officers to the specific pay rates for the position in other counties should not be given significant weight. Hunterdon County has historically been in the lower 40% to 33% of salary pay rates for corrections officers throughout the State. The County's position is that irrespective of any comparison, this is not be the year to attempt to make any "corrections" to the County's pay scales to provide any perceived "adjustment" based upon comparability.

The County's present pay scales for Sheriff's employees were freely and fairly bargained for and voluntarily arrived at. Comparisons are often in the "eye of the beholder." There are factors which influenced Hunterdon Sheriff's Officers to previously accept the rates at which they are paid. Those factors might be the work environment in Hunterdon County, and the fact that working as a Sheriff Officer in Hunterdon does not involve possible assignment to work at the Jail. If the pay scales in Hunterdon are totally inadequate, what would motivate Officer Winfield, who testified at the hearing to transfer from work at the Hunterdon County Jail to the Sheriff Officer position with a decrease in pay?

What is more important in this arbitration is to consider the relative relationship of Sheriff's officers to their fellow employees in the County. The representatives of each bargaining unit in the County are aware of the negotiated settlements which have been reached with the other units in the County. They have sought, and have been granted or compromised on, salaries which for years have been negotiated based upon their relationship with other titles which may exist in other bargaining units. The FOP has not furnished any basis in the record for an assertion that there must be an adjustment in the pay rates of Sheriff's Officers due to some aberration which has arisen because of the voluntary settlement with some other bargaining unit.

The County argues that it is important for the arbitrator to recognize the 7.5% pattern which has developed in the County for settlements with other unions and the adjustments in pay rates made for unclassified and other non-unionized employees.

The key comparison that should be most influential is whether Sheriff's officers are being treated fairly in relationship to other bargaining units in the County. They clearly are, given all the factors. While PERC statistics may disclose that 2009 salary settlements for public employees averaged closer to 3.5%, those charts do not reflect whether or not those settlements resulted in the need for employee layoffs, which are being avoided in Hunterdon County; and those statistics do not include more recent settlements negotiated after the financial crisis was fully understood or felt.

Clearly, the comparability criteria, given the fiscal crisis in New Jersey, weigh in favor of the County. The County's proposal for Sheriff's Officers compensates them comparable with the CWA, which represents the bulk of County employees. There is no basis for concluding that additional adjustments are warranted based upon the comparability factor.

C2-8, (Attachment 3), lists total compensation received by each Sheriff's officer in 2009. It displays that Sheriff's Officers have the opportunity for overtime. Total cost to the County for salaries and wages equaled $590,267. To that must be added fringe benefits of 57.64% for 2009 and 68.68% for 2010 (C2-7). The County's proposal including the costs of fringe benefits would add another $36,676 to County costs, even after the credit for participation in the new pay system. If the Union's proposal were awarded, the County's cost would increase by an additional $484,799 over three years, not taking into consideration the tens of thousands of dollars of increased benefits in addition to salary the FOP seeks. Since the FOP's proposal would result in an excessively high base for the majority of employees going into 2012, the costs of both payroll and fringe benefit are compounded going into the future. The significant difference in cost weighs in favor of the County.

Lawful Authority

The record does not suggest, nor does the County contend, that any award by the arbitrator in excess of the County's proposal would result in a violation of the County's CAP. This presentation has previously articulated the extensive efforts which the County has undertaken to cut costs to stay below its cap and not raise property taxes. In addition, it should be noted that the "cap" is not a suggestion for increased spending, but a limitation on it. Reductions which the Freeholders make in other programs or spending are not meant to create funds in order to pay employees in certain departments raises a more generous than employees in other areas. A good rule to apply in this setting would to be to analyze the Freeholders' proposal in terms of the percentage increase on the tax rate that the law provides, essentially 2.5%. The County's proposal is consistent with the CAP, now to be reduced to 2% for future years.

The fact that awarding the FOP's proposal would not result in the County exceeding its cap, should be given little or no weight in view of the fact that the County was forced to reduce its spending in other areas and the "cap" is not a suggestion for increased spending, or for salary increases, but a limitation on increase.

The Financial Impact on the Governing Unit, its Residents and Taxpayers

The County has cited the impact of a number of factors on the County's spending and budgetary plans. Programs have had to have been eliminated or reduced. In order to maintain a stable tax rate, without increases, the County was forced to reduce its budgetary spending by over $2,600,000, between 2009 and 2010. The Union may argue that the additional spending required by its Final Offer should be absorbed by the County in some way, shape or form; perhaps utilize its budget cap and raise taxes. Perhaps it will argue that the County should use some portion of its surplus to fund the requested increases. It is respectfully argued that the Arbitrator should not make an award based upon either procedure.

First, as discussed above, the decision to maintain a stable tax rate in this environment is one for the Freeholders, as the elected officials of the County, to make. Further pay increases should not be awarded on the assumption that taxes should be raised. In regard to the surplus, the County's surplus has decreased dramatically from 2007 when it was $40,550,034, to 2010 where it is only $29,254,860.10 (a reduction of over $11,000,000 and approximately 25% in only four years). It is respectfully suggested that the Arbitrator should not make a decision that would further reduce the County's surplus. Neither the Arbitrator, nor the FOP, will be responsible for the results should such a decision create complications or promote a fiscal crisis in the future. The Freeholders, as the elected officials, are responsible for their current decision to reduce surplus and will have to be accountable to the public.

a) This criterion weighs strongly in favor of the County's proposal, since there is no evidence in the record that the taxpayers are able to sustain a further tax increase, to fund Sheriff's Officers' raises.

b) There is no basis to assume that further reductions in spending in other areas should be implemented in order to fund Sheriff Officers' salaries the County having already reduced spending by over $2,600,000.

c) The decision to reduce further an already depleted surplus rests solely with the Board of Chosen Freeholders under their statutory authority.

Cost of Living

The consumer price index ("CPI"), as published by the US Department of Labor, Bureau of Labor Statistics ("BLS"), for the New York -- Northern New Jersey, increased annually by 2.2% for the period ending May 2010. For the calendar year 2009, the CPI decreased -0.5% (C2-22). The CPI has not experienced an average annual decrease since 1955. Thus, 2009 was the first time in the past 55 years that the CPI has fallen annually.

Therefore, this factor weighs heavily in favor of the County and the increases which the County proposes are substantially the above the increase in the cost of living.

