

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

COUNTY OF ATLANTIC

“County,”

- and -

**FRATERNAL ORDER OF POLICE, LODGE 34
(CORRECTIONS)**

“Association.”

**INTEREST ARBITRATION
DECISION AND
AWARD**

Docket No. IA-2014-014

**Before
James W. Mastriani
Interest Arbitrator**

Appearances:

For the County:

Richard C. Andrien, Esq.
Assistant County Counsel

For the FOP:

Myron Plotkin
Labor Relations Consultant
Plotkin Associates, LLC

This decision is the result of an interest arbitration proceeding between the Atlantic County Fraternal Order of Police, Lodge 34 [the “FOP” or “Union”] and the County of Atlantic [the “County”]. On June 30, 2014, I was randomly selected by the New Jersey Public Employment Relations Commission [“PERC”] to serve as interest arbitrator in accordance with N.J.S.A. 34:13A-16e(1). The legal requirements for this case are those set forth in N.J.S.A. 34:13A-16 through N.J.S.A. 34:13A-16.9 as amended on June 24, 2014 by P.L. 2014, c. 11. These provisions took effect immediately and were retroactive to April 2, 2014. Because the existing contract has an expiration date of December 31, 2010, the base salary issues in dispute are not subject to the statutory caps on the amount of base salary items that can be awarded pursuant to N.J.S.A. 34:13A-16.7(a) and must be determined based upon the statutory criteria in effect at the time of filing. Because the petition, while filed on March 26, 2014, was not perfected until May 15, 2014, PERC processed the interest arbitration petition under the amended statute. N.J.S.A. 34:13A-16b(3) requires that the arbitrator hold an initial meeting with the parties for the purpose of conducting a mediation. That session was held on July 2, 2014, at which time it was determined that the impasse should proceed to formal interest arbitration.

Final offers were received on July 9, 2014. Formal hearings were held on July 29 and August 1, 2014. Testimony was received from Warden Geraldine Cohen, Corrections Officer George Hebert, President, FOP Atlantic Lodge No.

34, Jeff Monroe, County Budget Director, Leon P. Costello, CPA, RMA, Ford, Scott and Associates, L.L.C., and Raphael J. Caprio, PhD. Substantial documentary evidence was submitted into the record on all aspects of the statutory criteria, including financial reports and analysis from Mr. Costello and Dr. Caprio. Post-hearing briefs were due and filed on August 30, 2014. They were transmitted to each party on that day. Pursuant to P.L. 2014, c. 11, the arbitrator has 90 days from appointment in which to render an award or be subject to a fine of \$1,000 per day for an award submitted thereafter. The due date for this Award is September 28, 2014.

In accordance with the statute, each party submitted a last and final offer. These offers are as follows:

FINAL OFFERS OF THE PARTIES

The FOP

1. **DURATION** – Retroactive to January 1, 2011 through December 31, 2020 (10 yrs)
2. All provisions of the current 2007-2010 Agreement would remain in full force and effect unless addressed or modified in this Proposal.
3. All prior agreements reached during negotiations shall be included in the successor agreement.
4. **ARTICLE IV – OVERTIME**
 - A. Overtime
 1. In the third line, delete "New Year's Day, Thanksgiving and Christmas Day, granted bereavement and administrative leaves." and insert "***and all time on paid leave.***"

2. Delete the last sentence and insert: "***All use of compensatory time must be requested and approved a minimum of twenty-four (24 hours in advance except in the event of an emergent or urgent situation.***" (currently 48 hour notice and no provision for emergent or urgent situation)

B. Mandatory Overtime (Stick List)

1. In the seventh line after the words "four (4) hours overtime" insert "***or are held involuntarily for any amount of time past the Officer's normal shift ending time.***"
4. Delete in its entirety (Super Bowl Language).
5. In the second line, delete "up to a maximum of two (2) hours". (to be consistent with modification to #1 above).

5. **ARTICLE V – WAGES**

A. Salary Scale

Each Step on the 2010 salary scale shall be increased by the following amounts across the board in each year of the Agreement with Officers advancing one Step on the guide in each year except those on Step 9 who would remain on Step 9 or progress pursuant to Step Movement Guide (attached)

Effective 1/1/15, **an additional Step - Step 7** would be inserted with the current Step 8 becoming the new Step 8 etc. resulting in a 10 Step Salary Guide. **The new Step 7 would only be applicable to those officers hired on or after 1/1/15. Those officers hired prior to 1/1/15 would skip over the new Step 7 and move from Step 6 to Step 8.**

2011 – 3% effective 1/1/11 and an additional 2% effective 7/1/11

2012 – 3% effective 1/1/12 and an additional 2% effective 7/1/12

2013 – 2.75% across the board effective 1/1/13

2014 – 2.75% across the board effective 1/1/14

2015 – 2.5% across the board effective 1/1/15

(roll-in of \$1,500 longevity to Steps 8 and 9 prior to applying the 2.5% increase)

2016 – 2.75% across the board effective 1/1/16

2017 – 2.75% across the board effective 1/1/17

2018 – 2.5% across the board effective 1/1/18

2019 – 2.5% across the board effective 1/1/19

2020 – 2.5% across the board effective 1/1/20

The 2011-2020 Salary Schedule and Step Movement Guide

B. Longevity

Effective 1/1/15, delete in its entirety and roll-in \$1,500 on Steps 9 and 10 before the 2015 annual adjustment is made. Such adjustments are included in the attached proposed salary schedule.

6. **ARTICLE VII – MEDICAL BENEFITS AND WORKERS’ COMPENSATION**

H. In the second to last line after the word "include" insert "but not be limited to"

In the last line, insert "**MRSA or other staph infections. Any member who shall suffer from a serious communicable disease shall be treated with the rebuttable presumption that the disease was contracted on the job. Incident reports maybe used to validate such claims.**"

I. (new) Add the Following New Paragraph:

When an Officer is injured on duty or becomes unable to work due to a work related illness or disability, he shall receive his full pay from the first day of absence and not be charged any personal and/or sick leave time. Upon the Officer reporting an injury/illness sustained on the job, whether it be emergent or non-emergent, the Officer shall receive immediate medical attention and/or treatment. Any reports shall be completed by the Officer as soon as may be feasible following medical attention and/or treatment.

FOP #34 Proposed Salary Schedules
2011-2020

(Including Longevity Roll-in in 2015 prior to guide adjustments)
2014 salary guide was increased by a roll-in of \$1,500 on Steps 9 and 10 prior to the adjustments on guide for 2015

Example – 2014 salary + \$1,500 (Roll-in) + % increase = 2015 Salary

Step	2011	2011	2012	2012	2013	2014
	(eff.1/1/11) 3%	(eff. 7/1/11) 2%	(eff.1/1/12) 3%	(eff.7/1/12) 2%	(eff. 1/1/13) 2.75%	(eff.1/1/14) 2.75%
1	\$37,237	\$37,981	\$39,120	\$39,903	\$41,000	\$42,128
2	39,297	40,082	41,285	42,110	43,269	44,459
3	41,357	42,184	42,449	44,318	45,537	46,789

4	43,417	44,285	45,613	46,526	47,805	49,210
5	46,178	47,102	48,515	49,485	50,846	52,244
6	51,446	52,475	54,050	55,131	56,647	58,205
7	61,126	62,349	64,219	65,504	67,305	69,156
8	64,792	66,088	68,071	69,432	71,341	73,303
9	68,457	69,826	71,921	73,359	75,377	77,449

Step	2015 (eff. 1/1/15) 2.5%	2016 (eff. 1/1/16) 2.75%	2017 (eff. 1/1/17) 2.75%	2018 (eff. 1/1/18) 2.5%	2019 (eff. 1/1/19) 2.5%	2020 (eff. 1/1/20) 2.5%
1	\$43,181	\$44,369	\$45,589	\$46,589	\$47,897	\$49,094
2	45570	46823	48111	49314	50546	51810
3	47959	49278	50633	51899	53196	54526
4	50348	51732	53155	54484	55946	57242
5	53550	55023	56539	57949	59397	60883
6	59660	61300	62986	64561	66175	67829
7*	65273	67067	68912	70635	72401	74211
8	70885	72834	74837	76708	78626	80891
9	76673	78782	80948	82972	85046	87172
10	80923	83148	85435	87571	89760	92004

(new – only for those hired on or after 1/1/15)

*Those employees hired prior to 1/1/15 will skip over Step 7 and move to Step 8

**Atlantic County FOP Lodge #34 and County of Atlantic
2010-2020 Step Movement**

For Employees Hired Prior to January 1, 2015:

Step	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1	2	3	4	5	6	8	9	10	10	10	10
2	3	4	5	6	8	9	10	10	10	10	10
3	4	5	6	7	9	10	10	10	10	10	10
4	5	6	7	8	10	10	10	10	10	10	10
5	6	7	8	9	10	10	10	10	10	10	10
6	7	8	9	9	10	10	10	10	10	10	10
7	8	9	9	9	10	10	10	10	10	10	10
8	9	9	9	9	10	10	10	10	10	10	10
9	9	9	9	9	10	10	10	10	10	10	10

For Employees Hired On or After January 1, 2015:

All employees advance one Step per year through the 10 Step Salary Guide

The County

1. **SALARY.** Section A, Article V on page 14 of the current agreement shall be deleted in its entirety and replaced with the following:

A. Salary.

i. **Employees hired prior to January 1, 2014.** From January 1, 2011 through and including December 31, 2015 there will be a zero percent (0%) increase to all steps in the salary guide, except the top step in each year of the guide shall be increased by two percent (2%).

In 2011 there shall be a new step 7 in the amount of \$54,647.00. Officers at Step 6 in 2010 shall move to the new Step 7. In 2011, the top step is increased by 2% to \$67,792.

In 2012, the top step is increased by 2% to \$69,148.

In 2013 there shall be a new Step 10 in the amount of \$70,531.00.

In 2014 there shall be a new Step 11 in the amount of \$71,942.00

In 2015, the top step is increased by 2%.

In all years of the contract, officers shall move one step on an annual basis, consistent with the officers' anniversary dates and the terms of the CBA addressing the timing of salary increases. Accordingly, employees hired prior to January 1, 2014 shall be compensated pursuant to the following guide:

Guide for Employees Hired Prior to January 1, 2014

	2011	2012	2013	2014	2015
1	36,152	36,152	36,152	36,152	36,152
2	38,152	38,152	38,152	38,152	38,152
3	40,152	40,152	40,152	40,152	40,152
4	42,152	42,152	42,152	42,152	42,152
5	44,833	44,833	44,833	44,833	44,833
6	49,948	49,948	49,948	49,948	49,948
7	54,647	54,647	54,647	54,647	54,647
8	59,346	59,346	59,346	59,346	59,346
9	62,905	62,905	62,905	62,905	62,905

10	67,792	69,148	69,148	69,148	69,148
11			70,531	70,531	70,531
12		-	-----	71,942	73,380

Percentage Increases Resulting from the above Guide

	2011	2012	2013	2014	2015
1 to 2	5.53%	5.53%	5.53%	5.53%	5.53%
2 to 3	5.24%	5.24%	5.24%	5.24%	5.24%
3 to 4	4.98%	4.98%	4.98%	4.98%	4.98%
4 to 5	6.36%	6.36%	6.36%	6.36%	6.36%
5 to 6	11.41%	11.41%	11.41%	11.41%	11.41%
6 to 7	9.04%	9.04%	9.04%	9.04%	9.04%
7 to 8	8.6%	8.6%	8.6%	8.6%	8.6%
8 to 9	6.0%	6.0%	6.0%	6.0%	6.0%
9 to 10	7.77%	7.77%	7.77%	7.77%	7.77%
10 to 11	----	----	2.0%	2.0%	2.0%
11 to 12	----	----	----	.200%	4.04%

- ii. **Employees Hired on or after January 1, 2014.** There shall be an alternate salary guide for employees hired on or after January 1, 2014, consisting of 16 steps. From January 1, 2014 through and including December 31, 2015 there will be a zero percent (0%) increase to all steps in the salary guide. Officers shall move one step on an annual basis, consistent the officers' anniversary dates and the terms of the CBA addressing the timing of salary increases. Accordingly, employees hired on or after January 1, 2014 shall be compensated pursuant to the following guide:

YRS	2014 through 2015	% Increase
1	36,152	
2	38,152	5.53%
3	40,152	5.24%
4	42,152	4.98%
5	44,833	6.36%
6	47,800	6.62%
7	50,005	4.61%
8	53,220	6.43%
9	56,850	6.82%
10	60,850	7.04%
11	63,040	3.60%
12	66,225	5.05%
13	68,150	2.91%
14	70,100	2.86%
15	72,000	2.71%
16	74,848	3.96%

All the increments in both guides result in annual raises that equal or exceed 2 percent.

