

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Interest Arbitration Between

**TOWNSHIP OF SPRINGFIELD,**  
Public Employer,

PERC Docket No.  
IA-97-140

and

JS Case No. 2497

**LOCAL 76, SPRINGFIELD POLICE  
BENEVOLENT ASSOCIATION and LOCAL  
76A, SUPERIOR OFFICERS ASSOCIATION,**  
Exclusive Representatives,

**OPINION  
AND  
AWARDS**

Re: Impasse on January 1, 1997 Contract.

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Before **JOHN E. SANDS**, Impartial Arbitrator

**OPINION**

This interest arbitration proceeding arises under *N.J.S.A.* 34:13A-14 *et seq.*, and the administrative regulations promulgated thereunder, *N.J.A.C.* 19:16:5 *et seq.* On July 7, 1997, Timothy A. Hundley, PERC's then-Acting Director of Arbitration, appointed me to arbitrate the impasse that had developed in the parties' efforts to negotiate a successor contract to theirs that had expired on December 31, 1996.

Pursuant to my authority as Interest Arbitrator and with the parties' approval, I conducted mediation sessions on September 4, 1997, October 14, 1997, and January 12, 1998. Mediation having failed to resolve all issues, I conducted hearings on March 30, 1998, April 7, 1998, and May 14, 1998. Both parties appeared by counsel and had full opportunity to adduce evidence, to cross examine each other's witnesses, and to make argument in support of their respective positions. Each submitted a post-hearing brief, and neither has raised any objection to the fairness of this proceeding.

At the April 7, 1998 hearing, the parties agreed that their successor agreement's term should be four years; and they agreed to treat that agreement as a "stipulation of the parties" under *N.J.S.A.* 34:13A-16g(4). At that same hearing, the parties agreed, and I as Interest Arbitrator concurred, that the stipulated four-year term is consistent with the relevant criteria of *N.J.S.A.* 34:13A-16(g) as established by the parties' proofs on the record of this proceeding. (April 7, 1998 Transcript, pp. 65-66.) In addition, the PBA agreed to eliminate the four-man guarantee from dusk to dawn. The parties also stipulated that Article 12 ("Manpower"), Section 1 should be deleted from their contract as a non-mandatory subject of bargaining, that corporals are included in the PBA's bargaining unit,

and that Article I (“Recognition”) of their contract should be amended to add “corporals” to the list of covered titles. The parties also agreed that the Unions’ demands for increase of the hourly rate for outside employment and reduction of the Township’s \$5 administrative fee should be held in abeyance pending further settlement negotiations and that I should retain jurisdiction of that issue.

My determination of the remaining issues is governed by Chapter 425 of the 1995 Laws of New Jersey, "The Police and Fire Public Interest Arbitration Reform Act." That law requires that my ". . . Award on the unsettled issues [be] determined by conventional arbitration" and that I:

separately determine whether the total net economic changes for each year of the agreement are reasonable under the eight statutory criteria set forth in Subsection g of this Section.

According to *N.J.S.A.* 34:13A-16(g), my conventional arbitration award also must comply with the following:

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

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976 c. 68 (*N.J.S.A.* 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 (*N.J.S.A.* 34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other 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 P.L. 1976, c. 68 (*N.J.S.* 40A:4-45.1 *et seq.*)

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will 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 of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

The unsettled issues subject to determination in this conventional arbitration proceeding appear in the parties' final offers:

**PBA FINAL ECONOMIC OFFER**

A. Salary Guides: Across-the-board percent increases, exclusive of increments, for the fiscal years as follows:

1997: 4.5% effective 1/1/1997

1998: 4.5% effective 1/1/1998

1999: 4.5% effective 1/1/1999  
2000: 4.5% effective 1/1/2000

B. Outside Employment: Cap the administrative fee of Five Dollars (\$5.00) an hour which the Township charges to a commercial or charitable establishment for outside employment of a Springfield Police Officer. Proceeds from this surcharge accrue to the Township.

The Union also seeks authorization to negotiate an increase in the hourly rate, from Fifteen Dollars (\$15.00) an hour paid to Police Officers by charitable organizations to Twenty-Five Dollars (\$25.00) an hour, and from Twenty-Five Dollars (\$25.00) to Thirty-Five Dollars (\$35.00) an hour paid to Police Officers by non-charitable organizations.

C. Acting-Up Pay: Retroactive to January 1, 1997, and starting from the first day as opposed to ninety (90) consecutive days thereafter, a Police Officer who serves in a title higher than his shall receive the pay of the higher rank; *e.g.*, Plain Clothes Officers assigned to the Detective Bureau.

D. Call Back Pay: Police Officers called back to work before the schedule when they would normally appear shall be paid at time-and-a-half for a minimum of three hours.

### **SOA FINAL ECONOMIC OFFER**

A. Salary Guides: Across-the-board percent increases, exclusive of increments, for the fiscal years as follows:

1997: 4.5% effective 1/1/1997  
1998: 4.5% effective 1/1/1998  
1999: 4.5% effective 1/1/1999  
2000: 4.5% effective 1/1/2000

B. Outside Employment: Cap the administrative fee of Five Dollars (\$5.00) an hour which the Township charges to a commercial or charitable establishment for outside employment of a Springfield Police Officer. Proceeds from this surcharge accrue to the Township.

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C. Acting-Up Pay: Retroactive to January 1, 1997, and starting from the first day, as opposed to ninety (90) consecutive days thereafter, a Police Officer who serves in a title higher than his shall receive the pay of the higher rank; *e.g.*, Sergeants who serve in the rank of Lieutenant.

D. Call Back Pay: Police Officers called back to work before the schedule when they would normally appear shall be paid at time-and-a-half for a minimum of three hours.