Continuity and Stability of Employment

This factor also weighs in the County's favor. Hunterdon has been able to maintain jobs and avoid furloughs. In return, it offers an average annual 2.5% salary increase. Other counties guarantee neither. Two Sheriff Officers were hired in this Sheriff's term in office from Passaic County where they had been part of a massive layoff. The County notes that criterion (9) has been addressed in the discussion of criteria (1), (5), and (6).

For all of the reasons set forth above, the County asks that its Final Offer be awarded in its entirety.

Discussion

The parties presented testimony and more than 120 documentary exhibits totaling thousands of pages in support of their last offers. I am required to make a reasonable determination of the issues, giving due weight to the statutory criteria which are deemed relevant. Each criterion must be considered and those deemed relevant must be explained. The arbitrator is also required to provide an explanation as to 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 considered, although the weight given to each factor varies. I have discussed the weight I have given to each factor. I have determined the total net economic annual changes for each year of the agreement in concluding that those changes are reasonable under the criteria.

I will set forth the award at this time so that, in discussing the evidence and applying the statutory criteria, the terms of the award will be the reference point. This will allow the reader to follow the analysis which led to the award. The parties related the evidence and arguments regarding the statutory criteria primarily to their own last offer and to the last offer of the other party. I will not do so because, in this conventional proceeding, the terms of the award will be the reference point rather than the parties' last offers. Conventional arbitration is a more flexible process which grants the arbitrator broad authority to fashion the terms of an award based on the evidence without the constraint of selecting any aspect of a final offer submitted by the parties. The prior statute required the selection of 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 showing a need for such change. I shall apply this principle to all new proposals. The following are the terms of my award:

1. I shall award a three-year agreement in accord with the parties' stipulated agreement. The duration of the new three-year agreement shall be January 1, 2009 to December 31, 2011.

2. I shall award the County's proposal regarding "Change in Pay Dates." This shall be effective as soon as practicable.

3. I shall award a salary schedule with incremental steps.

4. I shall incorporate the parties' stipulated agreements in the award.

5. All other proposals of the County and the FOP are denied.

Cost of Salary Proposals

The current bargaining unit (at the close of the record) includes 15 officers. C2-5 shows the annual salaries for the 15 officers employed at the close of the record. The total annual base pay salary (excluding longevity) is $568,900 for 15 officers. I arrived at the $568,900 base salary after reviewing County exhibits C2-5 and C2-8. The following calculations do not 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 County's proposal is a simple calculation. The County's 1.5% increase in 2009 is not effective until January 1, 2010. This means that the true cost of the additional 1.5% increase effective January 1, 2010 is 3% above the base salary of $568,900. This costs $17,067 bringing the total base salary in 2010 to $585,967. The County's 2% salary increase effective January 1, 2011 costs $11,719 bringing the base salary to $597,686. The County's 2.5% salary increase effective July 1, 2011 adds an additional $14,942 to the total base salary but only costs the County $7,471 in Calendar Year 2011. Thus, the total cost of the County's salary proposal in 2011 is $19,190. This is equivalent to a 3.25% salary increase in 2011. The County's proposed hold-back in 2011 would save the County 3.85% resulting in a net reduction in salary in 2011 of 0.6%. The total increase in base salary is 7.5% for 2009, 2010 and 2011.

The FOP's proposed salary schedule costs $658,490 in 2009. This is an increase of $89,590. This represents a 15.75% increase in salary in 2009. The FOP's proposed salary schedule costs $765,671 in 2010. This is an increase of $107,180. This represents a 16.27% increase in salary in 2010. The FOP's proposed salary schedule costs $882,112 in 2011. This is an increase of $116,441. This represents a 15.2% increase in salary in 2009. The total increase in base salary is 47.2% for 2009, 2010 and 2011. The FOP has other economic proposals which would increase the three-year total increase to more than 50%.

The total cost of the awarded salary schedule in 2009 is zero. This is effectively a 0.0% increase in salary from 2008 to 2009. The awarded salary schedule in 2010 costs an additional $39,400. The total cost of the awarded salary schedule in 2010 is $608,300. The awarded salary schedule in 2011 costs $36,500. The total cost of the awarded salary schedule in 2011 is $644,800. I awarded the County's proposal for a salary hold-back in 2011 which saves the County $24,825.

<u>Interests and Welfare of the Public</u>

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 amended statute specifically requires the arbitrator to consider the CAP law in connection with this factor. I have considered and fully discussed the relevance of the CAP law in the section on Lawful Authority but at the outset it is sufficient to state that the award will not cause the Township to exceed its authority under the CAP law. The award can be funded without the Township exceeding its spending authority.

The interests and welfare of the public require the arbitrator to balance many 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. The work of a Sheriff's Officer is undeniably and inherently dangerous. It is stressful work and is clearly subject to definite risks. Sheriff's Officers are certainly aware of this condition of employment. This is a given which is usually balanced by the appropriate level of increases in compensation to be received by a Sheriff's Officer from one contract to the next.

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

> "The arbitrator is required to strike an appropriate balance among these competing interests. This concept has been included in the policy statement of the amended interest arbitration statute. N.J.S.A. 34:13A-14 refers to the 'unique and essential duties which law enforcement officers . . . perform for the benefit and protection of the people of this State' and the life threatening dangers which they confront regularly. The arbitration process is intended to take account of the need for high morale as well as for the efficient operation of the department and the general well-being and benefit of the citizens. The procedure is to give due respect to the interests of the taxpaying public and to promote labor peace and harmony." (In the Matter of the Borough of Cliffside Park and PBA Local 96, PERC Docket No. IA-98-91-14, page 45.)

I shall now discuss the issues with respect to the interests and welfare of the public factor.

Term of Agreement

I shall award a three-year agreement in accord with the parties' stipulated agreement. The duration of the new three-year agreement shall be January 1, 2009 to December 31, 2011.

Salary and Salary Schedule

The major issue in this case is FOP Lodge 94's proposal to establish a salary schedule with annual increments for Sheriff's Officers. I also served as the arbitrator in the Correction Officer bargaining unit represented by FOP Lodge 29. I issued my award in the Lodge 29 matter on October 31, 2009. (*County of Hunterdon and Hunterdon County FOP Lodge 29,* PERC Docket No. IA-2009-067). The major issue in the Correction Officer case, as in this case, was FOP Lodge 29's proposal for a salary schedule with annual increments. The County opposed the FOP Local 29's proposed salary schedule as it is now opposing FOP Local 94's proposed salary schedule. I awarded a salary schedule with annual increments and awarded the County's proposal for the 3.85% salary hold-back in 2011. The award was appealed by the County and is now before PERC for a decision.