- iii. **Salary Upon Expiration of Contract.** While the salary schedule shall, unless agreed to otherwise, remain without change upon the expiration of the agreement, salary level movement shall not occur beyond the contract expiration date of the agreement until a successor collective negotiations agreement is executed."

- 2. **HOLIDAY PAY AT STRAIGHT TIME. Section A, subsection 1, Article VIII on page 21 of the current agreement** shall be deleted in its entirety and replace it as follows:

- "A. 1. There shall be thirteen (13) paid holidays pr year paid at the straight time rate, of which ten (10) shall be paid in a lump sum by the 15th of November of each year. The remaining three (3) holidays shall be paid in accordance with the pay periods in which Thanksgiving Day, Christmas Day and New Year's Day occur. In the event an Officer is required to work on one of the above specified three (3) holidays, they shall be compensated for such work at one and one-half (1 ½) the straight time hourly rate. If any of the above three (3) specified holidays fall within an Officer's vacation period, it shall not be counted against vacation time. Pay for time worked on the ten (10) other holidays shall be at straight time unless such hours meet the overtime provisions in this agreement requiring work exceeding 40 hours per week."

The County proposes that this term apply to all years of the contract.

- 3. **REDUCTION OF MUSTER TIME. Section A, Article III on page 9 of the current agreement** entitled "WORK WEEK" shall be changed as follows:

The last sentence of the paragraph shall be deleted in its entirety and replaced as follows:

"In addition, officers shall report for roll call ten (10) minutes before the start of their shift."

This change includes all other references to the previous fifteen (15) minute muster time being changed to reflect ten (10) minutes muter time in the new CBA.

The County proposes that this change occur immediately upon an award being issued.

4. **LONGEVITY. Section B, Article V on page 15 of current agreement entitled "LONGEVITY SCALE"** shall be deleted and replaced as follows:

"A. Longevity

Longevity for Officers hired prior to January 1, 2014

1 st day of the 6 th year through the last day of the 10 th year	\$800
1 st day of the 11 th year through the last day of the 15 th year	\$1150
1 st day of 16 th year through the last day of the 20 th year	\$1700
1 st day of the 21 st year	\$2500

Officers hired on or after January 1, 2014 shall not receive longevity."

5. **COMP IN LIEU OF. Article IV, Section A, paragraph 3 on page 11 of the current agreement and Article 9, subparagraph F on page 25 of the current agreement** shall be deleted and revised as follows:

"The use of comp time, administrative time or vacation time in lieu of sick time is deleted from the contract, and shall no longer apply."

This change will include modifications of all other contractual references to the use of vacation, administrative time or comp time in lieu of sick time.

6. **DURATION. Article XXIV on page 59 of the current agreement of the current agreement** shall be deleted its entirety and replaced with language reflecting a five (5) year deal spanning January 1, 2011, through and including December 31, 2015, as follows:

"This Agreement shall be effective January 1, 2011 through December 31, 2015."

7. **HEALTH BENEFITS. Article VII on pages 18-20 of the current agreement** shall be deleted in its entirety and replaced as follows:

A. Medical Insurance

1. Employees and their eligible dependents shall be entitled to comprehensive medical and hospital coverage in accordance with the provisions of the New Jersey State Health Benefits Program.

2. Prescription drug coverage shall be offered to all employees and their dependents in accordance with the free standing prescription plan offered by the New Jersey State Health Plan.

Employees shall comply with Chapter 78 P.L. 2011 which includes the cost share of medical and prescription plan costs. The schedule in Chapter 78 P.L. 2011 requiring employee health benefits contributions is provided herein as **Appendix A**. Employees shall not make plan contributions in addition to the statutorily mandated contributions noted above.

3. The employees and their dependents shall also be afforded optical and dental coverage through the County's own provider contracts.
4. Opt-Out: The County hereby offers an insurance health benefits opt-out which will be provided in accordance with the law(s), rules and regulations of the State of New Jersey and the provisions set forth in a document entitled Atlantic County Health Benefits Program Coverage Waiver/Reinstatement, available on Infoplease and from Human Resources.
5. EMPLOYEE, as used herein, means a bargaining unit member who works 25 hours or more per week. Eligible dependents, for comprehensive medical, hospital, and prescription drug coverage under the New Jersey State Health Benefits Program are the employee's spouse and/or children under age 26. Eligible dependents for optical and dental coverage shall remain pursuant to the County's provider contracts.

B. Health Benefits at Retirement

An employee who retires shall be eligible for County health benefits for himself/herself and eligible dependents for three (3) years after retirement, commencing with the employee's retirement date. Retirement is defined in accordance with N.J.S.A. 40A:10-23 as having 25 years or more of service credit in the State Pension Plan and a period of full time service of 25 years with Atlantic County at the time of retirement or upon reaching the age of 62 years or older and having had at least 15 years of service with Atlantic County. Health benefits coverage is defined as the coverage currently in force at the time of retirement and any changes to such coverage

as may occur during the three year period of employer paid coverage. Retirees receiving County post-retirement health benefits shall pay a health insurance co-pay in accordance with Chapter 78, P.L. 2011. Employees will be responsible for providing to the County proof of their monthly pension payment so the County can calculate a full year of pension salary. If employee does not provide the pension information, the County will bill on employee's salary at time of retirement. If employee does not continue to pay co-share, the County will stop the free benefits.

C. Leaves of Absence

An employee's health benefits are protected when the employee is granted an unpaid leave of absence under any Family and Medical Leave Act. However, during this leave, the employee is required to continue to pay their health benefits cost share pursuant to Chapter 78, P.L. 2011.

Any employee who is on an authorized medical leave without pay or non-paid status must continue to pay their cost share towards their health benefits in accordance with Chapter 78, P.L. 2011. After three months of an approved unpaid medical leave of absence other than FMLA or FLA, employee will be responsible for paying the monthly premium costs. If payment is required but coverage is declined by the employee, coverage will terminate effective the first day of the non-pay status after the first three months. This will result in temporary suspension of benefits. Benefits are reinstated the day the employee returns to work.

D. Disability Pool.

The County shall maintain the current disability program with the follow changes: 1. All claims shall be submitted to an independent M.D. mutually agreed upon for evaluation and approval. 2. Employees are eligible to use the program while maintaining up to one year's sick and vacation time.

E. The County will offer employees and their families the opportunity for a temporary extension of health coverage, called continuation coverage, at group rates, in certain instances where coverage under the County plan would otherwise end. This is in accordance with federal law P.L. 99-272, Title X (COBRA)

F. Mental Health coverage shall be in accordance with all applicable laws.

G. Medical Examinations

A thorough medical examination will be given all Officers upon hiring, with the County paying 100% of the cost. The County shall also make available to each Officer a physical examination at least once annually upon the request of the Officer or the County. The Officer may be given a psychological examination at the discretion of the Department Head and at County expense.

H. Workers' Compensation

When an Officer is injured on duty during working hours, he/she will be entitled to workers' compensation benefits as set forth by New Jersey Statute (N.J.S.A. 34:15). Officers injured or disabled in the course of their employment shall receive the difference between their regular rate of pay and disability or workers' compensation payments that they receive for a period not to exceed one (1) year. The County will provide, at its expense, medical screening for any Officer who, after being exposed to a contagious disease, as part of his/her employment, either shows symptoms, or who was so exposed under unusually dangerous conditions. If the Officer tests positive, the County will provide, at its expense, medical screening for the Officers immediate family (those who reside with the Officer). Contagious diseases, for the purposes of this section include: AIDS, hepatitis, mononucleosis, strep infection, tuberculosis and herpes."

8. **SUBSTANTIVE CHANGES.** The changes provided above contain all substantive modifications proposed to the successor CBA between the Parties. All other language in the January 1, 2007 through December 31, 2010 agreement that is not affected by this document shall remain in the new agreement.
9. **MODIFICATION OF ALL TERMS INCONSISTENT WITH THIS MOA.** All other provisions in the January 1, 2007-December 31, 2010 CBA that are inconsistent with the substantive changes noted above shall be modified for terms of this proposal in the resulting new CBA applying to January 1, 2011-January 31, 2015.
10. **REORGANIZATION/ GROUPING OF ARTICLES.** In addition to the substantive modifications stated above, the articles in the new CBA (January 1, 2010-2015) shall be reorganized to group financial provisions and related provisions in consecutive articles where practicable. Language in the previous CBA (January 1, 2007-December 31, 2010) referencing reorganized articles shall be adjusted accordingly to reflect new article numbers and new page numbers.

11. **INCLUSION OF ARBITRATION DECISIONS AND SETTLEMENTS AFFECTING THE APPLICATION OF THE CBA.** All arbitration awards and settlements affecting the application or interpretation of the CBA and/or agreed to since the execution date of the last CBA shall be included in the successor agreement. This includes but is not limited to the mandatory overtime arbitrations resolved by Susan Osborn under PERC Docket No. AR-2012-346 and James Mastriani under PERC Docket No. AR-2013-505.

BACKGROUND

The FOP is the exclusive bargaining agent for full-time corrections officers employed by the County. Excluded from the bargaining unit are Captains, Lieutenants, Sergeants and temporary employees. Approximately 170 correction officers were employed on the date of expiration of the last labor agreement, December 31, 2010. Their work site is the Justice Facility in May's Landing.

The Agreement between the County and the FOP contains a comprehensive set of mutually agreed upon terms and conditions of employment, including, but not limited to, grievance procedure, work schedules, overtime, wages, uniforms, medical benefits and workers' compensation, holidays, vacation, sick leave, leaves of absence, management rights, association rights, dues deduction, representation fee, maintenance of operations, working conditions and safety items, employee rights, seniority, legal representation, proration and retroactivity, fully bargained clause and other miscellaneous provisions. The time setting for this negotiations impasse is somewhat unique in that the existing terms and conditions of employment

continue to be governed by the terms of the parties' last agreement that has an expiration date of December 31, 2010. In addition to being at impasse over the many issues set forth in the parties' final offers, the parties have engaged in extensive litigation over the FOP's unfair labor practice charge that the County violated the NJEERA by not moving eligible unit employees to the next step of the nine step salary scale on the first of the month following an officer's actual anniversary date upon achieving an additional year of employment. [Atlantic County, P.E.R.C. No. 2014-40, 40 NJPER 285 (2013), app. pend.]. Employees who were eligible for step movement under the terms of the 2007-2010 agreement have remained on the salary step that was set in contract year 2010. A County proposal concerning the issue of step advancement after contract expiration is an issue in dispute in this proceeding.