### **TOWNSHIP OF SPRINGFIELD FINAL ECONOMIC OFFERS**

#### Salaries/Wages.

1. Percent increases for the fiscal years as follows:

1997: 2.0% effective 1/1/1997

1998: 2.0% effective 1/1/1998

1999: 2.0% effective 1/1/1999

2000: 2.0% effective 1/1/2000

2. All employees hired after January 1, 1998, shall not be eligible for longevity pay.

3. Effective January 1, 1997, the longevity cap for existing employees will be reduced from fifteen percent (15%) to ten percent (10%) for patrolmen and sergeants and twelve percent (12%) for other superior officers. Employees currently at the fifteen percent (15%) level will be capped at that level. Employees currently above the ten percent (10%) level will be capped at their existing level.
4. Effective upon obtaining a new disability policy, the existing plan of full pay for up to six months and 80 percent (80%) for up to five years is modified to full pay for one year.
5. Effective January 1, 1999, the current unlimited sick practice of up to one year is changed to ten days per year.
6. Effective January 1, 1998, establishment of a nine-step salary guide with a starting salary of Twenty-Two Thousand, Five Hundred Dollars (\$22,500) in equal distant [*sic*] steps to the maximum salary.
7. Medical insurance deductible is raised to (Two Hundred Dollars) \$200 and a co-pay is instituted, effective January 1, 1999, for twenty percent (20%) for the first Two Thousand Dollar (\$2,000) premium.
8. ARTICLE IV (Salaries), Section 2: The twenty-two (22) years of service, which the three (3) most senior patrolmen must have completed before becoming eligible for the increase in their base rate of compensation as specified in this Article IV, must be with the Township of Springfield.

**PBA FINAL NON-ECONOMIC OFFER**

A. **Work Schedule:** "4 on/4 off," non-rotating, steady shift schedule, at 10.75 hours per shift. This schedule shall be subject to a guarantee that the number of incidents of sick leave will decline by twenty-five percent (25%) from a three-year average.

Also, the Township may require Police Officers to report for duty 30 minutes early on the first day of each four days on, provided that:



(a) There be no change from the present in the nature of the tasks and duties to be performed, and

(b) If, in a separate arbitration proceeding not a part of the instant interest arbitration, the arbitrator disallows the reporting early requirement, then "this goes too."

B. Union time: Time shall be accorded to the union president, as well as to union delegates, to conduct union business on a daily basis.

### **SOA FINAL NON-ECONOMIC OFFER**

A. Work Schedule: "4 on/4 off," non-rotating, steady shift schedule, at 10.75 hours per shift. This schedule shall be subject to a guarantee that the number of incidents of sick leave will decline by twenty-five percent (25%) from a three-year average.

Also, the Township may require Police Officers to report for duty 30 minutes early on the first day of each four days on, subject to:

(a) No change from the present in the nature of the tasks and duties to be performed, and

(b) If, in a separate arbitration proceeding not a part of the instant interest arbitration, the arbitrator disallows the reporting early requirement, then "this goes too."

B. Union time: Time shall be accorded to the union president, as well as to union delegates, to conduct union business on a daily basis.

### **TOWNSHIP OF SPRINGFIELD FINAL NON-ECONOMIC OFFERS**

1. Article XXIII (Replacements): (Delete existing language and replace with the following) Nothing contained herein shall restrict an employer from using auxiliaries or specials as permitted by law.

2. Annual Department Meeting[s]: At the discretion of the Chief, three (3) annual meetings may be called per year. The Chief may make proper notification thirty (30) days prior to each of the meetings by distributing written notice in each member's mail slot and posting said notice on [a] board containing daily memorandums. Departmental meetings shall not be scheduled for Saturdays, Sundays, or holidays. Absence from duty requests submitted prior to the distribution of notice shall be granted. Chief may grant excuses to members who cannot attend. There will be no compensation for attending an annual meeting and this Article is not subject to the grievance procedure.

3. Fully bargained agreement:

A. The Township and the PBA agree that this Agreement is the complete agreement between them and that no other understandings or agreements and no past practices shall be binding on the Township or the PBA during the term of this Agreement unless agreed to in writing between the Township and the PBA subsequent to the date of execution of this Agreement.

B. This Agreement represents and incorporates the complete and final understanding and settlement by the parties of all bargainable issues which were or could have been the subject of negotiations. During the term of this Agreement, neither party will be required to negotiate with respect to any such matter, whether or not covered by this Agreement, and whether or not within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

C. It is the intent of the parties that the provisions of this Agreement, except where noted in this Agreement, will supersede all prior agreements and understandings, oral or written, expressed or implied, between the parties, shall govern their entire relationship, and shall be the sole source of all rights or claims which may be asserted, The PBA, for the life of this Agreement, hereby waives any right to request to negotiate or bargain with respect to any matters contained

in this Agreement. It is mutually understood that this clause is a clear waiver as to any right or claim not expressed in this Agreement.

D. This Agreement is separate and distinct from and independent of all other agreements entered into between the PBA and other employer [*sic*] organizations, irrespective of any similarity between this Agreement and any such other agreements. No act or thing done by the parties to such other agreements, or notices given under the provisions thereof, shall change or modify this Agreement, or in any manner affect the contractual relationship of the parties hereto.

E. This Agreement shall not be modified in whole or in part by the parties except by an instrument in writing executed by both parties.

4. **Management Rights:** Nothing in this Contract shall abrogate the management rights of the elected or appointed officials in charge of the various departments of the Township government. Except as otherwise provided herein, the Township retains the exclusive right to hire, direct and schedule the working force; to plan, direct and control operations; to discontinue, reorganize or combine any department with any consequent reduction or other changes in the working force; to introduce new or improved methods or facilities regardless of whether or not the same cause a reduction in the working force, and in all respects to carry out the ordinary and customary functions of management, including the establishment of such operational rules as it shall deem advisable. Further, no management prerogative reserved solely to the discretion of the Township by the terms of this Agreement shall be made the subject of a grievance.

5. **Grievance Procedure:** (Add the following to Step 1) The immediate superior shall respond to the aggrieved party in writing within five (5) days and direct a copy of the answer to his division commander.

(Add the following to Step 2) A written decision shall be rendered within five (5) working days. If the aggrieved party is not satisfied or a written decision is not rendered within five (5) working days, he may then file a written grievance with the Chief of Police.

6. Add the following paragraph to Article XXIII (Miscellaneous), Section 3 (Assessment):

The union agrees that it will indemnify and save harmless the Township against all actions, claims, demands, losses, or expenses (including reasonable attorney fees) in any matter resulting from any non-negligent action taken by the Township at the request of the union under this Article.

### **THE PARTIES**

The Public Employer is the Township of Springfield ("Township"). The Exclusive Representatives are the Springfield Police Benevolent Association, Local 76, ("PBA") and the Superior Officers Association, Local 76A ("SOA"). The PBA represents a unit of twenty-six (26) patrolmen and three (3) detectives of the Township police force. The SOA unit comprises three (3) lieutenants and six (6) sergeants. Both prior collective bargaining agreements expired December 31, 1996.