I note this background because the evidentiary record and the parties' arguments in this matter are very similar to the evidentiary record and the parties' arguments in the Correction Officer case. The County's arguments in this matter are fully consistent (as they should be) with its arguments in the Correction Officer matter. FOP 29 has also put forth arguments on behalf of the Sheriff's Officers that are consistent with the arguments put forth by FOP 94 in the Correction Officer matter. I provide this background because my analysis will be similar to the analysis in the Correction Officer matter. This is to be expected given the similarity in the evidentiary record and the parties' arguments and the need to maintain uniform terms and conditions of employees amongst County public safety employees.

The evidence in the record establishes that all other Sheriff's Officer bargaining units in the State have what is commonly known as an incremental salary schedule. This is the standard method of payment for all other county Sheriff's Officers. This is a term and condition of employment received by all other Sheriff's Officers. While I am discussing the incremental salary guide issue under the *interests and welfare of the public* criterion, other criteria also favor its inclusion in the new CBA. The second criterion, (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) supports the awarding of a salary schedule. The County bears a heavy burden in convincing an arbitrator that a term and condition of employment enjoyed by thousands of other Sheriff's Officers throughout the State should be denied to its Sheriff's Officers. In addition, the incremental salary schedule is the standard form of compensation for all other public safety officers in the State. This grouping includes municipal Police Officers, County Correction Officers, Firefighters, Prosecutor's Detectives, and other County and State police bargaining units.

The eighth criterion (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) supports the awarding of a salary schedule with incremental steps.

U-2 is an exhibit showing the status of the 109 Sheriff's Officers who left the Sheriff's Office between 1996 and October 2008. None of these 109 Sheriff's Officers are currently assigned to the Sheriff's Office. In the twelve-year period between 1996 and 2008, 18 Sheriff's Officers retired or deceased; 20 Sheriff's Officers were fired or quit; and 71 Sheriff's Officers left the Sheriff's Office for other public safety positions including State Police and municipal police departments. All of the 71 Sheriff Officers that left for other public safety positions received salaries on a salary schedule with annual increments. This means that 91 of 109 Sheriff's Officers (85%) employed between 1996 and 2008 (excluding retired and deceased Sheriff's Officers) have either been fired, quit or taken positions in other public safety departments. It is undisputed that this bargaining unit experiences a very high turnover rate.

The County hired 32 Sheriff's Officers during the five-year period from 2000-2005. Only four of the 32 Officers are now employed by the County. (U-34A). This is virtually identical to the experience with Correction Officers. The County hired 36 Correction Officers during the five-year period from 2000-2004. At the end of 2004, only three out of the 36 Correction Officers were on the County payroll.

The County, in the Correction Officer matter, relied on the testimony of George Wagner, Director of Public Safety. Wagner also testified in the Sheriff's Officer case. In the Correction Officer case, Wagner testified that the County's compensation model relies on paying less compensation as an Officer becomes more senior and that Officers with more seniority would receive "less of a raise" than junior Officers. As I stated in the Correction Officer case, the County's compensation model is unique to Hunterdon County and is completely at odds with all other compensation models throughout the State. The County's model values inexperience over experience thus encouraging high turnover.

High turnover produces a continuing spiral of recruitment and training resulting in a significant number of inexperienced Sheriff Officers. The *interests and welfare of the public* criterion favors a low turnover rate with a stable workforce. This is important in all work environments but it is particularly important in a Courthouse facility with the need to maintain the highest levels of safety and supervision. Highly trained and experienced Sheriff's Officers are important to maintaining these high standards of safety and supervision. I have served as interest arbitrator in many other Sheriff's Officer and Correction Officer bargaining units including Burlington, Middlesex, Monmouth, Morris, Mercer, Passaic, Union, Warren, Sussex, Ocean, Cape May, Atlantic, Somerset and Essex. In many of these counties, I have served multiple times. In a number of these cases, I assisted the parties in their mutual efforts to reduce the high turnover rates they were experiencing. One of the common elements in all of these cases which contributed to a significant reduction in these high turnover rates was the establishment of an incremental salary schedule.

The following is an excerpt from an interest arbitration award that I issued in a matter involving Burlington County and its Correction Officers:

> The parties agree that the single most important issue in this matter is the high turnover rate and the need to improve the terms of conditions of employment of Correction Officers. This issue is paramount to *the interests and welfare of the public*. Recruitment and retention of Correction Officers have been a serious problem in Burlington County during the last decade. Evidence in the record shows that 481 Correction Officers were hired between 1990 and 2000. As of November 1, 2001, only 149 of the original 481 were still serving as Correction Officers. (P-3). This is a 69% turnover rate. Training Correction Officers is justifiably an expensive proposition. It is exceedingly expensive when you have a 69% turnover rate.
>
> High turnover produces a continuing spiral of recruitment and training resulting in a significant number of inexperienced Correction Officers. The parties agree that is in the best interests of the County and the PBA (and certainly *the interests and welfare of the public*) to reverse the high turnover rate and stabilize the workforce. This is important in all work environments

> but it is particularly important in a correctional facility given the inherent dangers of the job and the need to maintain the highest levels of safety and supervision. Highly trained and experienced Correction Officers are the keys to maintaining these high standards of safety and supervision. Both the PBA and the County have submitted proposals intended to reverse the high turnover rate and provide a better salary structure as well as better working conditions. Their salary proposals are similar in form with both proposing a reduction, compression and combining of steps.
>
> The County's format in 2001, which I have adopted in my award, provides for significant salary increases for 187 of the 217 bargaining unit members moving through the steps. It is substantially more than any other comparable correction bargaining units with the exception of other counties that have experienced similar problems with recruitment and retention. Monmouth County and Atlantic County experienced retention problems similar to Burlington County. Both counties made major revisions in salary schedules with equivalent significant salary increases in order to reverse high turnover rates and high training costs. These increases will contribute greatly to reversing the County's high turnover rate.
>
> The County's proposal is an aggressive effort to reverse the 10-year trend of high turnover. The County fully recognizes that a major improvement in salaries for Correction Officers moving through the salary schedule will dramatically improve the likelihood of retaining these junior Correction Officers. (*County of Burlington and Burlington County Correctional PBA Local 249*, PERC Docket No. IA-2001-60, at 87-89, issued September 30, 2002.)