There are many issues in dispute. The parties disagree on what the length of the new contract should be. The County proposes a commencement date of January 1, 2011 and an expiration date through December 31, 2015 while the FOP proposes a commencement date of January 1, 2011 and an expiration date through December 31, 2020. According to the County, these parties normally engage in contracts of four years duration and that its existing contracts with other unions, including some law enforcement units, have terms that range from three to five years. The County acknowledges that the parties are now in a fourth year without a new agreement but points out that the parties will have a full 15 months to negotiate a new contract under its proposal. It further notes that its

proposed contract duration would allow a successor agreement to be subject to the statutory base salary caps on interest arbitration awards. The FOP proposes a ten year agreement but notes that nearly four years have passed since contract expiration. Because of this, it submits that the new Agreement would only be six years going forward. It emphasizes that the parties have spent almost five years unsuccessfully attempting to negotiate this new labor agreement. It describes the existing labor relationship as “poor” and that an imminent return to negotiations after the issuance of this award would only serve to exacerbate an already strained relationship.

The remaining issues in dispute are virtually all economic in nature. Some implicate base salary while others have economic impact such as proposals that concern holiday pay, muster time and overtime. Because of this, the parties’ presentations emphasize the lawful authority of the employer, including statutory restrictions on appropriations and taxation and the financial impact of an award on the governing unit, its residents and taxpayers. Additional emphasis is placed on internal and external comparability.

Each party has made a comprehensive and expert presentation on financial issues. Testimony and documentation have been provided by County witnesses Jeff Monroe and Leon Costello and FOP witness Dr. Raphael Caprio. The FOP points out that the County is more than \$4 million below the lawful limit on the amount that it can raise through taxation. This is said to allow for a

greater salary increase than the County has proposed without conflicting with the County's legal requirements to restrict spending or taxing. The FOP points out that on a percentage basis, the County has raised its levy by only 0.58% in 2014 over the taxing levels in 2013. The FOP submits that its members have had a significant loss of income due to the increased health insurance contribution levels caused by Chapter 78 and that these contributions have helped improve the fiscal posture of the County. Citing documents in evidence, the FOP argues that resident property owners in Atlantic County have lower tax burdens than those in the remainder of the State by an estimated 5% when the comparable value of property is considered. The FOP submits calculations contending that the total cost of its proposal would have a minimal impact on the average residential property owner in the County. The FOP refers to the County's acknowledgement that it doesn't have an "inability" to fund the FOP's proposals, otherwise known as an "inability to pay." The FOP also cites comparisons to law enforcement employees employed by municipalities in Atlantic County with other law enforcement employees employed by Atlantic County. It concludes that the evidence on comparisons substantiate the fairness of its wage proposal because the results of those negotiations average above what the County has proposed here and, in general, reflect higher wage and benefit levels received by unit employees. In addition, the FOP submits that public safety expenditures are required due to greater law enforcement activity in Atlantic County than in the State in general. It emphasizes that Atlantic County ranks 3rd in the state in its major crime rate, 4th in its general crime rate, but it ranks 16th in population.

The County disagrees with the FOP's assessment of its finances. It contends that it has suffered dramatic ratable decreases between 2009 and 2010 and that they continue to affect the County's finances by forcing a decline in fund balances. Much emphasis is placed on the deterioration in casino revenue and tax appeals in Atlantic City that have forced the remaining municipalities to make up for lost revenues. The County submits that changes in the tax levy caps, reducing the rates of increase to 2%, have also placed pressures on the County's ability to increase appropriations and increase taxes to pay for increased salary and benefit costs. It contends that the decision to not increase taxes up to the statutory limit is not, as argued by the FOP, a sign of fiscal health but rather a need not to raise taxes beyond the level that the public can afford to pay. The County submits documentation it asserts reflects increases in pension and healthcare costs that have adversely contributed to declines in the County's financial condition. The County contends that the sharp decline in casino revenues have resulted in lost jobs, reductions in spending, the foreclosure of properties, all of which have caused a decline in ratables. Pointing to internal comparisons, the County contends that it has entered agreements with other County units that are consistent with its proposal in this proceeding.

The County and the Union each offer evidence and argument concerning the relevance and weight to be given to internal comparability [N.J.S.A. 34:13A-

16g(2)(c)]. The contentions on this criterion include, but are not limited to, contract duration, salary, salary guide structure and health insurance.

The County is a party to collective negotiations agreements covering both its law enforcement employees and civilian employees. Those agreements form the core of the internal comparability arguments. Among the law enforcement units that are presently covered by a collective bargaining agreement are Justice Facility Sergeants represented by FOP Lodge No. 112. This agreement was executed on August 2, 2013 and has effective dates of January 1, 2013 through December 31, 2016. Another law enforcement unit is Justice Facility Captains and Lieutenants who are also represented by FOP Lodge No. 112. This agreement was executed on June 4, 2011 and has effective dates of January 1, 2011 through December 31, 2014. Another law enforcement unit includes Sheriff's Officers represented by PBA Local 243. During the relevant time period in question, the County and PBA Local 243 negotiated two agreements. The first agreement came as a result of an interest arbitration award issued on March 14, 2012 covering effective dates of January 1, 2010 through December 31, 2012. Thereafter, the County and PBA Local 243 executed an MOA on November 11, 2013 containing terms effective January 1, 2013 through December 31, 2017. Another law enforcement labor agreement covers Sheriff Superior Officers, represented by SSOA. This agreement was executed on October 18, 2011 and covered the time period January 1, 2010 through December 31, 2013. Another labor agreement between the County and Prosecutor's Sergeants, represented

by PBA Local 77, was executed on August 22, 2012 with effective dates of January 1, 2011 through December 31, 2014. A Prosecutor's Superior Officers, also represented by PBA Local 77, executed an agreement on August 23, 2012 covering time periods January 1, 2011 through December 31, 2013.

In addition to the labor agreements covering law enforcement employees, the County has negotiated many labor agreements covering non-law enforcement employees. One such non-law enforcement unit presently covered by a collective bargaining agreement covers Meadowview Nurses who are represented by JNESO. This agreement was executed on July 16, 2013 and has effective dates of January 1, 2011 through December 31, 2013. Another non-law enforcement unit covers Assistant Prosecutors who are represented by CWA Local 1036. This agreement was executed on February 18, 2014 and has effective dates of January 1, 2011 through December 31, 2015. Another civilian unit covers white collar and social service employees and is represented by AFSCME Local 2302. This agreement was executed on June 10, 2013 and has effective dates of January 1, 2011 through December 31, 2013. Another unit covers employees in the Department of Human Services who are represented by AFSCME Local 3408. This agreement was executed on July 29, 2013 and has effective dates of January 1, 2011 through December 31, 2013. Another unit covers health services and social workers represented by CWA Local 1040 Intergenerational Services. This agreement was executed on April 2, 2013 and has effective dates of January 1, 2012 through December 31, 2014. Another unit

covers Facilities Management and Supported Employment represented by CWA Local 1040 Facilities. This agreement was executed on November 13, 2011 and has effective dates of January 1, 2012 through December 31, 2014. Another unit covers professional employees of the Atlantic County Health Department who are represented by CWA Locals 1038/1075 Public Health. This agreement was executed on February 18, 2014 and has effective dates of January 1, 2012 through December 31, 2014. Another unit covers various classifications in the Division of Family and Community Development who are represented by CWA Local 1038/1075 Family and Community Development. This agreement was executed on June 16, 2014 and has effective dates of January 1, 2013 through December 31, 2015. During the relevant time period in question, the County and Teamsters 331 White Collar/Blue Collar/Public Safety employees negotiated two agreements. The first agreement was executed on December 2, 2013 with effective dates of January 1, 2011 through December 31, 2013. Thereafter, the County and Teamsters 331 White Collar/Blue Collar/Public Safety unit executed an MOA on December 2, 2013 containing terms effective January 1, 2014 through December 31, 2016. The terms of all of these agreements are in the record through MOAs and labor agreements.

The parties disagree on the relevance and weight to be given to the terms the County has negotiated in its other labor agreements. An evaluation of the merits of their positions will be addressed in my analysis of each issue in dispute. According to the County, since 2011 its labor agreements have been limited to

actual increases of 2.0% except for an interest arbitration award issued on March 14, 2012 that resulted from the filing of a petition by PBA Local 243 (Sheriff's Officers) that was filed on February 16, 2010. The County contends that these labor agreements have included concessions that reduced accrued sick leave payouts upon retirement, reduced longevity, amended sick leave bonus provisions and had decreases in promotional rates. The County also points to successfully negotiating alternative salary guides in many of its other units that expanded steps, broke up large increments and created separate new hire salary schedules. In particular, the County cites the JNESO agreement that changed the number of steps from 5 to 30 the PBA Local 243 Agreement that included a separate new hire salary schedule. The FOP disagrees with the County's analysis of its other law enforcement agreements and contends that the County's proposal, in many key respects, is inferior to the terms it voluntarily negotiated with other law enforcement units. It also points out that the working conditions of corrections officers are extremely difficult and unique due to the fact that they are restricted and locked into areas where they interact with inmates who have committed many serious felonies, including those of a violent nature. The FOP emphasizes that the Atlantic County jail facility has been consistently overcrowded and understaffed. With respect to the civilian units, the FOP contends that the work responsibilities and work environments of blue and white collar workers are extremely different than working in the jail and, as such, comparisons between these units and the FOP have little relevance. The FOP also urges that the comparison examination extend to the salaries of correction

officers in the ten surrounding southern New Jersey counties. When doing so, the FOP asserts that its members receive lower wages and benefits than those employed in other County jurisdictions.

In addition to disagreeing over the amount of salary increases, each party's salary proposal would alter the structure of the existing salary schedule. The County seeks to add three new steps for employees hired prior to January 1, 2014 and establish a new 16 step salary schedule for employees hired on or after January 1, 2014. The County would eliminate longevity for officers hired on or after January 1, 2014. The FOP rejects a new hire salary schedule but would add an additional step at Step 7 within the existing salary schedule with existing officers skipping over the new step while new hires would be subject to having to pass through the new step. The FOP would also delete the existing longevity schedule and roll in the amount of \$1,500 on Steps 9 and 10 prior to the 2015 annual adjustment.

Each proposal by each party will be individually discussed below, along with an analysis and award on each issue in dispute.

DISCUSSION

The statute requires the arbitrator to make a reasonable determination of the disputed issues giving due weight to those factors set forth in N.J.S.A.

34:13A-16g(1) through (9) that are relevant to the resolution of the issues. These factors, commonly called the statutory criteria, are as follows:

- (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 conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
 - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (c) In public employment in the same or similar comparable 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 et seq.).

- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will 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 local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers 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 other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.
- (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).

The analysis that follows is intended to lead to an award that represents, as is required, a reasonable determination of the issues in dispute. The statute requires that a determination be made that identifies the criteria that are found to be relevant as well as any that are found not to be relevant. My review of the

criteria must be accomplished based upon the evidence presented as well as the application of the following well established standards in collective negotiations and interest arbitration. The party seeking to modify existing terms and conditions of employment has a burden to prove that there is basis for its proposed change. The burden to be met must be at a level beyond a party seeking additional benefits or concessions to existing terms and conditions of employment without sufficient evidentiary support. No proposed issue by either party can be deemed presumptively valid without justification that is supported by credible evidence. I also observe that a proposal may not be viewed in isolation to all other proposals. Any decision to award or deny any individual issue in dispute will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. In other words, there may be merit to awarding or denying a single issue if it were to stand alone, but a different conclusion may be reached after assessing its merits within the context of all of the changes that are included in the overall award.