## POSITIONS OF THE PARTIES

### PBA and SOA

Although the members of these two bargaining units differ, the arguments of the PBA and of the SOA are identical. I shall accordingly refer to them as the "Unions" except where the context requires differentiation.

For the first statutory criterion concerning "interests and welfare of the public," the Union's expert witness on the Township's financial status was Vincent Foti, a qualified expert in municipal finance. His report is in evidence as Union Exhibit 2 and was drawn from the Township's Annual Financial Statements for the Years 1995 through 1997, the introduced municipal budget for 1998 and the adopted municipal budgets for 1996 and 1997, the Township's reports of audit for 1993, 1994, and 1995; the Township's most recent Official Statement in support of a bond issue, Union County Board of Taxation certifications of general tax rates for 1994, 1995, 1996, and 1997; and the 1997 Municipal Data Book.

Demographically, Springfield's population was 14,058 (1994 estimate). Its 5,190 parcels included 4,697 residential parcels and 242 commercial parcels. Residential parcels comprise 90.5%, commercial, 4.6%, and industrial

1.37%. The average median value for a one-family house in Springfield is \$215,500.

Springfield's Annual Financial Statements ("AFSs") for 1995, 1996, and 1997 show surpluses generated each year for "Results of Operations" of \$1,490,509, \$1,984,476, and \$2,292,418 respectively. Based on the 1997 total budget of \$16,677,644, 1997's "surplus" of \$2,292,419 represented the equivalent of a 13.75% "profit." Such surpluses can be used as a revenue source for the next year's budget, but prudent fiscal policy requires preserving a portion of the surplus for unforeseen needs.

Springfield's conservative budgeting suggests that such surpluses will continue in the future. In 1996 and 1997 Springfield realized \$984,340 and \$868,348 more revenue than had been budgeted. Its current Fund balances as of December 31st of each year from 1993 through 1997 have been substantial and have provided funds for the succeeding years' budgets that have reduced the need for tax revenues. For example, in 1996 Springfield had a surplus of \$2,778,689. It used \$1,935,000 for the 1997 budget and kept the \$800,000 budget on hand as a financial cushion, invested and earning interest. In 1997, Springfield earned \$240,000 interest on such investments.

Surpluses have been supported in part by unexpended balances of appropriation reserves. At the end of each fiscal year, appropriation balances remain, some relating to bills not paid. If the appropriations are not canceled, they remain in that account for one year and, if still not used, automatically go to surplus. In 1995, 1996, and 1997 such transferred amounts were substantial: \$177,373, \$437,473, and \$233,989 respectively. The municipal portion accounts for about one-third of Springfield's \$34,218,118 tax levy (1997). Municipal tax rates have increased between 1993 and 1997 by 53%, from \$.69 per thousand to \$1.06 per thousand. Between 1995 and 1997, however, the increase was only \$.08 per thousand or about 2% per year.

Springfield's high tax collection rate also provides a conservative budgeting tool that contributes to surpluses. In 1995, 1996, and 1997 Springfield's tax collection rate exceed 98%. For budgeting purposes, however, Springfield anticipates collections at a rate 2% lower than the prior year's experience. That differential contributes to Municipal Revenues Not Anticipated ("MRNA"), an account in which Springfield also lists its substantial earnings on investments.

Springfield's assessed values have remained fairly consistent, fluctuating around the 1.06 billion dollar mark. One tax point produces \$105,000. As of December 31, 1995, Springfield's net debt of \$11,034,100 left remaining borrowing power of \$36,769,546. Springfield's current fund cash balance as of December 31, 1997 was \$4,686,135, and it enjoys Moody's highest, AAA credit rating for its bonding. Springfield's cap calculation for 1997 leaves \$793,148 available.

Based on Foti's testimony, the Unions assert that their wage increase demands will have no significant impact tax rates. They also assert that their major non-economic demand for a non-rotating schedule of four-hours-on followed by four-hours-off would provide the citizens of Springfield with better police coverage. With the proposed schedule, police officers will require less sick time to recuperate from their duties, will have fewer morale problems, and will perform better on the job than with the schedule as currently constituted.

A considerable amount of the Unions' evidence concerned the second statutory criterion, *i.e.*, comparing wages, salaries, hours and conditions of employment of the employees at issue in this proceeding with those of other public



and private employees. The Unions contend that they are not unmindful of the need of the Township to reduce the starting salary of unit members. They argue, however, that if they were to agree to the \$22,500 which the Township has offered, their starting salary would rank as the lowest in Union County. The Unions are willing to agree to a new starting salary and willing to agree to an additional step in the existing five-step salary guide if new hires were eligible to take a promotional test after being in a position five years.

The Unions are not willing, however, to agree to a salary guide with nine steps, as the Township has proposed. In addition, the Unions argue that the Township has presented no evidence to suggest, much less to support its proposal, that a police officer receive should wait until he has served 22 years in the Township before receiving Corporal's pay.

The Unions argue that the Township's counsel, who testified on his client's behalf, acknowledged that he was not an expert on the economic and financial ability of the Township to make salary payments. They urge that I disregard the numbers put forward by the Township, because data produced by the Township concerning other Union County municipalities are incomplete. The

Unions point out that, at least for starting salaries, the Township has offered evidence on only 13 of the 21 municipalities in Union County. Moreover, the Unions maintain that, throughout the Township's calculations, its counsel has compared "apples and oranges."

Instead, the Unions urge that I credit their own analysis of the "bare based" salary paid in Springfield with the bare base in the other comparable jurisdictions. The "bare base" to which the Unions refer comprises the salary listed in Springfield's collective bargaining agreement, less holiday pay and clothing allowance, which the Unions previously negotiated to be included in salary. (That benefit has the effect of increasing annual compensation and hourly rates for purposes of computing such other benefits as pension entitlement and overtime pay.)

The Unions argue that the Township has produced no evidence on bare based comparisons. Although the Unions acknowledge that the Township was correct that Springfield had the highest starting salary in Union County in 1996, they argue that, by not comparing bare based salaries, the Township makes

it appear that starting salaries for Springfield officers that year was 7.9 percent higher than it was.