The following is an excerpt from the terms of a *Recommended Settlement* accepted by the parties in a matter involving Warren County and its Correction Officers:

> The parties agree that the single most important issue in this matter is the high turnover rate of Correction Officers and the need to improve the salary structure for Correction Officers. This issue is paramount to *the interests and welfare of the public*. Recruitment and retention of Correction Officers is a serious problem in Warren County as evidenced by the large number of Correction Officers on Steps 1-4 on the 2002 Salary Guide. The 2002 data shows fifty Correction Officers on various steps of the 2002 Salary Guide. Thirty-five of the officers are on the first four steps of a twelve-step salary guide. The salaries of these thirty-five officers range from $26,288 to $30,232. There are only five officers on the top three steps. There is clearly a high incidence of turnover. This turnover creates a continuous need to train newly hired officers. Training Correction Officers is justifiably an expensive proposition. It is exceedingly expensive when you have a high turnover rate. High turnover produces a continuing spiral of recruitment and training resulting in a significant number of inexperienced Correction Officers. The parties agree that is in the best interests of the County and the FOP (and

> certainly *the interests and welfare of the public*) to reverse the high turnover rate and stabilize the workforce. This is important in all work environments but it is particularly important in a correctional facility given the inherent dangers of the job and the need to maintain the highest levels of safety and supervision. Highly trained and experienced Correction Officers are essential to maintaining high standards of safety and supervision.
>
> The FOP and the County recognize the need to reverse the high turnover rate and provide a better salary structure with a career path to maximum. The current salary guide is not an automatic incremental step guide. It does not provide a career path to maximum. The County and the FOP recognize the need to set up a true automatic incremental step guide with guaranteed incremental step movement from year-to-year with a career path to maximum. This is the norm in all other county Correction Officer contracts in the State. It is also the norm for Correction Officers employed by the State of New Jersey and nearly all municipal police departments within the State. The FOP and the County also recognize the need to reduce the number of steps. Accordingly, I recommend the implementation of the following automatic incremental step salary schedule. (*County of Warren and FOP Lodge 71*, PERC Docket No. IA-2003-042, at 4-5, issued on March 23, 2003).

The FOP, in its brief noted the decision of Arbitrator Mastriani in *Monmouth County Sheriff and PBA Local 314*, P.E.R.C. Docket No. I.A. 2002-061 (2003). Arbitrator Mastriani stated: "the record reflects that there has been turnover in the Sheriff's Office and the interests and welfare of the public are served by a stable and well-trained workforce and the continuity and stability of employment will be enhanced as a result of the salary guide compression and increase in salary maximums."

I served as the arbitrator in the Monmouth County Correction Officer case for the same time period that Arbitrator Mastriani issued his award in the Sheriff's Officer case cited above. The major issue in the Correction Officer case (and the Sheriff's Officer case) was the extremely high turnover experienced by the County. The County solved this by voluntarily negotiating a salary schedule with annual increments and a more competitive maximum salary.

As I discussed above, an incremental step salary schedule is a common element in all County Sheriff's Officer bargaining units. As discussed above, other counties experienced high turnover rates in the past and recognized the problems and high costs associated with the continued recruitment and training of new Sheriff's Officers. These costs are not just the costs attributed to the training of new Sheriff's Officers. There are also potential costs attributable to a Sheriff's Department with a significant number of inexperienced Sheriff's Officers. The high cost of training and uniforms for these officers no longer employed by the County must be measured against the cost of maintaining a stable work force. As stated above, a stable work force is important in all work environments but it is particularly important in a Courthouse given the inherent dangers of the job and the need to maintain the highest levels of safety and supervision. Highly trained and experienced Sheriff's Officers are essential to maintaining high standards of safety and supervision.

The FOP cites memoranda issued in August 2004 by then Sheriff William D. Doyle concerning the Sheriff's Office's inability to retain younger officers stating:

> "The main reason given by personnel who leave this Office and go to another Police agency is the low salaries, career enhancement and the desire to work in a patrol environment." . . . . Almost without exception, the Officers that have left before their contract expires, left first because of financial hardship and secondly because of perceived chance to improve their career opportunities." (U-1).

The FOP pointed out that Sheriff Doyle made an effort to reopen the FOP contract in 2004 in order to raise salaries. (U-34D).

I find that the County's current compensation model, similar, if not identical, to the compensation model in the Correction Officer bargaining unit, is designed to encourage Hunterdon County Sheriff's Officers to seek employment in other law enforcement jurisdictions by not providing a competitive salary as its Sheriff's Officers attain experience on the job. This is inconsistent with the state-wide norm for compensation of Sheriff's

Officers and other law enforcement officers. In addition, it fosters a continuing spiral of turnover thus creating a workforce which is less experienced than other Sheriff Departments throughout the State. This model of not valuing experience has the potential of undermining the County's mission. As stated above, experienced employees are important in all work environments but it is particularly important in a Courthouse given the documented history of violence in Courthouses around the nation. Highly trained and experienced Sheriff's Officers are essential to maintaining these high standards of safety and supervision.

Accordingly, for all the above reasons, I shall award the implementation of a salary schedule. I note that the FOP's proposed salary schedule is deficient in many aspects. First, it is too costly. A nearly 50% increase in salary over three years is not reasonable in any time period but is particularly unreasonable in the current economic times. Second, as I have stated in many recent awards, I believe that salary schedules must include additional steps. Salary schedules that allow movement to the maximum step in six or seven years will eventually undermine the ability of the parties to negotiate salaries for maximum step Sheriff's Officers since a significant expenditure of available funds will be needed to pay less experienced officers. Additional steps must be added to current salary schedules to ensure that experienced officers continue to receive competitive salary increases. This need also applies to new salary schedules. Ignoring this issue will create serious problems for the parties in future negotiations.

Accordingly, I shall award a salary schedule that is nearly identical to the salary schedule I awarded in the Correction Officer bargaining unit. The starting salary, the number of steps and the maximum salary shall be identical. I have modified certain interior steps to ease the County's cost in implementing the new salary schedule. As stated above, this result is logical and consistent given the similarity of both the evidentiary record and the parties' arguments and the need to maintain consistent terms and conditions of employees amongst County public safety employees.