Stipulations

I commence with the awarding of the stipulations reached by the parties on many language issues. This is consistent with the criterion N.J.S.A. 34:13A-16(g)(4) concerning the inclusion of stipulations into the award. They are as follows:

1. Change all dates as necessary

2. Article I – Recognition (Section E)

The parties agreed on 8/14/2012 to delete “AXE” and insert “Bravo 1” and “Kitchen.”

The agreed upon language is to be as follows:

2. “Posts” shall consist of the following posts which shall be posted and eligible for bidding by officers: A, B, C, D, E, F, G, H, I, Visiting One, Visiting Two, Medical, Mail, Interview, Bravo One, AXA, AXB, AXC, AXD, Kitchen, Recreation One, and Recreation Twp. Bidding for the posts of admissions and center control is restricted to those officers who have had proper training for those posts. Upon receipt of proper training, an officer will be eligible to bid on the posts of admissions and center control. The County agrees that training shall be provided at least two (2) times which each calendar year.
6. “Stick List” – is defined as the mandatory overtime list utilizing the procedures and provisions provided for in this Agreement.

Duration

A resolution of the contract duration issue requires consideration of several factors. As previously stated, the FOP seeks a contract expiration date of December 31, 2020 while the County proposes a contract expiration date of December 31, 2015. The existing Agreement expired on December 31, 2010.

The length of time that has passed since the existing contract’s expiration date has led each party to propose a contract of long duration. In the abstract, a five year or ten year agreement would consider to be lengthy. However, the FOP has pointed out, the parties are closing in on four full years without having any adjustments of any kind in contract terms. It urges a ten year agreement that would, in effect, serve as a “cooling off” period that would provide stability without

having to return to negotiations in the near future and face the prospect of another lengthy period of time elapsing before another agreement could be achieved. The County disagrees and points out that an award of its proposed contract duration would still allow a fifteen month period for the negotiation of the next agreement and that it should not be deprived of having future negotiations subject to the statutory base salary caps in the event that the parties were to resort once again to interest arbitration.

After due consideration of the record and the parties' arguments, I am persuaded that a contract that extends through December 31, 2017 represents a reasonable determination of this issue. I am mindful that a contract duration of seven years is not the norm. However, almost four years have passed since contract expiration. I believe that the interests and welfare of the public, as well as the parties, would be advanced by a contract that extends through December 31, 2017. I need not address any implied suggestions in the parties' presentations as to where the fault lies for the almost four year period that has elapsed since contract expiration. The fact that four years has elapsed is not, in and of itself, sufficient justification for the FOP's proposal for a ten year agreement. I am also not convinced that the County proposal for a five year agreement expiring on December 31, 2015 is appropriate merely because a five year agreement is more consistent with what the average length of a contract normally is. The County has negotiated a labor agreement with Justice Facility Sergeants that extends through December 31, 2016. It also, on November 11,

2013, negotiated a labor agreement with its rank and file Sheriff's Officers (PBA Local 243) that extends through December 31, 2017. The general theme of the County that internal settlements must be given substantial weight has merit and will be discussed at greater length in the salary portion of this award. It also supports my finding that the evidence on internal comparability justifies the award of a contract duration that extends through December 31, 2017. The two agreements mentioned above were executed late in 2013 and within a similar budgetary and economic climate that exists in 2014. Thus, an award in this proceeding fits well within County labor policy and does not break new ground on contract duration. The County has also shown a willingness to execute the rank and file Sheriff's Officers unit without the confines of the statutory base salary cap. Moreover, the terms of this award can be constructed with due weight to be given to the terms executed in bargaining units that I conclude are closely aligned to this rank and file Justice Facility unit. The Justice Facility Sergeants are supervisors of these rank and file corrections officers and similarities of interest are also present between this unit and the rank and file sheriff's officers unit. Further support for a contract of longer duration is reflected in the County's negotiation of a successor agreement on December 2, 2013 with its blue and white collar unit (Teamsters Local 331) covering a contract duration of January 1, 2014 through December 31, 2017.

Based upon all of the above, I award a contract duration that commences on January 1, 2011 and extends through December 31, 2017.

Article VII - Health and Medical Benefits and Worker's Compensation

Both parties have proposals that would modify Article VII – Medical Benefits and Worker's Compensation. The County seeks to delete the entire provisions of the current agreement and replace it with the following:

A. Medical Insurance

1. Employees and their eligible dependents shall be entitled to comprehensive medical and hospital coverage in accordance with the provisions of the New Jersey State Health Benefits Program.
2. Prescription drug coverage shall be offered to all employees and their dependents in accordance with the free standing prescription plan offered by the New Jersey State Health Plan.

Employees shall comply with Chapter 78 P.L. 2011 which includes the cost share of medical and prescription plan costs. The schedule in Chapter 78 P.L. 2011 requiring employee health benefits contributions is provided herein as **Appendix A**. Employees shall not make plan contributions in addition to the statutorily mandated contributions noted above.
3. The employees and their dependents shall also be afforded optical and dental coverage through the County's own provider contracts.
4. Opt-Out: The County hereby offers an insurance health benefits opt-out which will be provided in accordance with the law(s), rules and regulations of the State of New Jersey and the provisions set forth in a document entitled Atlantic County Health Benefits Program Coverage Waiver/Reinstatement, available on Infoplease and from Human Resources.
5. EMPLOYEE, as used herein, means a bargaining unit member who works 25 hours or more per week. Eligible dependents, for comprehensive medical, hospital, and

prescription drug coverage under the New Jersey State Health Benefits Program are the employee's spouse and/or children under age 26. Eligible dependents for optical and dental coverage shall remain pursuant to the County's provider contracts.

B. Health Benefits at Retirement

An employee who retires shall be eligible for County health benefits for himself/herself and eligible dependents for three (3) years after retirement, commencing with the employee's retirement date. Retirement is defined in accordance with N.J.S.A. 40A:10-23 as having 25 years or more of service credit in the State Pension Plan and a period of full time service of 25 years with Atlantic County at the time of retirement or upon reaching the age of 62 years or older and having had at least 15 years of service with Atlantic County. Health benefits coverage is defined as the coverage currently in force at the time of retirement and any changes to such coverage as may occur during the three year period of employer paid coverage. Retirees receiving County post-retirement health benefits shall pay a health insurance co-pay in accordance with Chapter 78, P.L. 2011. Employees will be responsible for providing to the County proof of their monthly pension payment so the County can calculate a full year of pension salary. If employee does not provide the pension information, the County will bill on employee's salary at time of retirement. If employee does not continue to pay co-share, the County will stop the free benefits.

C. Leaves of Absence

An employee's health benefits are protected when the employee is granted an unpaid leave of absence under any Family and Medical Leave Act. However, during this leave, the employee is required to continue to pay their health benefits cost share pursuant to Chapter 78, P.L. 2011.

Any employee who is on an authorized medical leave without pay or non-paid status must continue to pay their cost share towards their health benefits in accordance with Chapter 78, P.L. 2011. After three months of an approved unpaid medical leave of absence other than FMLA or FLA, employee will be responsible for paying the monthly premium costs. If payment is required but coverage is declined by the employee, coverage will terminate effective the first day of the non-pay status after the first three months. This will result in temporary suspension of benefits. Benefits are reinstated the day the employee returns to work.

D. Disability Pool.

The County shall maintain the current disability program with the follow changes: 1. All claims shall be submitted to an independent M.D. mutually agreed upon for evaluation and approval. 2. Employees are eligible to use the program while maintaining up to one year's sick and vacation time.

E. The County will offer employees and their families the opportunity for a temporary extension of health coverage, called continuation coverage, at group rates, in certain instances where coverage under the County plan would otherwise end. This is in accordance with federal law P.L. 99-272, Title X (COBRA)

F. Mental Health coverage shall be in accordance with all applicable laws.

G. Medical Examinations

A thorough medical examination will be given all Officers upon hiring, with the County paying 100% of the cost. The County shall also make available to each Officer a physical examination at least once annually upon the request of the Officer or the County. The Officer may be given a psychological examination at the discretion of the Department Head and at County expense.

H. Workers' Compensation

When an Officer is injured on duty during working hours, he/she will be entitled to workers' compensation benefits as set forth by New Jersey Statute (N.J.S.A. 34:15). Officers injured or disabled in the course of their employment shall receive the difference between their regular rate of pay and disability or workers' compensation payments that they receive for a period not to exceed one (1) year. The County will provide, at its expense, medical screening for any Officer who, after being exposed to a contagious disease, as part of his/her employment, either shows symptoms, or who was so exposed under unusually dangerous conditions. If the Officer tests positive, the County will provide, at its expense, medical screening for the Officers immediate family (those who reside with the Officer). Contagious diseases, for the purposes of this section include: AIDS, hepatitis, mononucleosis, strep infection, tuberculosis and herpes."

The FOP seeks to modify Section H of the existing provision and to add a new Section I. Its proposals are as follows:

- H. In the second to last line after the word "include" insert "but not be limited to"

In the last line, insert "**MRSA or other staph infections. Any member who shall suffer from a serious communicable disease shall be treated with the rebuttable presumption that the disease was contracted on the job. Incident reports maybe used to validate such claims.**"

- I. (new) Add the Following New Paragraph:

When an Officer is injured on duty or becomes unable to work due to a work related illness or disability, he shall receive his full pay from the first day of absence and not be charged any personal and/or sick leave time. Upon the Officer reporting an injury/illness sustained on the job, whether it be emergent or non-emergent, the Officer shall receive immediate medical attention and/or treatment. Any repots shall be completed by the Officer as soon as may be feasible following medical attention and/or treatment.

The County contends that its proposal is consistent with the language it has achieved in every labor agreement it has negotiated since 2011. It submits that its proposal is different only to the extent that it includes terms that are currently in the existing Agreement that are tied specifically to corrections officers. This is a reference to paragraphs G, H and I of the current Agreement. The County contends that there is a strong established pattern of bargaining on the health benefits language, including the language that refers to worker's compensation. It argues that the language in the FOP agreement should be the same that exists in all of its other contracts. The County rejects the Union's proposals to modify paragraph H to broaden the scope of contagious diseases

and to create a “rebuttable presumption” that serious communicable diseases must be deemed to have been contracted on the job. It also objects to the FOP’s proposal to add a new paragraph I by requiring personal or sick leave time not be charged for the first five days of a work related injury or disability and to require immediate medical attention for an injury/illness sustained on the job “whether it be emergent or non-emergent.” It regards this latter requirement to lend itself to abuse and not be operationally or fiscally reasonable.

The FOP responds that the types of contagious diseases that it seeks to include in paragraph H are prevalent in a jail environment and should be added to the list of contagious diseases that are currently set forth in paragraph H. With respect to its proposal to revise paragraph I, the FOP contends that an officer should not be penalized by having to use personal sick leave days for the first five days of absences due to a work related injury. Another portion of its proposal to revise paragraph A. This, it asserts, would allow an officer to seek immediate medical treatment without first having to fill out reports.