The Unions also addressed the appropriate means of comparison between the salary positions. Pointing to Foti's testimony, they argue that the appropriate basis was a single year, which he in fact used for the Unions' analysis, not the overall three years which the Township used. The problem with the Township's analysis, Foti testified, was that the three-year basis requires factoring in items such as breakage, *i.e.*, the difference between a retiring employee's salary and a new hire's salary at the lowest step of the salary guide. It is impossible to predict, Foti said, who will retire and who will be hired at which step.

The Unions also support their wage demand by offering statistics indicating the relative ranking of average salary increases within comparable jurisdictions. They state that the average increase in Union County for all comparable jurisdictions for both rank-and-file and superior officers was 3.995 percent in 1997 and 4.165 percent in 1998. The teachers' salary increase for the 1996-97 school year was 4.34 percent. The Unions reference a report by the

Public Employment Relations Commission indicating salary increases for the preceding year averaging more than 4.0 percent.

The Unions point to data presented by the Township of Springfield, itself, *i.e.*, that members of the New Providence PBA, Local 132, received five percent increases in 1995 and 1996 and four percent pay raises in 1997, 1998, and 1999 by virtue of Barbara Zausner's January 6, 1998 interest arbitration award. Accepting the Township's offer would put its police officers further behind the rate of increase of New Providence, the Unions maintain.

The Unions interpret<sup>1</sup> the Township's position as advocating the same terms and conditions of employment for their members as those to which the Springfield Firemen's Mutual Benevolent Association ("FMBA"), Local 57, agreed in their collective bargaining agreement with the Township for the period of January 1, 1997, through December 31, 2000. That four-year agreement included annual salary increases of 3%, 3.25%, 3.25%, and 3.5%; a cap on longevity for existing employees; reduced longevity benefits for new hires, and modification of disability insurance benefits.

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<sup>1</sup>Indeed, the Township so concedes.

The Unions question the sincerity of the Township's professed interest in their maintaining parity with the FMBA. If parity were the Township's real, primary concern, they argue, then the Township's offer to the police Unions would have been identical to that it had agreed to give the FMBA. Instead, the Unions argue, the Township offered the police Unions a "much different contract" from the Firemen's, with fewer benefits and less generous salary increases. The Unions accordingly would have me infer that parity is not "all that important" to the Township's governing body.

Also on the comparability criterion, the Unions offered evidence comparing the salaries sought in their contract demand with those in private employment in general. Relying on the Bureau of Labor Statistics' April, 1998 figures, the Unions compared "average hours and earnings of production and non-supervisory workers on private, non-farm payrolls by detailed industry." The figure most closely paralleling police officers, in the Unions' view, is the "total for the service producing industries." There, the average hourly rate, for February, 1997, was \$11.64 an hour. One year later, it was \$12.15, up 4.38 percent. The 4.5 percent demanded by the Unions is in line with both public and private sector settlements, in the Unions' view.

Turning to non-economic issues of comparability, a major aspect of the Unions' position concerned their proposal regarding shift rotation. First, the Unions are seeking a non-rotating schedule for Patrol Division personnel of four days on followed by four days off ("4 on/4 off"), as opposed to the current rotating schedule of four days on, followed by two days off ("4 on/2 off"). They also want to extend the length of each shift from the current eight hours to ten-and-three-quarter hours.

To support their demand to eliminate shift rotation, the Unions maintain that they studied 21 of the 22 municipal police departments in Union County and determined, on the basis of written information from 68 percent of those departments that replied to the Unions' inquiries, that Springfield is the only one in which Police Officers currently work 4 on/2 off rotating shifts. Half of all other Union County municipalities used to have some form of a 4 on/2 off schedule prior to abandoning it, and, of those, 40 percent had rotating shifts. The Unions produced a chart of their findings indicating that, of the 21 departments responding to the survey, more than half currently work the 4 on/4 off, steady tours sought by the Unions in this proceeding. Hillside uses a 5 on/5 off format of steady tours. Plainfield schedules 4 on/3 off steady tours. Eight departments

rotate their tours; each of those eight schedule officers 4 on/4 off. The Unions contend that two other Union County municipalities –Clark and Roselle– have departments of comparable size to Springfield's and have the same schedule the Unions are seeking.

As for length of day, seven departments had ten-, ten-and-a-half-, or ten-and-three-quarter-hour days; fourteen had days ranging from eleven to twelve hours. The average length of work day of a 4 on/4 off schedule, according to the Unions, is just under eleven-and-a-half hours.

The Unions urge that a change to longer but steady shifts would reduce the fatigue and stresses that the current rotating shift schedule has produced. As evidence of debilitating effects that a rotating schedule can have on health and well-being, the Unions point to studies involving the Philadelphia Police Department, which found that, over time, accumulated stress resulted in a high rate of alcohol and substance use and an increase in accidents, abuse, and estrangements in families. They also quote Harvard Neuroscientist Charles Czeisler that a rotating series of shifts interrupts the body's circadian rhythms, including sleep/wake cycles. They cite a survey conducted by the National Sleep

Foundation on job-related stress and its deleterious effect on sleep habits as well as a study indicating that people doing rotating shift work are more likely to fall asleep on the job.

Responding to expressed concerns of the Township administration, the Unions point to a 1979 self-study by the Ridgewood (California) Police Department concerning the effects of a ten-hour-a-day, four-day work week on police officers. That study indicated that 66 percent reported no more fatigue than with shorter days. The Unions also point to what they described as "standard practice" among a majority of Police Officers in the Springfield Police Department who work a job in addition to their Township job. This often amounts to a work day approaching twelve hours, with no reported problems of fatigue. According to the Unions, the schedule they propose "would practically eliminate this practice." An officer would concentrate only on the scheduled tour assignments, the Unions maintain. Of course, the 4 on/4 off would give officers more regular days off to work full days on other jobs.