STEP	**2009**	**2010**	**2011**
11	57,500	58,500	60,000
10	54,000	54,000	55,500
9	51,000	51,000	51,000
8	48,500	48,500	48,500
7	46,500	46,500	46,500
6	42,500	42,500	42,500
5	40,500	40,500	40,500
4	37,900	39,000	39,000
3	35,500	37,500	37,500
2	33,150	33,150	33,150
1	31,600	31,600	31,600

Effective January 1, 2009, Sheriff's Officers shall be positioned on the salary schedule at the Step that corresponds to their actual salary. If an Officer's actual salary is not on the salary schedule, such Officer shall be slotted on the Step which reflects the nearest, higher salary. The four Officer earning $33,150 in 2009 shall be placed on Step 2 with a salary of $33,150; the five Officers earning a salary of $37,900 in 2009 shall be placed on Step 4 with a salary of $37,900; the three Officers earning a salary of $39,100 in 2009 shall be placed on Step 5 with a salary of $40,500; the one Officer earning a salary of $40,500 in 2009 shall be placed on Step 5 with a salary of $40,500; the one Officer earning a salary of $42,500 in 2009 shall be placed on Step 6 with a salary of $42,500; and the one Officer earning a salary of $46,500 in 2009 shall be placed on Step 7 with a salary of $46,500. No Sheriff's Officers will receive a salary increase in 2009 regardless of their placement on the salary schedule in 2009.

All officers slotted on the 2009 salary schedule shall move to the next higher step on January 1, 2010 and January 1, 2011 and will continue to move up one (1) additional step on the salary schedule on January 1st of each succeeding year until the officer reaches the maximum step on the salary schedule. All Sheriff's Officers hired on or after January 1, 2011 shall, after initial placement, move up one step on the salary schedule on their anniversary date in each succeeding year of employment. As stated above, I have denied the FOP's proposed salary schedule because of the nearly 50% salary increase over three years. The County's salary proposal provides for a 1.5% salary proposal in 2009. However, it has no cost since it is not effective until January 1, 2010. The award provides no salary increase in 2009. In 2010, the County's salary proposal, effectively 3% effective January 1, 2010, costs $17,067. The cost of the awarded salary increases in 2010 is $39,400. In 2011, the County's salary proposal increases the salary base by $26,600. The cost of the awarded salary increases in 2011 is $36,500. However, the actual cost to the County is $19,262 since the 2.5% salary increase effective July 1, 2011 is only paid for the last six months in 2011. The "roll-over" cost to the County of the 2.5% salary increase in 2012 is $7,471. I awarded the County's salary hold-back in 2011 which saves the County $23,420 in 2011 and 2012.

I note that the County made a significantly higher salary proposal in the Correction Officer case. The average salary in the Correction Officer bargaining unit in 2009 was $37,900. The average salary in the Sheriff's Officer unit in 2009 is coincidently also $37,900. In this case, the County proposed the same salary increase (7.5% for three years) as the salary increase negotiated in the CWA bargaining unit. Yet, in the Correction Officer bargaining unit, the County proposed salary increases of 5.2% in 2009, 4.9% in 2010 and

3.1% in 2011. This is a total increase of 13.2%. (*County of Hunterdon and Hunterdon County FOP Lodge 29,* PERC Docket No. IA-2009-067, at 69, issued October 31, 2010). I note this to point out that if the County had made a similar salary proposal to the Sheriff's Officers that it made to the Correction Officers, the cost would be close to the actual cost of the awarded salary increases. The County made virtually identical arguments in opposition to the implementation of a salary schedule with automatic increments for both Correction Officers and Sheriff's Officers but it chose to submit a much lower salary proposal. The 7.5% salary increase is actually much less if you factor in the lack of retroactivity in 2009 and the 3.85% hold-back in 2011-2012. The implementation of the County's 7.5% salary proposal would only further exacerbate the recruitment and retention problems that the County has experienced for more than ten years.

In addition, there is a cost to the County in 2012 when the current Sheriff's Officers move up one additional step on January 1, 2012. The cost of the increments in 2012 (assuming no turnover) is $41,000. The cost of the awarded salary increases is $39,400 in 2010 and $36,500 in 2011. Thus, the salary base at the end of 2011 will be $75,900 higher than the salary base in 2008 and 2009. The County's 7.5% salary proposal would increase the salary base at the end of 2011 by $43,728. However, if the County had proposed the same salary increase to the Sheriff's Officers as it did for the Correction Officers, the salary base at the end of 2011 would have increased by $29,583 in 2009, $29,326 in 2010 and $18,553 in 2011 for a cumulative increase of $77,462. This is $1,542 more than the cost of the award.

Also, the cumulative cost of the County's salary proposal in the Correction Officer case exceeded the cumulative cost of the awarded salary schedule since I delayed the implementation of the salary schedule until 2010 and essentially froze salaries in 2009. The delayed implementation allowed for a financially sound transition to a salary schedule by keeping the cost of the salary schedule within the cost the County had proposed in its own salary proposal. Again, since I have patterned the outcome of the Sheriff's Officer case on the outcome in the Correction Officers case given the virtually identical evidentiary records, it is reasonable to apply the same financial analysis.

Thus, if the County had made the same salary proposal to the Sheriff's Officers as it did in the Correction Officer case, the cumulative cost would be $165,954 ($29,583 in 2009, $58,652 in 2010 and $88,749 in 2011). The cumulative cost of the award is $115,300 (zero in 2009, $39,400 in 2010 and $75,900 in 2011). The cumulative cost of the award is more than $50,000 less than what the County's cumulative cost would be if it had offered the same annual percentage rate increases to the Sheriff's Officers that it offered to the Correction Officers. The cost of the increments in 2012 (assuming no turnover) is $41,000. Thus, the cumulative cost is less than the $165,954 even when the cost of the 2012 increments is included.

I have compared the cost of the award to both the County's final offer of 7.5% and what it offered in the Correction Officer case (13.2%) because as stated many times above, I have patterned the outcome of the Sheriff's Officer case on the outcome in the Correction Officers case given the virtually identical evidentiary records. The County could have made the same proposal to the Sheriff's Officers that it made to the Correction Officers. After all, that is the norm in all negotiations and arbitration matters. Employers make similar, if not identical proposals to comparable employee groups. County Correction Officers and County Sheriff's Officers are in almost all instances paid similar, if not identical salaries, within their own counties. There is no basis to make any distinction between a Sheriff's Officer and a

Corrections Officer nor has the County sought to make any such distinction in this matter. Since this is a conventional arbitration matter, the County is free to make any salary proposal knowing that an arbitrator must "decide the dispute based on a reasonable determination of the issues."

Comparison of The Wages, Salaries, Hours and Conditions of Employment

Comparisons of the wages, salaries, hours and conditions of employment of the County's Sheriff's Officers are to be made with other employees performing similar services as well as with other employees generally in the following three groups: 1) in private employment in general, 2) in public employment in general, and 3) in public employment in the same or similar jurisdictions.