Award

The County’s proposal to modify Article VII is primarily aimed at replacing language that is outdated and now inconsistent with new legal requirements compelled by Chapter 78, P.L. 2011. Its proposal is consistent with agreements it has executed with virtually all of its law enforcement and non-law enforcement units that were negotiated subsequent to January 1, 2011. Its proposal also

includes a carry-over of paragraphs G and H that contains existing language that is unique to the work of corrections officers. The interests and welfare of the public and internal comparability support the adoption of the revisions that the County has proposed to Article VII. A final award, however, on Article VII is subject to the review of any changes that might be required after review of the FOP's proposals to revise paragraph H and to add a new paragraph I.

Paragraph H, as currently phrased, can be read to limit the County's existing obligation to provide, at its expense, medical screening for any officer who, after being exposed to a contagious disease as part of his/her employment, either shows symptoms or was exposed under unusually dangerous conditions. That existing obligation extends to the County having to provide, at its expense, medical screening for the officer's immediate family (those who reside with the officer). The limitation on the above-stated obligations of the County, is that paragraph H now defines a contagious disease as including AIDS, hepatitis, mononucleosis, strep infection, tuberculosis and herpes without mention of any other contagious disease. There is merit to the FOP's contention that a contagious disease exposure under this provision should not be limited to the six stated diseases when other significant contagious diseases such as MRSA or other serious communicable diseases could be read to be excluded. Nevertheless, I am reluctant to add any specific communicable diseases to the laundry list that presently exists. The FOP's proposal to add language in paragraph H stating "but not limited to" would allow an officer who tests positive

for a serious communicable disease other than those now stated to have the benefit of medical screening for the officer and the officer's immediately family. Any expansion of this right should be reviewable within the County's discretion. For these reasons, I award the following revision to the current language. The language shall state:

Contagious diseases, for the purpose of this section shall include, but not be limited to, AIDS, hepatitis, mononucleosis, strep infection, tuberculosis, herpes. The County shall have the discretion to determine whether an officer's identification of a contagious disease other than those set forth above represents a serious communicable disease that was contracted on the job.

I deny the FOP's proposal to add a new paragraph I. While the FOP observes that the existing language can require an officer to utilize up to five days of personal sick leave accumulation for the first five days of absence due to a work related injury, this current requirement is balanced by the benefit currently set forth in section H that provides officers with the right to receive the difference between their regular rate of pay and any disability or workers' compensation payments that they received for a period not to exceed one (1) year.

Modification of All Terms Inconsistent with this MOA
Substantive Changes

Both parties have proposed language concerning the carry forward of language in the 2007-2010 agreement. The FOP has proposed:

All provisions of the current 2007-2010 Agreement would remain in full force and effect unless addressed or modified in this Proposal.

The County has proposed:

All other provisions in the January 1, 2007-December 31, 2010 CBA that are inconsistent with the substantive changes noted above shall be modified for terms of this proposal in the resulting new CBA applying to January 1, 2011-January 31, 2015.

The County has also proposed substantive changes language as follows:

The changes provided above contain all substantive modifications proposed to the successor CBA between the Parties. All other language in the January 1, 2007 through December 31, 2010 agreement that is not affected by this document shall remain in the new agreement.

Award

The issue of carry forward language needs to be addressed in this award but I decline to accept either party's proposals. The FOP's proposal would only allow modifications of pre-existing language if the modifications came from proposals made by the FOP. The County's proposals on substantive modifications would limit modifications to pre-existing language except for those proposed by the County and also limits the carry forward language to the expiration date of the agreement that it has proposed. I award the following language:

All proposals by the County and FOP Lodge No. 34 not awarded herein are denied and dismissed. All provisions of the existing January 1, 2007 through December 31, 2010 agreement shall be carried forward except for those that have been modified by the

terms of this Award or otherwise have been mutually agreed to by the County and FOP Lodge No. 34.

Reorganization / Grouping of Articles

The County has proposed language it defines as a reorganization/ grouping of articles. The proposal states:

In addition to the substantive modifications stated above, the articles in the new CBA (January 1, 2010-2015) shall be reorganized to group financial provisions and related provisions in consecutive articles where practicable. Language in the previous CBA (January 1, 2007-December 31, 2010) referencing reorganized articles shall be adjusted accordingly to reflect new article numbers and new page numbers.

Award

There is merit to the County's proposal because it would facilitate understanding as to the contract's various provisions. However, it requires minor modification in order to comport with the remainder of the award and the expiration date of the new agreement. The following language is awarded:

The articles in the new CBA (January 1, 2010-2017) shall be reorganized to group financial provisions and related provisions in consecutive articles where practicable. Language in the previous CBA (January 1, 2007-December 31, 2010) referencing reorganized articles shall be adjusted accordingly to reflect new article numbers and new page numbers.

Overtime

The FOP proposes two revisions to Article IV, Section A. These proposals are as follows:

A. Overtime

1. In the third line, delete "New Year's Day, Thanksgiving and Christmas Day, granted bereavement and administrative leaves." and insert "***and all time on paid leave.***"
2. Delete the last sentence and insert: "***All use of compensatory time must be requested and approved a minimum of twenty-four (24 hours in advance except in the event of an emergent or urgent situation.***" (currently 48 hour notice and no provision for emergent or urgent situation)

The FOP also proposes to revise Article IV, Section B as follows:

B. Mandatory Overtime (Stick List)

1. In the seventh line after the words "four (4) hours overtime" insert "***or are held involuntarily for any amount of time past the Officer's normal shift ending time.***"
4. Delete in its entirety (Super Bowl Language).
5. In the second line, delete "up to a maximum of two (2) hours". (to be consistent with modification to #1 above).

Award

The FOP's proposal to modify Article IV, Section A(1) would broaden the definition of "time worked" beyond that which includes all hours actually worked,

New Year's Day, Thanksgiving and Christmas Day, granted bereavement and administrative leaves. It would achieve this by deleting the above language except for "all hours actually worked" and by adding "and all time on paid leave." Its proposal to modify Article IV, Section A(2) would replace the requirement that "All use of compensatory time must be requested and approved a minimum of forty-eight (48) hours in advance" and in its place, reduce the forty-eight (48) hour requirement to twenty-four (24) hours and add "except in the event of an emergent or urgent situation."

I do not award the FOP's proposals to modify Article 4, Sections A(1) and (2). Although FOP members would benefit by the changes that it has proposed, the record is devoid of an analysis as to the economic impact of the proposed changes. The modifications have not been supported by sufficient credible evidence and therefore they are denied.

The FOP proposes to modify Article IV, Section B(1) by broadening an officer's movement on the "Stick List" beyond those who volunteer for a minimum of four hours of overtime to those who are held involuntarily for any amount of time past the Officer's normal shift ending time. Also, the FOP would delete Article IV, Section B(4). Subparagraph (4) contains restrictions on an officer's ability to call out and not appear for work on Super Bowl Sunday. The FOP would also delete Article IV, Section B(5). Subparagraph (5) relieves an officer from "Stick Leave" requirements if that officer has been assigned to a particular

duty and has been held over beyond the expiration of his shift, up to a maximum of two hours. The FOP notes that subparagraph (5) would have to be deleted in the event that its proposal to modify Article IV, Section B(1) has been granted.

At hearing, the FOP has argued that the "Stick List" provisions are onerous and that officers should be provided some relief from the mandatory overtime requirements. The testimony of FOP Lodge No. 34 President George Hebert on this point is duly noted. However, the existing requirements with respect to mandatory overtime, while presenting a burden on correction officers, are sufficiently related to the obligation of the Justice Facility to ensure the efficient proper staffing of the jail. For this reason, I am compelled to conclude that all of the above modifications proposed by the FOP have not been supported by sufficient credible evidence and therefore they are denied.

Holiday Pay at Straight Time

Article VIII(A)(1) currently provides:

There shall be thirteen (13) paid holidays per year, of which ten (10) shall be paid in a lump sum at the rate of time and one-half (1 ½) the straight time hourly rate by the 15th of November of each year. The remaining three (3) holidays shall be celebrated on Thanksgiving Day, Christmas Day and New Year's Day. In the event an Officer is required to work on one of the above specified three (3) holidays, they shall be compensated for such work at one and one-half (1 ½) the straight time hourly rate. If any of the above three (3) specified holidays fall within an Officer's vacation period, it shall not be counted against vacation time.

The County proposes to delete the above provisions and, in its place, insert the following:

There shall be thirteen (13) paid holidays per year paid at the straight time rate, of which ten (10) shall be paid in a lump sum by the 15th of November of each year. The remaining three (3) holidays shall be paid in accordance with the pay periods in which Thanksgiving Day, Christmas Day and New Year's Day occur. In the event an Officer is required to work on one of the above specified three (3) holidays, they shall be compensated for such work at one and one-half (1 ½) the straight time hourly rate. If any of the above three (3) specified holidays fall within an Officer's vacation period, it shall not be counted against vacation time. Pay for time worked on the ten (10) other holidays shall be at straight time unless such hours meet the overtime provisions in this agreement requiring work exceeding 40 hours per week.

The County contends that the existing provision paying officers at a time and one-half rate for holidays that the officers do not work is inconsistent with basic notions of efficiency, is inconsistent with what other County employees receive on their days off and inconsistent with the current economic instability that the County is experiencing. The County further contends that the economic concession that it would reap from its proposal would partially offset the average annual increase that will result from its salary guide proposal which it calculates at 4.95%. The County acknowledges that the Justice Facility Sergeants receive the benefit that exists in the FOP's agreement but points out that the salary increases in the Sergeants' 2013 through 2016 agreement calculates at 2%, a lesser figure than what it has proposed to the rank and file officers.

The FOP urges rejection of the County's proposal. The FOP asserts that the reduction in an officer's take home pay is unwarranted and without justification. The FOP calculates the impact of the County's proposal and concludes that based on the County's salary proposal, an officer at maximum would lose \$1,797.38 in 2014 and \$1,834.69 in 2015. It calculates the total loss in holiday pay if the proposal were to be awarded in 2011, as it has been proposed, at \$8,816.42.

Award

I do not award the County's proposal. Initially, I note that the existing provision parallels that which exists in the Justice Facility Sergeants agreement that expires on December 31, 2016. The result of awarding the proposal would expand the substantial difference in holiday pay received between the rank and file correction officer and his or her supervisor. This could reasonably create morale problems within the jail which would undermine the efficiency and productivity that the warden seeks to achieve and maintain. If such were to be the case, the interest and the welfare of the public would be adversely affected. I do not give the amount of weight the County seeks to the County's calculations on the relative impact of its overall salary proposal to the FOP in relation to the salary increases granted to Justice Facility Sergeants. It is noted that Sergeants receive a single rate of pay rather than a nine-step salary schedule that has a \$36,152 minimum salary. Based upon the County's proposal, in 2015 a Sergeant would receive \$15,000 more than a correction officer at maximum. The

existing differentials between the Sergeant and the maximum rate corrections officer would be adversely impacted by an award of the County's proposal. Based upon all of the above, the proposal is denied.

Reduction of Muster Time

Article III of the current Agreement covers work schedules. Section A of Article III covers "work week" and includes language stating:

"In addition, officers shall report for roll call fifteen (15) minutes before the start of their shift."

The County proposes to modify this sentence by revising the fifteen (15) minute period referred to as "roll call" to ten (10) minutes effective on the date of the Award. The County's proposal references "muster time" interchangeably with "roll call." Because this time is outside of the regular workday, employees receive time and one-half for the fifteen (15) minutes and the proposal, if awarded would amount to a daily reduction in pay of five minutes at the rate of time and one-half. The proposed change would be effective upon issuance of the award.

The County relies upon the testimony of Warden Cohen who testified that the training portion of muster time has been reduced because training now occurs during working time on an interactive basis. She estimates that the remaining requirements of muster can be accomplished in ten minutes. The

County further contends that the reduction in time will help offset the impact of its salary guide proposal.