With respect to coverage during vacation periods, the Unions contend that the schedule they propose would amount to a maximum of approximately 20



days off per individual, eight days less than the 32-day maximum the current schedule provides. They also maintain that, by converting to the proposed schedule, they would actually be "giving back" vacation time. Stated another way, the Unions argue that the Township will "make" \$5,593.18 annually based upon the conversion of vacation time on an hourly rate for each position. Of course, this argument ignores the fact that the newly-computed vacations will constitute the same amount of paid hours off for which coverage must be provided. The Unions also contend that the Township will "reap a benefit" of approximately \$5,000 for the six hours of training time that it will gain per employee for each year of the proposed contract. They say that the actual hours worked will increase by approximately ten hours a year with no additional compensation over and above the six hours per employee per year for training time that each officer "give[s]" the Township with no additional compensation. The Unions further assert that they are willing to submit to a trial period provided that someone other than the Chief of the Department reviews the decision at the end of the trial period coinciding with the termination of the contract. The Unions propose that I retain jurisdiction to conduct this review.

The Unions maintain that the testimony of Police Officer Scott Davis, acting president of the PBA in Plainfield, New Jersey, bolsters their position in favor of non-rotating shifts. Over the years, Officer Davis has studied the effects of a steady, 4 on/2 off shift, a rotating 4 on/4 off shift, and a steady 4 on/4 off shift. He testified that he has done so at the request of Capt. Keaveney, who determined, in October, 1997, that a rotating 4 on/4 off shift was not working as planned. Officer Davis testified that the old 4 on/2 off shift had been stressful for the officers on the force because it did not permit them sufficient time to relax and recover before beginning a new stint of work shifts. Following discussions with Capt. Keaveney, Officer Davis drafted a proposal for a steady 4 on/4 off shift, lest the Captain return to the 4 on/2 off shift they had previously had. The change was indeed made to a steady schedule of 4 on/4 off. It produced "positive outcomes," Officer Davis testified, indicating that morale improved, work attendance improved, civilian complaints decreased, and fewer officers were charged with using excessive force.

Officer Davis testified that, in 1997, two events occurred that caused earlier problems to recur: a quarter of the patrol force was reassigned to the narcotics division, so patrol manpower dwindled; and the 4 on/4 off shift went

from steady to rotating. When Capt. Keaveney asked Officer Davis to draft proposals for a shift change, Davis said that he conducted a study of sick leave use by the entire Plainfield police force and found that it had increased dramatically when the patrol officers went from steady to rotating four-on/four-off shifts. Officer Davis testified that morale suffered because some officers had to postpone education plans requiring steady work schedules and that others had trouble coordinating child care duties with spouses who worked full-time.

Officer Davis testified that, of the three proposals he devised, Capt. Keaveney decided to implement a steady, 4 on/3 off schedule. That schedule permitted a so-called "power day" when officers can take part in in-service training and can appear as witnesses in court without incurring overtime.

As to the advantages of a steady shift, Officer Davis testified that these included a greater degree of familiarity with a given officer's patrol area than a rotating shift permitted and a more constant lifestyle with fewer physical and psychological stresses. He also testified that he had heard no complaints from officers even when they worked a longer work day, as they had under the 4 on/3

off, steady schedule. This compared favorably to when they had worked an eight-and-a-half-hour day on the 4 on/2 off schedule.

As to the Township's claim that the Department had offered a non-rotating schedule in the past, Springfield Police Chief William Chisholm testified that he had brief discussions with a Sergeant Davis and another officer of the SOA whom he could not recall about the possibility of implementing a steady 4 on/2 off schedule. Chief Chisholm testified that Sergeant Davis indicated he wanted to "write something up" and that, later, Sergeant Davis proposed a schedule which included names of officers written in the time slots of a schedule of steady shifts. Chief Chisholm testified that he voiced no opposition to the concept of a non-rotating schedule at that time but that he did object to the Sergeant's determining who would work in which time slots. The Unions contend that, at no time, did the Chief specify under oath having had discussions either on or off the record with the president of either Union. They also emphasize that they are not seeking "any specific schedule" but simply a 4 on/4 off, non-rotating schedule of ten-and-three-quarter-hour days with shift selection based on seniority.

The Unions attempted to address possible concerns the Township might have about overtime for officers who are called to testify in court. They suggested a schedule designed to minimize the number of officers called for court duty at the same time. The Unions asserted that the current schedule "is not immune" to this problem.

The Unions argue that the schedule they propose would ensure more police officers on the street during peak times of need. They point to the testimony of Captain Vernon Pederson, the person in charge of scheduling for Springfield's patrol officers. Capt. Pederson conceded on cross-examination that, on the current 4 on/2 off rotating shift schedule, Springfield occasionally has the most police officers on during periods of least need and the fewest police officers on at times of greatest need. The Unions contend that the schedule they propose would change that disparity. They say their proposed schedule would require twenty-four (24) patrol officers and nine (9) supervisors and would cover the Township's manpower needs much more efficiently than current practice.

With respect to coverage, the Unions contend that currently, when one shift is ending and another beginning, the Township has no Police Officers

patrolling the streets for a period of ten to fifteen minutes. They argue that their proposed schedule's overlapping shifts would eliminate that void in coverage and the possibility that "last minute calls" could require those on duty to work overtime, as is currently the case. The Unions also state that, under the current schedule, the length of overtime to cover a shift is four to eight hours, whereas the proposed schedule's length of overtime to cover a shift would be two and three-quarters hours. This would reduce the need for overtime coverage for any shift by up to five-and-a-quarter-hours, the Unions assert.

Also under the proposed non-rotating schedule, two platoons would be divided into six squads, with each platoon comprising four supervisors (Lieutenants or Sergeants) and eleven Patrol Officers. The Unions "strongly suggest" that the steady shifts be chosen by seniority. In support of their request they cite Township of Pennsauken, 14 *N.J.P.E.R.* ¶19161 (PERC, 1988) which held a mandatory subject of bargaining that, except where special skills are required or when an emergency situation occurs, seniority govern the assignment of steady shifts. The Unions acknowledge the Township's legitimate concern that a given shift might consist entirely of senior officers or junior officers. To address this, the Unions suggest that some of the more senior officers would likely choose

to have the prime vacation choices instead of the prime choice of shifts. This, the Unions suggest, would prevent so-called "senior" or "junior" shifts from developing.

With regard to other issues of concern to the Township about their proposed schedule, the Unions contend that communication problems between the two platoons it proposes can be overcome by staggering the supervisors' work schedules by two days. The Unions dismiss as a minor problem the notion that scheduling two platoons of 4 on/4 off could effectively create two independent "departments".