It is well established that there are no easily identified private sector police officers who perform services similar to those performed by County Sheriff's Officers. Neither party submitted salary data on this sub-factor since none exists. A Sheriff's Officer position is a uniquely public sector position that does not lend itself to private sector comparisons.

The County and the FOP agree that there are no private sector comparisons. I agree with the analysis of Arbitrator William Weinberg that comparisons to the private sector are difficult because of the unique nature of law enforcement:

> . . . 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 for 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. (*Village of Ridgewood*, PERC Docket No. IA-94-141 at 29-31).

There is no data in the record to evaluate the comparison to other employees performing the same or similar services in private employment. I have given this sub-factor no weight.

The second part of this sub-factor requires a comparison with other employees generally in private employment. Neither party emphasized private employment comparisons. I take arbitral notice that the awarded salary increases are below average salary increases in private employment in 2009 and higher in 2010 and 2011. I note that the County's salary proposal is similar to private employment salary increases in 2009 and 2010 and below the average increase in 2011 given the off-set from the salary hold-back. I conclude that the awarded salary increases, while higher than private employment salary increases in general, are acceptable when measured against the totality of the terms of the award and the unique history of exceedingly high employee turnover and the County's inability to retain Sheriff's Officers. This sub-factor is not entitled to significant weight.

The next comparison is with public employment in general. Neither party submitted any salary data on public employment in general. I have served as a mediator, fact-finder and interest arbitrator (binding fact-finding) in many cases involving other public sector employees; i.e., school district employees and non-police municipal and county employees. A review of this salary data shows that the average annual salary increases in public employment in general are above the frozen salaries in 2009 and below the awarded salary increases in 2010 and 2011. The impact of the awarded salary increase in 2011 is offset by the 3.85% savings to the County from the salary hold-back. This sub-factor is supportive of the awarded salary increases which are higher than the County's salary offer but fully consistent with the salary schedule awarded in the Correction Officer matter.

I shall now address the third sub-factor which includes several elements. The first element is internal comparability with other County employees. The record shows that the County negotiated a three-year CBA with the CWA providing for a back-loaded 7.5% salary increase. The awarded salary increases are higher than the CWA salary increase. I note that the MOA between the County and the CWA provides for a "wage reopener" on April 1, 2011 which could modify the salary agreement. For all of the reasons discussed above, the major issue in this case is the implementation of a salary schedule with annual increments. I awarded a salary schedule in this case for all of the same reasons that I awarded a salary schedule in the Correction Officer matter. To do otherwise, would require me to ignore the well documented history of high turnover in both the Correction Officer and Sheriff's Officer ranks.

The County's main argument regarding this sub-factor is with respect to incremental salary schedules. The County relies on the fact that no other County employees have an incremental salary schedule. All things being equal, this would be a legitimate argument worthy of strong consideration. However, as noted above, the County has experienced massive turnover which can be attributed to a compensation system which the County concedes forces Sheriff's Officers to seek other employment. I provided a detailed discussion of the negative consequences of high turnover and determined that this high turnover could be curtailed by the implementation of a salary schedule. There is no evidence in the record to show that the County is experiencing problems with recruitment and retention of experienced staff members because of the lack of a salary schedule in the CWA bargaining unit (the County's largest bargaining unit).

Accordingly, I find that this sub-factor shows that Sheriff's Officers will receive higher salary increases than CWA bargaining unit members and that such salary increases are equal to the salary increases awarded to Correction Officers.

I find that this sub-factor is supportive of the awarded salary increases given the undisputed high turnover rate.

The third sub-factor, is the comparison to the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with employees performing the same services in public employment, namely, comparisons to other Sheriff's Officers. As I discussed above, evidence in the record establishes that all other Sheriff's Officer bargaining units in the State have what is commonly known as an incremental salary schedule. This is the standard method of payment for all other county Sheriff's Officers. This is term and condition of employment enjoyed by thousands of other Sheriff's Officers throughout the State as well as municipal Police Officers, County Sheriff's Officers, Firefighters, Prosecutor's Detectives, and other County and State police bargaining units. My award of an incremental salary schedule to Hunterdon County Sheriff's Officers is fully supported by the application of this sub-factor.

A review of the salary data submitted by the FOP shows that Hunterdon County Sheriff's Officers rank next to last when compared to other county Sheriff's Officers in New Jersey. The following are top step salaries in other county Correction Officer bargaining units: Warren County, $62,000 (2008); Union County, $82,034 (2009); Sussex County, $74,029 (2010), Somerset County, $74,068 (2007); Monmouth County, $85,431 (2008); Morris County, $85,726 (2010); Mercer County, $79,425 (2008); Essex County, $74,238

(2007); Burlington County, $62,000 (2008); Middlesex County, $79,972 (2008); Ocean County, $86,657 (2009); Atlantic County, $75,575 (2010) and Gloucester County, $70,132 (2010). All of the above counties have incremental salary schedules. In all of these counties, the vast majority of the employees are paid the maximum salary. Thus, the average salary in all of these bargaining units is 80-90% of the maximum salary. The average salary of a Sheriff's Officer in Hunterdon County in 2008 (and 2009) is $37,900. This is significantly below the average salary in all bargaining units throughout the State. The new salary schedule will have more steps than salary schedules throughout the State and the maximum salary of $60,000 in 2011 will be significantly less than the maximum salaries listed above. I note that no Sheriff's Officer will reach maximum until 2013. The low average salary in Hunterdon County is a direct result of the high turnover of Sheriff's Officers which is caused by the lack of a salary schedule with annual incremental step increases.

I find that this sub-factor is fully supportive of both the incremental salary schedule and the awarded salary increases when compared with the salaries and salary schedules in other county Sheriff's Officer bargaining units.

Lawful Authority of the Employer

Three of the statutory criteria, N.J.S.A 34:12A-16g(1), (5) and (9), refer to the lawful authority of the employer. These factors, among other things, require the arbitrator to consider the limitations imposed on the County by the CAP law which, generally, limits the amount by which appropriations of counties and municipalities can be increased from one year to the next. This is intended to control the cost of government and to protect homeowners. The limitation applies to total appropriations and not to any single appropriation or line item.