The FOP urges that the status quo be maintained. It cites Union testimony that the muster time provision enhances the effectiveness of transition from shift to shift and that the reduction could potentially reduce that need. It also calculates the financial loss that corrections officers would experience by the five minute per day reduction in muster time. Based on the County's proposal, the FOP calculates the adverse financial impact to be \$1,007.00 annually or 1.5% based on maximum salary.

Award

The existing provision parallels the provision in the Justice Facility Sergeants' agreement, expiring on December 31, 2016. That provision requires Sergeants to report fifteen (15) minutes before the start of their shift and be paid at 1.5 times regular pay. I do not find that there is sufficient evidence to justify deviation in roll call requirements between Sergeants and correction officers. Although the Warden testified credibly that training requirements have been reduced during the roll call time period, there is no evidence that shift transitions are not rendered more effective by having similar reporting requirements between Sergeants and corrections officers. Given this, I do not give weight to the County's argument that the cost savings from its proposal are necessary to

fund its proposal are necessary to fund the salary portion of this award. Accordingly, the proposal is denied.

Longevity

Each party has made a proposal with respect to longevity. The County proposes to retain the existing longevity schedules for officers hired prior to January 1, 2014 and to eliminate longevity for those officers hired on or after January 1, 2014. The FOP, effective January 1, 2015, proposes to delete the existing longevity provision in its entirety and roll \$1,500 into the salary schedule on Steps 9 and 10 prior to the 2015 annual salary adjustment is made. The County submits that it regularly pays out \$140,000 to \$145,000 per year in longevity. While acknowledging that eliminating longevity for new hires does not create an immediate savings, it asserts that its elimination would minimize costs in the future. The County further submits that reduction in future costs are supported by the financial evidence showing recent economic decline in the County. In addition, the County points to internal settlements and the rank and file Sheriff's Officers unit in particular that reflect concessions in longevity for new hires.

The FOP urges rejection of the County's proposal. It calculates that a new employee would suffer a loss in real dollars of at least \$30,000 over an officer's 25 year career and that the overall compensation levels of a future corrections officer would deepen the already unfavorable comparisons to those officers

employed in the ten (10) southern counties. It finds merit in its proposal to eliminate the longevity schedule while enhancing base pay for officers who achieve Step 9 and Step 10 on its proposed salary schedule.

Award

The existing longevity schedule is as follows:

1 st day of the 6 th year through the last day of the 10 th year	\$800
1 st day of the 11 th year through the last day of the 15 th year	\$1150
1 st day of the 16 th year through the last day of the 20 th year	\$1700
1 st day of the 21 st year	\$2500

After review of the record and the parties' respective positions on their proposals, I conclude that neither proposal represents a reasonable determination of the issue. The County's proposal would deeply cut into the overall compensation of future officers and, more significantly, its proposal dramatically differs from the MOA it executed with rank and file sheriff's officers on November 11, 2013. That MOA retained longevity for new hires but achieved a reduction in benefit amounts by 20% on each step. The FOP's proposal for full retention of benefits for new hires is not consistent with the MOA for rank and file Sheriff's Officers and the County's objective, based on financial trends, to ease future benefit costs, but not at the expense of existing employees. I give substantial weight to the internal comparability criteria as it applies to the Sheriff's Officer agreement and award a reduction in longevity benefits of 20% at each

step of the schedule. The effective date of the new hire longevity schedule shall be effective on the date after the issue of this award. It shall read as follows:

1 st day of the 6 th year through the last day of the 10 th year	\$640
1 st day of the 11 th year through the last day of the 15 th year	\$920
1 st day of the 16 th year through the last day of the 20 th year	\$1340
1 st day of the 21 st year	\$2000

Comp In Lieu Of

Article IV(A)(3) currently states that “Compensatory time may be used in lieu of sick time at the Officer’s discretion providing that the Officer signifies his/her intention to utilize compensatory time at the time of call-in. Otherwise, the day off shall be charged as sick time.” Article IX(F) currently states that “If an Officer has a medical documentation of a family member or themselves being sick, they can use their vacation or compensatory time in lieu of sick time.”

The County proposes to delete the above provisions and, in their place, add the following language:

The use of comp time, administrative time or vacation time in lieu of sick time is deleted from the contract, and shall no longer apply.

According to the County, the existing provision drives up overtime costs because officers can call out as if they are sick with only 90 minutes of advance notice. This can cause the jail to have to fill in for the absence at an overtime rate. According to the County, the changes it proposes:

“...would eliminate officers from calling out sick and not using sick time. It should be noted that an officer’s ability to use “in lieu of” time when they initially call out sick also drives sick leave bonus costs because the “in lieu of” use allows an officer to use time other than sick without the advance notice that would otherwise be required to use the same leave.”

The County further contends that there is a bargaining pattern in the jail of eliminating “in lieu of” by virtue of its agreement with FOP Lodge No. 112 (Corrections Sergeants January 1, 2013 – December 31, 2016) to limit the amount of “in lieu of” time to a maximum number of hours of sixty-four (64) annually and FOP Lodge No. 112 (Corrections Lieutenants and Captains) where the “in lieu of” provisions and practices were deleted from the January 1, 2011 through December 31, 2014 agreement. The FOP contends that the County has not met its burden on this issue.

Award

I am persuaded that greater weight should be given to the Justice Facility Sergeants’ agreement than the agreement for the Justice Facility agreement for Captains and Lieutenants. The Sergeants are the direct supervisors of the rank and file and, as such, have more significant daily contact during a work shift. The County did achieve a concession with the Justice Facility Sergeants to limit the use of “in lieu of” time to a maximum usage of 64 hours per year. A common leave provision for these units would further the interests and welfare of the public by creating a uniform policy between these two units. Further, a similar

concession with the FOP would allow a common analysis of the impact of this concession on overtime usage for the purpose of future negotiations. Accordingly, I award the following revision to Article IV.A.3:

Compensatory time may be used in lieu of sick time at the Officer's discretion providing that the Officer signifies his/her intention to utilize compensatory time at the time of call-in. Otherwise, the day off shall be charged as sick time. Effective January 1, 2015, the use of compensatory time to be used in lieu of sick time shall not exceed 64 hours annually per officer.

Salary

The parties' impasse over salary is a broad one. The across the board increases are in dispute but the disagreement extends beyond the amount of increase. The County submits that there is a relationship between the amount of its proposal and the concessionary proposals it has advanced as well as its proposal for a new hire salary schedule. The FOP contends that its proposal is more in line with the application of the statutory criteria, that salary increases cannot be contingent on granting the concessions the County has proposed and that its proposal, while rejecting a separate new hire schedule, does address the new hire issue by including a two step increase in the schedule that would only apply to new hires because existing employees would skip the additional steps.

I first address statutory requirements. The parties acknowledge that the salary cap requirements in N.J.S.A. 34:13A-16.7 do not apply to this case because the contract expiration date of the current agreement is December 31,

2010. [See Borough of Bloomingdale and PBA Local 354, P.E.R.C. No. 2011-77, 37 NJPER 195 (¶¶61 2011)]. The resolution of the salary issue must solely be based upon “due weight” being given to those factors under N.J.S.A. 34:13A-16(g) that are judged relevant.

A reasonable determination of the issue herein must be reached by making a reasoned explanation for the award stating what statutory factors were considered to be the most important, why they were given significant weight and how other evidence or factors were weighed and considered in arriving at the ultimate award. Here, I conclude that all of the statutory criteria have some relevance, directly or indirectly, when setting economic terms. The more significant question is the weight to be given to the criteria. Because virtually all of the statutory criteria implicate “the interests and welfare of the public,” this criterion must be given the most weight. By way of example, statutory financial limitations (on appropriations and taxation) and the financial impact of the terms of an award on the public employer, while separate criteria, are among the items that also fall within the scope of the public interest criterion. Comparability is also a relevant factor that the parties have recognized in this case. However, comparability evidence cannot be weighed independently for the purpose of ignoring the financial impact of an award that would rely heavily on comparability data. Each party has submitted evidence and has made strong arguments in support of its respective position based upon comparability, although the County emphasizes internal comparability while the FOP would extend that factor to

comparability among similar corrections units in ten southern counties and municipal law enforcement units within the County. On this point, I find that the internal relationships between the County and its various law enforcement units, absent extraordinary factors that are not present here, must carry more weight than external comparisons to law enforcement units that extend to other jurisdictions and those that are geographically beyond the County. If this were not the case, sharp inconsistencies and the potential for labor relations strife could occur by ignoring internal labor policy and by giving the greatest weight to contract settlements that are made beyond the County's reach over which it has no control. Moreover, it is well established that a reasonable determination of the salary issue must include consideration of evidence that may point to an internal pattern of settlement. [See Union County, P.E.R.C. No. 2003-33, 28 NJPER 459, and N.J.S.A. 34:13A-16(g)(2)].

Overall compensation presently received by unit employees is relevant but it is a factor that is entitled to more weight when the overall comparison of unit employees is viewed in the context of overall compensation being received by units that the County negotiates with and over which it has some control. Continuity and stability of employment is a relevant criterion. Here, the evidence shows that there has been a significant degree of turnover, although in recent years it has decreased. The interest and welfare of the public can be affected by turnover due to time and expense of training replacements and the loss of job experience in positions that, as here, are linked to the protection of the public's

security. Examination must be given to new terms as to whether they have the potential to lower, maintain or enhance the continuity and stability of employment. The cost of living criterion is relevant because it is a yardstick that measures overall economic conditions and places salary increases in context of the relative purchasing power of the employee. The weight to be given to cost of living evidence must take into consideration the role that this factor has played in relation to terms that the County has negotiated with other bargaining units over similar time periods. Here, it appears that those settlements at salary maximums and in single rank classifications have fallen slightly above, but reasonably within, the cost of living data.

The record evidence on County finances has been particularly well developed due to the expertise of each party's financial witness, Leon Costello and Dr. Raphael Caprio. Each has produced voluminous data into many dozens of areas of economics, finance and cost calculations. A brief summary of their evidence and views on statutory limitations and financial impact has already been stated and is incorporated herein. Based upon the record, the limitations imposed upon the County by P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.) and/or Section 10 of P.L. 2007, c. 62 (C.40A:4-45.45.) would not be compromised or violated by an award that extends beyond what the County has proposed. The FOP has shown that additional monies beyond what the County has proposed could be expended by greater taxation and appropriations that would still be below the County's lawful limitations. The fact that the County has additional

legal taxing authority, however, does not establish that there should be the expenditure of such monies and whether the increased expenditures sought by the FOP would be consistent with the application of the statutory criteria.

Based upon the entire record of this proceeding, I am persuaded that the interests and welfare of the public is the criterion to be given the most weight and that the public's interest will be best served by an award that weighs and balances the evidence that concerns the award's financial impact on the governing unit, its residents and taxpayers with evidence concerning comparisons with public employees in law enforcement units employed by the County of Atlantic.