As for "overall" compensation and benefits, the current contract is in evidence. In addition, the Unions offered evidence on rates of pay their members receive for outside employment such as security work and traffic or crowd control for entities other than the Township itself. The Unions believe that the rate should be increased starting in 1999, to \$25 an hour for charities and \$35 an hour for all other employers. They also would limit to \$5 an hour the administrative surcharge, or "add on," which the Township collects.

The Union presented Springfield Police Corporal Donald Dauser, a 24-year veteran of the force and secretary of the PBA, on this point. He testified that some establishments that employ Springfield police officers as private security guards (*e.g.*, banks, schools, construction sites, automobile dealerships, public pools, etc.) have curtailed that practice in favor of private security guards because the Township's surcharge on the officers' income from those jobs is too high. He cited a housewares department store as one example. Corporal Dauser testified that Springfield's add-on is the highest among neighboring towns and its permitted hourly rate, the lowest.

The Union also presented testimony of Springfield Officer Richard Mickles, currently assigned to the Detective Bureau. He is a PBA State Delegate serving as liaison other police organizations in the State. Mickles testified that the Union County municipalities of Clark and Mountainside levy a 15 percent surcharge on \$35-an-hour outside employment of police officers, which works out to \$5.25 an hour. He testified that Westfield charges five percent on jobs ranging from \$26 to \$39, and Roselle Park, ten percent on \$35-an-hour jobs with a four-hour minimum. He also testified that Elizabeth, Fanwood, Hillside, Rosell and Summit levy no surcharge.



Officer Mickles added that an increase in the hourly rate for outside employment to \$35 an hour (for non-charitable organizations) would bring the Township of Springfield "somewhat even" with other Union County municipalities. He described a trend whereby an outside employer "tend[s] to cut back on the fees" even as the number of hours increases. He also explained that negotiating a rate of \$35-an-hour does not require that the rate actually paid be \$35, but that the rate signifies permission for the Township and the Union to negotiate jointly with a prospective employer for that rate. For charitable organizations, the Unions seek an increase to \$25-an-hour.

In addition to outside work, the Unions argue that the record supports their entitlement to fairer compensation for "acting up," such as when a sergeant serves as a lieutenant or a plain clothes officer performs detective duties. They argue that their "acting up" proposal for pay at the higher rank's rate for all such service be imposed retroactively to the successor contract's start. Springfield Police Sergeant Jeffrey Vreeland testified for the PBA that sergeants in the Township routinely acted as lieutenants, *i.e.*, as the officer in charge on a given shift. A 22-year veteran of the force assigned to the Patrol Division and SOA president, Sergeant Vreeland testified that, in the past, both a lieutenant and a

sergeant were assigned to every shift. A sergeant was in charge, he said, only if a lieutenant was not available.

The practical significance of this demand is currently being felt, Sergeant Vreeland testified, as a result of the Township's shortage of lieutenants. It has not promoted any employees to that position since the last lieutenant's examination in 1989, he said. He added that two lieutenants have retired without having been replaced by promotions or new hires. Their jobs have been covered instead, he testified, by sergeants acting up. Because the expired contract began acting up pay only after 90 consecutive days' assignment, sergeants seldom qualified for additional compensation.

Sergeant Vreeland testified on redirect about the Springfield Fire Department's practice with respect to "acting up" pay. Based on his familiarity with the FMBA collective bargaining agreement as well as discussions with FMBA officials, he testified that, in the Fire Department, a shift is traditionally supervised by the rank of fire captain. When the fire captain is not available, the senior fireman becomes the acting captain, and his rate of pay is that of captain. Sergeant Vreeland added that there have been instances where individuals have

acted as fire captain without taking a promotional examination for a year and a half. They received the fire captain's rate of pay for that entire period of time, starting with their first day in that position. No waiting period applied, and the Unions seek a no-waiting period too.

Another aspect of overall compensation on which the Unions presented testimony is call-back pay. Here, the PBA argues that a three-hour minimum should apply. In support of this argument, Springfield Plain Clothes Officer Richard Mickles testified that the practice, in fact, has been to require a three-hour minimum at time-and-a-half for the Breathalyser operator and Investigators.

Still another aspect of overall compensation is medical insurance. Here, the Unions object to the Township's proposal to raise the deductible and to require a 20 percent co-pay of the first \$2,000 of premium. They assert that the Township's proposal does not parallel the FMBA's health insurance provision.

The Unions strenuously object to the Township's two "give-back" issues in its fair and final offer: (a) reduction of the cap on longevity pay for

existing employees and (b) reduction in the number of permitted sick days per year.

With respect to the longevity cap on existing employees, the Unions assert that the Township sought to impose a cap on longevity throughout the negotiations and mediation process, but only for new hires. At no time before March 30, 1998, when the Township presented its conventional fair and final offer, was there ever any discussion of a longevity cap pertaining to existing employees, the Unions argue.

Briefing this issue separately, the Unions cite case law for the proposition that an arbitrator's decision is to be based on the presentation of "set" proposals, *i.e.*, proposals reduced to writing at the pleading stage.<sup>2</sup> The Unions argue that the Township's "set" proposals were those in its July 1, 1997 answer to the petition and that the only time it mentioned a longevity proposal was in that answer. The Unions assert that the Township's proposal for a cap on longevity pay dealt only with new hires, not all other officers. The Unions also argue that

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<sup>2</sup> *Borough of Bogota*, 9 N.J.P.E.R. 237 (¶14110, 1983), *Newark Firemen's Mutual Benevolent Ass'n v. City of Newark*, 177 N.J. Super 239 (1981), *aff'd.* 90 N.J. 44 (1982), *County of Middlesex*, 22 N.J.P.E.R.C. 17 (¶28016, 1996).

the Township produced no evidence supporting its claim for a longevity cap on existing members of the Police Department and made no case for depriving future employees of longevity pay.

With respect to the Township's proposed reduction in the number of sick days permitted in a year, the Unions again argue that it was never addressed by the Township either in its response to PERC when interest arbitration was requested or during mediation. The Unions argue that I should not consider these matters which, it insists, were belatedly asserted.

With respect to the fourth statutory criterion, items which were subject of stipulation in this proceeding, the Unions assert there were three: (i) the PBA agreed to eliminate the four-man guarantee from dusk to dawn, (ii) the parties agreed that a successor agreement would cover a four-year period, and (iii) they agreed that a decision on my part concerning the Unions' demands with respect to outside employment for an increase of the hourly rate and a reduction in the administrative fee should be held in abeyance, pending further settlement negotiations between the parties on this issue and that I should retain jurisdiction.