More specifically, g(1) refers to the original 1976 Cap law; g(5) refers to the lawful authority of the employer and cites the 1976 Cap law; and g(9) refers to the recently enacted 2007 Cap law which limits tax levy increases. It is well established that arbitrators must recognize and respect the statutory limits which have been placed on public employers. The County of Hunterdon and all other political jurisdictions in the State face constraints in their ability to increase appropriations and, beginning in 2008, on their ability to raise taxes. The expenditure or appropriations cap applies to the total current expense portion of the budget and not to any particular line item within the budget. It is well established that the Reform Act does not require an arbitrator to award the amount the employer has budgeted. The County is free to budget an amount which it considers sufficient for negotiations of CBAs and that amount is not determined by the CAP Law.

The County acknowledged in its brief that "the record does not suggest, nor does the County contend, that any award by the arbitrator in excess of the County's proposal would result in a violation of the County's CAP." A review of the County's financial submissions and certifications show that Hunterdon County is well managed and financially sound. This is demonstrated by the County's annual reductions in its budget and its ability to maintain a significant budget surplus in 2010.

There is absolutely no evidence in the record to show that the terms of the awarded salary increases or any other aspect of this award will cause the County to approach the limits of its financial authority or to breach the constraints imposed by the three statutory criteria, N.J.S.A 34:12A-16g(1), (5) and (9), in funding the salary increases I have awarded.

Financial Impact on the Governing Unit, its Residents and Taxpayers

The above discussion under the *lawful authority* is applicable to the *financial impact* factor and need not be repeated. For all of the reasons cited above, I conclude that there is no evidence that the terms of my award will require the County to exceed its lawful authority. The CAP law, or lawful spending limitations imposed by P.L. 1976 C.68, is not directly impacted by this proceeding nor is there any evidence that the terms of this award will impact on the County's obligations under the recently amended budget CAP law, N.J.S.A. 40A:4-45.1 et seq.

Based on the evidence in the record, I conclude that the financial impact of the award will not adversely affect the governing unit, its residents and its taxpayers.

Cost of Living

Arbitrators must consider changes in the cost of living. The most recent cost of living data shows that the Consumer Price Index ("CPI"), as published by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS"), for New York-Northern New Jersey increased by 1.3% for the year ending on December 1, 2010. (BLS News Release, December 15, 2010). The CPI was 2.3% in 2009. As I stated in a recent interest arbitration award:

> "In 2007, the CPI was 3.7% and the average increase in PERC reported awards and voluntary settlements was 3.77% and 3.97%. However, the CPI was 1.6% in 2008 and 2.3% in 2009. Thus, the average increase in the CPI during the last three years is less than 2%.This dramatic decline in the CPI must be given considerable weight. I note that this dramatic decline in the CPI has also seen a significant decline in the average salary increases as reported by PERC. The average increase in PERC reported awards and voluntary settlements for the period January 1, 2010 through October 15, 2010 is 2.5% annually. This is nearly 1.5% below the average of the PERC reported settlements and awards in recent years." (*Town of Boonton and PBA Local 212,* PERC Docket No. IA-2009-256, at 69, issued December 23, 2010).

In the *Boonton* matter, I awarded an average salary increase of 2.56% with 2% increases in 2011 and 2012 stating that "the 2.0% salary increases in 2011 and 2012 are more in line with the current trend of low inflation." It is undisputed that the County's salary proposal is more in line with the current trend of low inflation. However, the implementation of the County's 7.5% salary proposal would only further exacerbate the recruitment and retention problems that the County has experienced for more than ten years. Thus, given the unique circumstances of this case, I find it necessary to award salaries that exceed the rate of inflation.

I conclude that the awarded salary increases are below the increase in the CPI in 2009 and above the increase in the CPI in 2010. The County and FOP last offers on salary are above the CPI data in 2009 and 2010. However, as discussed above, the County's salary costs are significantly off-set by the savings from the salary hold-back in 2011. In addition, the County will have the full benefit of the 1.5% of salary contribution for health care premiums which adds another 0.5% in savings to bring the total savings in 2011 to 4.35%.

I conclude that the awarded base salary increases, while higher than the increases in the cost of living in 2010 and probably 2011, are reasonable given the costs associated with the implementation of a salary schedule with automatic annual increments.

Continuity and Stability of Employment

The terms of my Award will improve the continuity and stability of employment for the County's Sheriff's Officers. The establishment of a salary schedule with annual incremental steps will improve the County's ability to recruit and retain qualified Sheriff's Officers. It is undisputed that the continuity and stability of employment of the County's Sheriff's Officers was negatively affected by the high turnover that the County has experienced. As discussed above, the County hired 32 Sheriff's Officers during the five-year period from 2000-2005. Only four of the 32 Officers are now employed by the County. (U-34A). This is virtually identical to the experience with Correction Officers. The County hired 36 Correction Officers during the five-year period from 2000-2004. At the end of 2004, only three out of the 36 Correction Officers were on the County payroll. The County's high turnover rate is directly related to the absence of a salary schedule which I discussed in detail above. The salary schedule that I awarded will improve the County's ability to recruit and retain Sheriff's Officers but it will not eliminate the County's turnover problems. While the new salary schedule is a major improvement of the current salary scheme, it still lags behind other County Sheriff's Officer unit salary maximums and municipal police officer maximum salaries. In addition, while the clear trend is to add steps to public safety salary schedules, the County's new salary schedule with eleven steps is well above the norm. The salary award in this matter will not jeopardize employment levels or other governmental services. The award of a new salary schedule will improve the County's ability to recruit and retain qualified Sheriff's Officers. This factor was given considerable weight in the awarding of a new salary schedule.

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

Overall Compensation

A review of this factor requires consideration of 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." I have considered the overall compensation received by the County's Sheriff's Officers and find that the terms of my Award will maintain existing levels.

Stipulations

The County and the FOP stipulated that all matters agreed to by the parties on March 11, 2009 shall be incorporated in the final award.

Other Issues

I shall now address the other issues. 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. I shall apply that principle in my analysis of each issue in dispute. While I am required to evaluate the merits of the disputed issues individually, I am guided by criterion N.J.S.A. 34:13A-16(8) that directs the consideration of factors which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment. An element that must be considered is the totality of the changes to be made to an existing agreement. This is consistent with the statutory requirement that an arbitrator determine whether the total economic changes for each year of the agreement are reasonable under all of the criteria. Thus, any decision to award or deny any individual issue must be balanced with consideration of the reasonableness of each issue in relation to the reasonableness of the terms of the entire award.