I first address the County's contention that its proposal conforms more closely to an internal pattern of settlement than does the FOP's. The record supports this assertion. For the contract years in question, the FOP has proposed across the board increases of 5% in 2011 and 2012 (3% plus 2% "splits"), 2.75% in 2013, 2.75% in 2014, 2.5% in 2015, 2.75% in 2016 and 2.75% in 2017. This is an across the board increase of 23.50% exclusive of step increases. In addition, even without calculating the impact of the across the board increase changes to the steps on the salary schedule, the cost of step movement based on the 2010 salary guide calculates to approximately an additional 23%. The internal settlements among County law enforcement units differ in certain respects and while not identical, are generally consistent despite

variations in contract years and duration. None, however, have terms that are close to approaching the terms of salary increase proposed by the FOP. Each bargaining unit is unique and has terms that relate to its individual circumstance but there are greater interrelationships between certain units and others. The bargaining units that are most in line with that of FOP Lodge 34 are the Justice Facility Sergeants and rank and file Sheriff's Officers. The Sergeants are the direct supervisors of employees in the FOP unit in the Justice Facility while the rank and file Sheriff's Officers unit has a similar salary step structure and also performs important security functions. While their missions and working conditions differ in certain respects, the rank and file units are closer in nature to one another than to the other law enforcement units and reasonable consistency in the terms between these units is warranted. There is close proximity between the date of execution of the rank and file Sheriff's Officer unit (November 11, 2013) with the period of negotiations for this FOP unit.

Internal patterns of settlement, even where they are not identical, are entitled to significant weight under N.J.S.A. 34:13A-16g(2)(c). [See In the Matter of Somerset County Sheriff's Office v. Somerset County Sheriff's FOP Lodge #39, Docket No. A-1899-06T3, 34 NJPER 8 (App. Div. 2008)]. Such evidence must be considered even where the alleged pattern of settlement includes non-public safety unit. [See County of Union v. Union County Corrections Officers, PBA Local 999, PERC No. 2003-33]. The rank increase for Sergeants was 2% through 2016. The increase at maximum pay for Sheriff's Officers was 2%

through 2017 and those below maximum received an annual step increase without an across the board increase to each step. On average, the percentage increase in any rank and file unit is higher due to step movement than the across the board increase for a superior officer unit that has a single rank. The Sheriff's Officers' agreement appears to have greater overall percentage cost impact than the Sergeant's agreement due to the cost of step increases for those who are eligible for step movement. Those costs have been balanced and offset by concessions that PBA Local 243 made to the longevity benefit, by creating the fourteen step new hire salary schedule and by adding a step for those officers who were "grandfathered."¹

The FOP, for many reasons cited in its testimony, exhibits and argument, argues for terms that exceed the agreements the County has negotiated with all of its law enforcement and civilian units. Its many sources of support are the County's ability to spend from surplus, to raise more revenues through taxation, to raise salaries based upon external comparability and to spend "savings" last achieved by breakage. The amounts of these "savings" has been submitted into the record. These arguments have been vigorously advanced but are not persuasive under the facts of this case.

The deviation from internal comparability sought by the FOP would undermine the stability and predictability that is desirable in the negotiations

¹ The FOP notes that the PBA Local 243 unit, unlike the FOP unit, was subject to the statutory caps on base salary increases in the event that the terms of that agreement were rendered in interest arbitration rather than through voluntary settlement.

process by attempting to tie a result here primarily to “ability to pay” (as opposed to financial impact) and to external comparability evidence while paying little or no attention to internal negotiations results. The reliance on these points is not sufficient to provide a basis for deviation from the general consistency of the internal settlement pattern. The issue here is not whether the evidence offered by the FOP is relevant but whether it is entitled to the substantial weight as the FOP has argued. I am compelled to conclude that the FOP’s proposal would alter the relationships among the County’s many negotiations units absent a demonstrated need for the deviation in this single unit. Moreover, a disruption in the general settlement pattern could reasonably undermine the morale in the County’s other bargaining units and discourage future settlements thereby leading to labor relations instability.

I also conclude that the record evidence on the County’s finances do not justify the FOP’s proposal. The County has established ongoing declines in its fund balance, losses in non-tax revenues, declines in ratables and increases in pension costs and health insurance contributions notwithstanding the significant health insurance contributions that employees have been required to make by statute. Examples of property tax increases for individual homeowners due to increased County tax assessments in various municipalities between 2012 and 2013 reflect extremely sharp increases that weighs heavily against the increase in costs required by the FOP’s proposal. The County’s financial submission has

established that in individual areas where ratables have declined, such as in Atlantic City, tax increases have been required to shoulder the difference.

I next turn to the specifics of the award to be issued. Based upon all of the above, I award the following salary terms. In all years of the contract, officers shall move one step on an annual basis, consistent with the officers' anniversary dates and the terms of the Agreement that addresses the timing of salary increases. From January 1, 2011 through and including December 31, 2017 there will be a zero percent (0%) increase to all existing and newly created steps in the salary guide, except the top step in each year of the guide shall be increased by two percent (2%) on each January 1. In 2015, there shall be a new Step 7 in the amount of \$54,647.00. Officers at Step 6 in 2014 shall move to the new Step 7, consistent with the officer's anniversary date. In 2015, there shall be a new Step 10 in the amount of \$70,531.00. There shall be a new salary guide for employees hired on or after September 29, 2014, consisting of 14 steps, with the first two Steps 1A and 1B consisting of six month periods. There will be a zero percent (0%) increase to all steps in the salary guide. Officers shall move one step on an annual basis, consistent the officers' anniversary dates and the terms of the Agreement that address the timing of salary increases. The salary guides shall be as follows:

Salary Guide through December 31, 2017
for employees hired prior to September 29, 2014

Steps	2011	2012	2013	2014	2015	2016	2017
1	36,152	36,152	36,152	36,152	36,152	36,152	36,152
2	38,152	38,152	38,152	38,152	38,152	38,152	38,152
3	40,152	40,152	40,152	40,152	40,152	40,152	40,152
4	42,152	42,152	42,152	42,152	42,152	42,152	42,152
5	44,833	44,833	44,833	44,833	44,833	44,833	44,833
6	49,948	49,948	49,948	49,948	49,948	49,948	49,948
7	59,346	59,346	59,346	59,346	54,647	54,647	54,647
8	62,905	62,905	62,905	62,905	59,346	59,346	59,346
9	67,792	69,147	70,530	71,940	62,905	62,905	62,905
10					73,379	74,847	76,343

Salary Guide through December 31, 2017
for employees hired after September 29, 2014

Steps	2014	2015	2016	2017
1A	36,152	36,152	36,152	36,152
1B	38,904	38,904	38,904	38,904
2	41,656	41,656	41,656	41,656
3	44,408	44,408	44,408	44,408
4	47,160	47,160	47,160	47,160
5	49,912	49,912	49,912	49,912
6	52,664	52,664	52,664	52,664
7	55,416	55,416	55,416	55,416
8	58,168	58,168	58,168	58,168
9	60,920	60,920	60,920	60,920
10	63,672	63,672	63,672	63,672
11	66,424	66,424	66,424	66,424
12	69,176	69,176	69,176	69,176
13	71,940	73,379	74,847	76,344

The costs of the Award mirror the cost outs provided by the financial witnesses. The step movement costs in 2011 are \$305,132, an additional \$303,732 in 2012, an additional \$243,707 in 2013 and an additional \$302,610 in 2014. The staffing levels beyond 2014 are uncertain due to retirements, resignations and transfers, but a reasonable projection of costs would mirror the average of the aforementioned four years due to the fact that no increases have been awarded to the steps below maximum. The additional Step 7 in 2015 and the addition of a new Step 10 maximum in that year will ease the percentage costs of each step movement. The new hire schedule will create cost reduction but the most significant reductions will occur beyond the term of this Agreement. The 2% increase at top step calculates to \$101,102 in 2011, an additional \$117,885 in 2012, an additional \$139,683 in 2013, an additional \$162,150 in 2014, an additional \$165,485 in 2015, an additional \$191,360 in 2016 and an additional \$197,747 in 2017. These calculations assume that employees at maximum in 2011 and those who reach maximum thereafter will continue to be employed through the contract term.

In reaching these salary terms, I have given substantial weight to the terms the County voluntarily negotiated with PBA Local 243, the rank and file Sheriff's unit. While not identical in all respects, I have found the key elements of that settlement persuasive in deciding the terms of this award, including a freezing of all salary steps for the duration of the Agreement except the salary maximum, 2% increases for officers at the salary maximum, the addition of a new

step in the salary schedule for “grandfathered” officers, a fourteen (14) step new hire salary schedule and a reduction in longevity for new hires. I have also given weight to the Justice Facility Sergeants Agreement by limiting the amount of “comp in lieu of” sick time to 64 hours. The terms of the award will adjust the overall compensation presently received by the employees in a manner similar to the units that I have deemed to be most comparable. I have not given significant weight to private sector comparisons due to the absence of comparable occupations in the private sector and the conclusion that internal comparables represent the most relevant comparisons. The terms of the award will not cause the County to violate the limitations on appropriations or taxation, and thus, the costs of the award fall within the lawful authority of the employer. I have considered the County’s argument that certain concessionary demands that I have not awarded were required in order to mitigate the costs of its salary proposal. Beyond the concessions that I have awarded, I have not sustained the County’s position on this point. The concessions sought by the County beyond those that I have awarded would radically alter the relative value of the FOP agreement in relation to the terms the County voluntarily negotiated with PBA Local 243. Given the fact that the rank and file Sheriff’s Officer unit was negotiated at the end of 2013, a reasonable conclusion must be drawn that its terms fell within the range of financial impact that was acceptable to the County. Similarly, I conclude that the terms of the FOP award can be implemented without adverse financial impact on the County, its residents and taxpayers.

Salary Upon Expiration of Contract

The County has proposed that language be added to Article V – Salary concerning step movement of employees after contract expiration. The proposal adds the following language:

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

The County's proposal would bar salary level movement beyond the contract expiration date of the agreement in the event that successor negotiations agreement have not been concluded. The County contends that this proposal is supported because of the existence of statutory caps on base salary increases and because arbitrators in other proceedings have awarded similar language. (See Hudson County and PBA 334, Dkt No. IA-2014-004 and Warren County and FOP 171, IA-2014-001). It further notes that it achieved similar language in the agreement it negotiated with JNESO.

The FOP urges rejection of this proposal. It offers the following argument in support of its position:

Based on the past history of negotiations, this would only allow the County to delay any future settlements so they could realize the savings from officers leave prior to an agreement being reached. The simple fact is no contract language is necessary or called for at this time. The PERC case law as it currently stands provides that increments not be paid upon the expiration of a contract. As such,

this language is not necessary. The County is only proposing its inclusion in the event the pending appeal before the Appellate Court is successful. If awarded by the arbitrator, it would not matter how the Court decides. That is an unfair advantage to the County. The matter is currently under appeal and has far reaching implications and should be left to the Court to decide. To award the County its proposed language would be to give the County what it already has by law but may not have by law based on the outcome of the appeal. The FOP submits that it is imperative that the arbitrator not award the County's proposal and to allow for the matter to be adjudicated by the Court.

Award

I do not award the County's proposal. The denial is not linked in any way to the merits of the pending appeal. The parties are currently in litigation over the issue of step movement after a determination was made by PERC that the County did not violate the Act when it failed to move eligible officers to the next step of the salary schedule after the agreement expired and while the parties were engaging in negotiations for a new agreement. The County's position on this issue was sustained. In addition to the appeal by the FOP, I take administrative notice of a pending appeal of a later PERC decision holding that a party's proposal to advance employees to the next step of the salary schedule after contract expiration, but prior to the negotiation of a new agreement, is a non-mandatory, or illegal subject of negotiations. [See Township of Bridgewater and PBA Local 174, P.E.R.C. 2015-11 appeal pending A-000107-14]. As the matter now stands, the County's position is currently the state of the law. The language it has proposed is not necessary and I decline to issue an award on language that, in essence, is an "if and when" proposal. Moreover, the proposal

does not, in any event, impact on this proceeding because the salary portion of this award resolves the issue of where corrections officers will be placed on the salary schedule through the expiration of the Agreement on December 31, 2017. Put another way, the issue of “automatic” step movement is not complicated in any way by this award. In the event that the outcome of the litigation allows for negotiations on this issue, the parties should have the benefit of engaging in negotiations to the extent that negotiations may be allowed. Based on all of the above, I do not award the County’s proposal.