Any other items that were tentatively agreed to in mediation were taken off the table when the parties proceeded to interest arbitration, they contend.

Turning to the lawful authority of the employer, the fifth statutory criterion, the Unions again cite the testimony of their expert witness, Vincent Foti. A certified municipal finance officer, licensed public accountant, public school accountant, and former certified tax collector, Foti served for 30 years as the chief financial officer for two cities, Irvington and Clifton, and for Essex County. He also was an adjunct instructor in public finance at Rutgers University for 14 years. Foti indicated that the Township experienced a tax collection rate of 98.58 percent in 1997, ranking it in the top 25 percent of Union County municipalities. By contrast, the Unions point out, the Township relies on six-year-old figures, showing a 96.38 percent tax collection rate. In any event, the Unions maintain the State average is 93 percent; so, Springfield's tax collection rate, according to Foti, is better than outstanding.

Foti also testified that there are other ways that the Township could cover a salary increase which would not involve raising taxes. In fact, he said that Miscellaneous Revenue Not Anticipated ("MRNA") has remained relatively

constant, in the \$400,000-plus range, sufficiently great, he said, to allow the Township to absorb the salary increases demanded by the Unions without any financial impact. The Unions argue that the Township produced no expert or admissible opinion to the contrary.

With respect to the lawful authority of the employer as to non-economic issues, the Unions contend first that State law preempts negotiations over these issues and cite *State Supervisory Employees Association*, 78 N.J. 54 (1978), to support that position. For this reason, the Unions reject the management rights provision put forward by the Township, as well as a provision by which the Township maintains it will not pay for members to attend the Unions' annual meetings.

Second, with respect to the lawful authority of the employer to determine whether to release union members for union business, the Unions offered testimony on its proposal for release time for union presidents. Officer Mickles testified that the PBA Local 76 President handles in-house business of the Local. He said that the practice, which the Unions seek to change, is to deny the President paid time off to attend to union business, which only the State Delegate

receives. The only exception, he testified, is when a union meeting occurs on "Town time." Then, the PBA President gets time off to run the meeting.

As a State PBA delegate, Officer Mickles serves as PBA liaison between local and county chapters and the State organization. He said he uses his paid time off to attend monthly State PBA meetings and conventions. Officer Mickles testified that three Police Officers are permitted paid time off to attend conventions but that that did not necessarily include the President. Rather than looking for three plus the President to get paid time off to attend conventions, Officer Mickles testified, on cross-examination, that the contract proposal was for daily time for the President to take care of routine union business. Such routine business would not include matters such as contract negotiations or grievance hearings. Officer Mickles testified that he was aware that the practice in other police departments the size of Springfield's was to permit paid time off to handle such daily matters as long as it is a "reasonable" amount of time and as long as the time is "accountable."

Moreover, with respect to the lawful authority criterion, the Unions assert there is no dispute here that the Township is obligated to negotiate with the



Unions under the Public Employee Relations Act and to submit negotiating impasses with its police units to interest arbitration.

The sixth statutory criterion concerns the financial impact on the governing unit, its residents and taxpayers. The Unions argue that, even if I were to grant the entire 4.5% salary increase which they are seeking, the economic impact on the tax rates per home in the Township of Springfield would be insignificant. Expert witness Foti supported their position, testifying that, to accommodate the differential between the 2.0% salary increase offered by the Township and the 4.5% demanded by the Unions, a tax rate increase, if necessary at all, would be *de minimis*.

On this point also, the Unions point to an award by Jeffrey B. Tener in the matter of the arbitration between Morris County Prosecutors Office and Morris County PBA Local 327, of November 5, 1997. Arbitrator Tener found that the County in that case was among the wealthiest in the United States in terms of per capita income and median family income. He also found that the increases

demanded by the union would have a minimal economic effect and would not run afoul of the limitations imposed on the employer by the Cap Law.<sup>3</sup>

Arbitrator Tener reasoned in that case that the employees at issue there as well as the County had remained at a certain ranking, comparatively speaking, with other counties and that the evidence presented there mandated "no significant catch-up." Applying that rationale to the instant case, the Unions argue in the matter before me that, without any expert testimony, the Township cannot overcome the theory of *Morris County* that there has to be some justification to change these employees' existing relative placement. The Unions argue that the earlier decision "mandates" that the Union members at issue in the case before me continue to be ranked where they currently are. The Unions argue that, to do so, I must adopt their position.

As to the seventh statutory criterion, cost of living, the Unions argue that, although inflation has moderated, CPI has limited relevance compared to the

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<sup>3</sup> As Arbitrator Tener observed out, that law generally limits the amount by which appropriations of counties and municipalities can be increased from one year to the next. The Cap Law "was intended to control the cost of government and to protect homeowners. The limitation applies to total appropriations and not to any single appropriation or line item."

other statutory factors. Even at current low levels, any rise of CPI erodes the purchasing power of compensation and must be accommodated if unit members are to enjoy the fruits of their labors.

As to the final criterion, continuity and stability of employment, it is the Unions' contention that neither side's proofs addressed the turn-over rate among police officers in Springfield or the number of people waiting to gain employment in the Township. The Unions maintain therefore that I should not consider this criterion in making my determination.

In sum, the Unions assert that they have put forth evidence for each of their demands with respect to each of the statutory criteria. The Township, they contend, has proffered little if any evidence for most of its issues. As for its economic figures, the Unions argue that the evidence introduced by the Township is conclusory, illusory, and possibly misleading. The Unions urge that I find in favor of their position.

## TOWNSHIP

The Township asserts that, under the first statutory criterion, I must consider the effect which my award will have on the citizens and taxpayers of the Township of Springfield. The Township acknowledges that, in general, "a municipality should not sacrifice fairness to its employees so that it may provide its residents with a plethora of frivolous government services." On the other hand, it argues, "a municipality should not reduce essential government services to satisfy the economic demands of over-reaching public employees."

In an argument for "pattern bargaining," the Township maintains that, in the instant case, I must follow the precedent established by the FMBA contract. Such pattern settlements promote rational labor relations and prevent bargaining unit competition, in the Township's view.