Change in Pay Dates

The County proposes a new pay system which will result in each officer receiving only 25 pay checks in 2011, rather than 26 which they normally would receive. The County notes that the new system does not result in a permanent loss of pay to the employee. Sheriff's Officers are currently paid up to the date when they receive a pay check. Once an employee is fully integrated into the new system, an employee's pay check will be for the pay period ending two weeks prior. When an employee leaves the County employ, they would receive an additional two weeks pay. The County points out that there is an expense to the County in operating two pay systems. In addition, the implementation of this pay system in

2011 would effectively result in the County having a cash outlay of 3.85% less in the final year of the agreement. The savings to the County in cash outlay in implementing this system in 2011, would be $24,883.

The record shows that the vast majority of the County's employees have been paid under the new pay system since January 1, 2010. I awarded the new pay system in the Correction Officer matter effective January 1, 2011. The County's method of implementation "eases the pain" in making the transition. While, there will be a 3.85% decrease in annual salary, this will be offset by the salary increases received in 2010 and 2011. Also, it is worth noting that this is effectively a deposit in a savings program as all employees will receive the two weeks salary upon separation from County employment.

Accordingly, I shall award the County's proposal that effective as soon as practicable after the implementation of the terms of the award. I recognize that it cannot be implemented effective January 1, 2011 and I shall leave it to the County to determine if it is feasible to be implemented in 2011.

FOP Issues

As stated above, a party seeking a change in an existing term or condition of employment bears the burden of demonstrating a need for such change. Thus, any decision to award or deny any individual issue must be balanced with consideration of the reasonableness of each issue in relation to the reasonableness of the terms of the entire award.

The FOP has proposed a large number of other issues which is highly unusual in a conventional arbitration matter. Many of these issues are economic which are not achievable given the cost of implementing a new salary schedule in 2010. I find that the FOP has not met its burden to justify any of these economic issues.

As for the FOP's other non-economic issues, I agree with the County that the FOP has not provided sufficient evidence to justify any changes. Thus, I find that the FOP has not met its burden of demonstrating a need for such changes and they are hereby denied.

Summary

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 considered, although the weight given to each factor varies. 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 and concluded that those changes are reasonable under the statutory criteria.

The main issue in this case is the implementation of a salary schedule with annual increments. It is undisputed that the County has experienced exceedingly high turnover of Sheriff's Officers. I awarded a salary schedule with annual increments to improve the County's ability to recruit and more importantly, to retain experienced and qualified Sheriff's Officers. I structured my award by following the terms of my award in the Correction Officer matter. Salaries are frozen in 2009 at 2008 levels. This means that the salary increase in 2009 is zero. I also froze the first 9 steps at the 2009 level in 2010 and 2011. I increased Step 11 in 2010 and 2011. I note that while this represents a significant improvement over the current compensation system, the salaries of Hunterdon County's Sheriff's Officers will continue to lag behind their fellow Sheriff's Officers in other counties.

The $60,000 maximum salary in 2011 will be significantly below the maximums in all other counties. By comparison, Somerset County's maximum salary was $74,068 in 2007 and Warren County's maximum was $62,738 in 2008. None of the currently employed

Sheriff's Officers will reach maximum during the term of the new CBA but all other Sheriff's Officers will now have the opportunity to reach maximum salary in the future.

The statutory criteria implicated in this issue are the interests and welfare of the public, comparison to employees in the same or similar jurisdictions, continuity and stability of employment, and overall compensation. The interests and welfare of the public require nothing less than experienced Sheriff's Officers. Highly trained and experienced Sheriff's Officers are an essential component in maintaining the highest levels of professional service. The continuity and stability of employment is also implicated and favors measures that will stabilize the work force to provide for better continuity and stability of employment in the County.

Accordingly, I hereby issue the following award:

AWARD

1. **Term of Agreement:**

There shall be a three-year agreement effective January 1, 2009 through December 31, 2011.

2. **Salary:**

(a) I shall award the implementation of the following incremental salary schedule:

STEP	2009	2010	2011
11	57,500	58,500	60,000
10	54,000	54,000	55,500
9	51,000	51,000	51,000
8	48,500	48,500	48,500
7	46,500	46,500	46,500
6	42,500	42,500	42,500
5	40,500	40,500	40,500
4	37,900	39,000	39,000
3	35,500	37,500	37,500
2	33,150	33,150	33,150
1	31,600	31,600	31,600

(b) Beginning on January 1, 2009, Sheriff's Officers shall be placed on the salary schedule at the Step that corresponds to their actual salary. If an Officer's actual salary is not on the salary schedule, such Officer shall be placed on the Step which reflects the nearest, higher salary. The four Officer earning $33,150 in 2009 shall be placed on Step 2 with a salary of $33,150; the five Officers earning a salary of $37,900 in 2009 shall be placed on Step 4 with a salary of $37,900; the three Officers earning a salary of $39,100 in 2009 shall be placed on Step 5 with a salary of $40,500; the one Officer earning a salary of $40,500 in 2009 shall be placed on Step 5 with a salary of $40,500; the one Officer earning a salary of $42,500 in 2009 shall be placed on Step 6 with a salary of $42,500; and the one Officer earning a salary of $46,500 in 2009 shall be placed on Step 7 with a salary of $46,500. No Sheriff's Officers will receive a salary increase in 2009 regardless of their placement on the salary schedule in 2009.

(c) All Sheriff's Officers slotted on the 2009 salary schedule shall move to the next higher step on January 1, 2010 and January 1, 2011 and will continue to move up one (1) additional step on the salary schedule on January 1st of each succeeding year until the officer reaches the maximum step on the salary schedule. The 2010 and 2011 salary increases are fully retroactive to January 1, 2010 and January 1, 2011 respectively.

(d) All Sheriff's Officers hired on or after January 1, 2011 shall, after initial placement, move up one step on the salary schedule on their anniversary date in each succeeding year of employment.

3. I shall award the County's proposal for a "salary hold-back." This shall be effective as soon as practicable after the implementation of the award. I recognize that it cannot be implemented effective January 1, 2011. I shall leave it to the County to determine if it is feasible to be implemented in 2011.

4. The County and the FOP stipulated that all matters agreed to by the parties on March 11, 2009 shall be incorporated in the final award. Accordingly, all such agreements shall be included in the 2009-2011 CBA.

5. All proposals of the County and the FOP not awarded herein are denied. All provisions of the 2006-2008 CBA shall be carried forward except for those provisions modified by the terms of this Award.

Robert M. Glasson

ROBERT M. GLASSON
ARBITRATOR

Dated: January 31, 2011
Pennington, NJ

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

On this 31st day of January 2011, 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

JOANN WALSH GLASSON
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 12/11/2011