Accordingly, and based upon all of the above, I respectfully enter the terms of this Award.

AWARD

1. **Modifications to the Agreement**

All proposals by the County and FOP Lodge No. 34 not awarded herein are denied and dismissed. All provisions of the existing January 1, 2007 through December 31, 2010 agreement shall be carried forward except for those that have been modified by the terms of this Award or otherwise have been mutually agreed to by the County and FOP Lodge No. 34.

2. **Duration** – There shall be a seven-year agreement effective January 1, 2011 through December 31, 2017.

3. **Stipulations** –

1. Change all dates as necessary

2. Article I – Recognition (Section E)

The parties agreed on 8/14/2012 to delete “AXE” and insert “Bravo 1” and “Kitchen.”

The agreed upon language is to be as follows:

2. “Posts” shall consist of the following posts which shall be posted and eligible for bidding by officers: A, B, C, D, E, F, G, H, I, Visiting One, Visiting Two, Medical, Mail, Interview, Bravo One, AXA, AXB, AXC, AXD, Kitchen, Recreation One, and Recreation Twp. Bidding for the posts of admissions and center control is restricted to those officers who have had proper training for those posts. Upon receipt of proper training, an officer will be eligible to bid on the posts of admissions and center control. The County agrees that training shall be provided at least two (2) times which each calendar year.
6. “Stick List” – is defined as the mandatory overtime list utilizing the procedures and provisions provided for in this Agreement.

4. **Article VII – Health and Medical Benefits**

Article VII on pages 18-20 of the current agreement shall be deleted in its entirety and replaced as follows:

A. Medical Insurance

1. Employees and their eligible dependents shall be entitled to comprehensive medical and hospital coverage in accordance with the provisions of the New Jersey State Health Benefits Program.
2. Prescription drug coverage shall be offered to all employees and their dependents in accordance with the free standing prescription plan offered by the New Jersey State Health Plan.

Employees shall comply with Chapter 78 P.L. 2011 which includes the cost share of medical and prescription plan costs. The schedule in Chapter 78 P.L. 2011 requiring

employee health benefits contributions is provided herein as **Appendix A**. Employees shall not make plan contributions in addition to the statutorily mandated contributions noted above.

3. The employees and their dependents shall also be afforded optical and dental coverage through the County's own provider contracts.
4. Opt-Out: The County hereby offers an insurance health benefits opt-out which will be provided in accordance with the law(s), rules and regulations of the State of New Jersey and the provisions set forth in a document entitled Atlantic County Health Benefits Program Coverage Waiver/Reinstatement, available on Infoplease and from Human Resources.
5. EMPLOYEE, as used herein, means a bargaining unit member who works 25 hours or more per week. Eligible dependents, for comprehensive medical, hospital, and prescription drug coverage under the New Jersey State Health Benefits Program are the employee's spouse and/or children under age 26. Eligible dependents for optical and dental coverage shall remain pursuant to the County's provider contracts.

B. Health Benefits at Retirement

An employee who retires shall be eligible for County health benefits for himself/herself and eligible dependents for three (3) years after retirement, commencing with the employee's retirement date. Retirement is defined in accordance with N.J.S.A. 40A:10-23 as having 25 years or more of service credit in the State Pension Plan and a period of full time service of 25 years with Atlantic County at the time of retirement or upon reaching the age of 62 years or older and having had at least 15 years of service with Atlantic County. Health benefits coverage is defined as the coverage currently in force at the time of retirement and any changes to such coverage as may occur during the three year period of employer paid coverage. Retirees receiving County post-retirement health benefits shall pay a health insurance co-pay in accordance with Chapter 78, P.L. 2011. Employees will be responsible for providing to the County proof of their monthly pension payment so the County can calculate a full year of pension salary. If employee does not provide the pension information, the County will bill on employee's

salary at time of retirement. If employee does not continue to pay co-share, the County will stop the free benefits.

C. Leaves of Absence

An employee's health benefits are protected when the employee is granted an unpaid leave of absence under any Family and Medical Leave Act. However, during this leave, the employee is required to continue to pay their health benefits cost share pursuant to Chapter 78, P.L. 2011.

Any employee who is on an authorized medical leave without pay or non-paid status must continue to pay their cost share towards their health benefits in accordance with Chapter 78, P.L. 2011. After three months of an approved unpaid medical leave of absence other than FMLA or FLA, employee will be responsible for paying the monthly premium costs. If payment is required but coverage is declined by the employee, coverage will terminate effective the first day of the non-pay status after the first three months. This will result in temporary suspension of benefits. Benefits are reinstated the day the employee returns to work.

D. Disability Pool.

The County shall maintain the current disability program with the follow changes: 1. All claims shall be submitted to an independent M.D. mutually agreed upon for evaluation and approval. 2. Employees are eligible to use the program while maintaining up to one year's sick and vacation time.

E. The County will offer employees and their families the opportunity for a temporary extension of health coverage, called continuation coverage, at group rates, in certain instances where coverage under the County plan would otherwise end. This is in accordance with federal law P.L. 99-272, Title X (COBRA)

F. Mental Health coverage shall be in accordance with all applicable laws.

G. Medical Examinations

A thorough medical examination will be given all Officers upon hiring, with the County paying 100% of the cost. The County shall also make available to each Officer a physical examination at least once annually upon the request of the Officer or the County. The

Officer may be given a psychological examination at the discretion of the Department Head and at County expense.

H. Workers' Compensation

When an Officer is injured on duty during working hours, he/she will be entitled to workers' compensation benefits as set forth by New Jersey Statute (N.J.S.A. 34:15). Officers injured or disabled in the course of their employment shall receive the difference between their regular rate of pay and disability or workers' compensation payments that they receive for a period not to exceed one (1) year. The County will provide, at its expense, medical screening for any Officer who, after being exposed to a contagious disease, as part of his/her employment, either shows symptoms, or who was so exposed under unusually dangerous conditions. If the Officer tests positive, the County will provide, at its expense, medical screening for the Officers immediate family (those who reside with the Officer). Contagious diseases, for the purpose of this section shall include, but not be limited to, AIDS, hepatitis, mononucleosis, strep infection, tuberculosis, herpes. The County shall have the discretion to determine whether an officer's identification of a contagious disease other than those set forth above represents a serious communicable disease that was contracted on the job.

5. Reorganization

The articles in the new CBA (January 1, 2010-2017) shall be reorganized to group financial provisions and related provisions in consecutive articles where practicable. Language in the previous CBA (January 1, 2007-December 31, 2010) referencing reorganized articles shall be adjusted accordingly to reflect new article numbers and new page numbers

6. Longevity

Effective on September 29, 2014, there shall be a new hire longevity schedule. It shall read as follows:

1 st day of the 6 th year through the last day of the 10 th year	\$640
1 st day of the 11 th year through the last day of the 15 th year	\$920
1 st day of the 16 th year through the last day of the 20 th year	\$1,340
1 st day of the 21 st year	\$2,000

7. **Article IV.A.3 – In Lieu Of**

Compensatory time may be used in lieu of sick time at the Officer's discretion providing that the Officer signifies his/her intention to utilize compensatory time at the time of call-in. Otherwise, the day off shall be charged as sick time. Effective January 1, 2015, the use of compensatory time to be used in lieu of sick time shall not exceed 64 hours annually per officer.

8. **Salary**

In all years of the contract, officers shall move one step on an annual basis, consistent with the officers' anniversary dates and the terms of the Agreement that addresses the timing of salary increases. From January 1, 2011 through and including December 31, 2017 there will be a zero percent (0%) increase to all existing and newly created steps in the salary guide, except the top step in each year of the guide shall be increased by two percent (2%) on each January 1. In 2015, there shall be a new Step 7 in the amount of \$54,647.00. Officers at Step 6 in 2014 shall move to the new Step 7, consistent with the officer's anniversary date. In 2015, there shall be a new Step 10 in the amount of \$70,531.00. There shall be a new salary guide for employees hired on or after September 29, 2014, consisting of 14 steps, with the first two Steps 1A and 1B consisting of six month periods. There will be a zero percent (0%) increase to all steps in the salary guide. Officers shall move one step on an annual basis, consistent the officers' anniversary dates and the terms of the Agreement that address the timing of salary increases. All salary increases are fully retroactive to January 1 of the year in which those increases apply. Pursuant to Article XXI, Section C, "Retroactive payments of any kind, including salary increases, will not be made for those Officers who separate from employment prior to the date on which payment is issued. The preceding sentence does not apply to Officers who retire during the life of this Agreement."

The salary guides shall be as follows:

Salary Guide through December 31, 2017
for employees hired prior to September 29, 2014

Steps	2011	2012	2013	2014	2015	2016	2017
1	36,152	36,152	36,152	36,152	36,152	36,152	36,152
2	38,152	38,152	38,152	38,152	38,152	38,152	38,152
3	40,152	40,152	40,152	40,152	40,152	40,152	40,152
4	42,152	42,152	42,152	42,152	42,152	42,152	42,152
5	44,833	44,833	44,833	44,833	44,833	44,833	44,833
6	49,948	49,948	49,948	49,948	49,948	49,948	49,948
7	59,346	59,346	59,346	59,346	54,647	54,647	54,647
8	62,905	62,905	62,905	62,905	59,346	59,346	59,346
9	67,792	69,147	70,530	71,940	62,905	62,905	62,905
10					73,379	74,847	76,343

Salary Guide through December 31, 2017
for employees hired after September 29, 2014

Steps	2014	2015	2016	2017
1A	36,152	36,152	36,152	36,152
1B	38,904	38,904	38,904	38,904
2	41,656	41,656	41,656	41,656
3	44,408	44,408	44,408	44,408
4	47,160	47,160	47,160	47,160
5	49,912	49,912	49,912	49,912
6	52,664	52,664	52,664	52,664
7	55,416	55,416	55,416	55,416
8	58,168	58,168	58,168	58,168
9	60,920	60,920	60,920	60,920
10	63,672	63,672	63,672	63,672
11	66,424	66,424	66,424	66,424
12	69,176	69,176	69,176	69,176
13	71,940	73,379	74,847	76,344

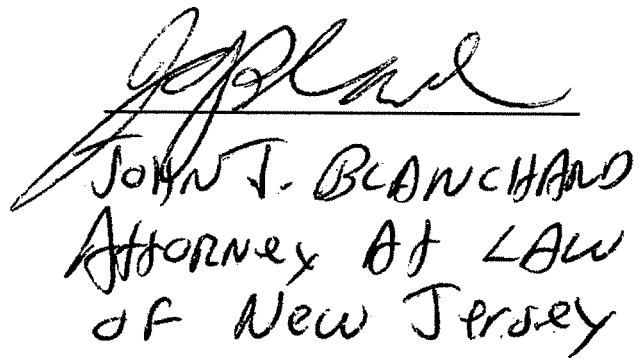
Dated: September 29, 2014
Sea Girt, New Jersey



James W. Mastriani

State of New Jersey }
County of Monmouth } ss:

On this 29th day of September, 2014, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



JOHN J. BLANCHARD
Attorney At Law
of New Jersey