As to the second and third criteria, "comparability" and "overall compensation," the Township contends that its proposals are more reasonable than those put forth by the Unions. The Township proposes a two percent wage increase in each of the four years of the proposed agreement. It contends that wage and benefit packages in the private sector highlight the reasonableness of

economic offer in comparison to the Unions' economic demands. It states that, according to the Labor Relations Reporter, on March 9, 1998, the median, first-year, weighted average wage increase for all private-sector wage settlements reached in the first eight weeks of 1998 was 2.7 percent, down from 4.6 percent for the same period in 1997. That is significantly lower than the 4.5 percent increases demanded by the Unions here, in the Township's view. The Unions' demand is well above the three percent median pay increase, reported by the Bureau of National Affairs ("BNA"), for which collectively bargained settlements provided 1.2 million private sector employees in 1997. For each of the second and third years of contracts negotiated in 1997, the median wage increase also remained at three percent, according to the Township.

The Township also proposes a 20 percent contribution toward the first \$2,000 in premiums and an increase in the medical insurance deductible to \$200. It argues that these proposals are in line with the private sector trend. It cites BNA statistics indicating that private employers have reduced health insurance benefits to their employees and are now requiring them to contribute to their own premiums, are raising deductibles, or are eliminating free health care coverage altogether. Some of the largest companies in the country are not as

generous to its employees in health benefits as Springfield is, the Township argues. It cites IBM, which, it says, requires employees to pay \$50 per month for health insurance premiums; Merck, which requires a monthly payment of \$40; Bell Atlantic, which requires an annual payment of \$620; and Citicorp, which requires \$962 a year for health premiums. Furthermore, the Township contends, statistics are expected to show that the cost of medical insurance has risen dramatically over the past three years, further underscoring what it argues is the reasonableness of the Township's economic proposals when measured against the private sector.

Measuring the Township's economic proposals against wages and benefits in the public sector also demonstrates the reasonableness of its offer, it contends. State and local governments provided a 2.9 percent median wage increase for all contracts settled during the first eight weeks of 1998, according to a February 23, 1998, Labor Relations Report offered by the Township. The weighted average, it says, equals a 2.6 percent median wage increase over the same period.

Comparing specific public sector settlements, the Township points to an eight-year agreement between the Port Authority of New York and New Jersey ("Port Authority") and Port Authority police. That agreement provides for a 3.5 percent annual increase from 1996 to 2003. Overtime reductions in that contract are expected to lower the actual cost to between 1 percent to 2.8 percent, according to the Township. Ten other contracts negotiated by the Port Authority since 1996 provided annual wage increases ranging from 2.3 to 2.6 percent, the Township adds.

It also points to a five-year agreement reached in February, 1997, between the New Jersey Sports and Exposition Authority and its employees, providing a 12 percent pay cut in the first year, a wage freeze in the second, and a 2 percent wage increase in each of the final three years. The agreement actually averages a 1.2 percent pay cut in each year over the life of the contract. Employees also agreed to give back some paid holidays and to contribute to their medical insurance.

The Township also points to an interest arbitration award imposing a four-year agreement on some 6,000 PBA members employed by the State of New

Jersey ("State"). Effective July 1, 1997, that award averaged a 1.75 percent wage increase, including wage freezes the first two years of the contract and 3.5 percent wage increases the latter two years of the agreement.

The Township also cites (i) a four-year agreement reached in November, 1995, between the State and the union representing 34,000 employees in Administrative and Clerical, Professional, and Primary Level and Higher Level Supervisory titles, providing for an average 1.71 percent annual wage increase, as well as "significant" insurance concessions; (ii) a four-year contract, effective July 1, 1995, between the State and the union representing toll collectors and maintenance and utility employees on the Garden State Parkway, providing a two-year wage freeze and two 3.5 percent wage increases; (iii) a four-year agreement, reported in March, 1996, between the State and State college faculty members, providing a \$250 bonus in 1997, a three percent wage increase in 1997-98 and a 3.25 percent wage increase in 1998-99, averaging a 1.69 percent increase over the life of the agreement. These comparables, the Township argues, point up the reasonableness of its offer to the Unions here.



The Township also underscores the reasonableness of its offer by pointing to agreements reached by unionized municipal workers in major metropolitan areas. Specifically, it cites a four-year agreement in Philadelphia providing an average 1.25 percent wage increase, a one-year agreement in Chicago providing 1.5 percent, and one-year agreements in Detroit and Los Angeles providing two percent.

The Township argues that its maximum patrol officer salary significantly exceeds police officer salaries in some of the nation's largest cities. An award of the Township's offer for 1997 alone, it argues, would exceed the maximum in Chicago, as of January 1, 1997, by 24.8 percent, San Francisco by twelve percent, and New York City by 35 percent. The Township argues that these public sector figures again demonstrate the reasonableness of its offer.

Comparing the benefits which the Township provides its police officers with those it provides other public employees in the same or comparable jurisdictions, the Township maintains again that its offers to the Unions herein are reasonable. Although the Township's proposals in this proceeding differ from the terms of its settlement with the FMBA, the Township asserts that its "emphasis"

during this interest arbitration proceeding "should indicate the package" the Township "would like" me to award, strongly implying that the FMBA pattern would be both proper and acceptable.

The Township states unequivocally that it seeks to follow the FMBA pattern. It asserts that parity or pattern settlements are well accepted in public sector labor negotiations and cites case law for the proposition that "those advocating alternatives to the pattern" must have "substantial overwhelming reasons" to deviate from the pattern.<sup>4</sup>

The Township also cites case law for the proposition that the existence of a pattern creates a significant presumption supporting contracts that fit the pattern and that this "special presumption" could stand as a "controlling element" under the statutory criteria absent a showing of equally significant, countervailing factors.<sup>5</sup> The Township asserts that the Unions have not

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<sup>4</sup> *Hudson County Board of Chosen Freeholders and Fraternal Order of Police Lodge #77*, PERC Docket No. I-79-44 at 34 (William Weinberg, Arb.).

<sup>5</sup> *County of Essex and Essex County Correction Officers and PBA Local 157*, PERC Docket No. I-84-93 (Joel Weisblatt, Arb.).

introduced any reason here to deviate from the terms of the FMBA agreement with the Township.

The Township also cites recent interest arbitration awards in Essex County to demonstrate the significance of patterns. One is Arbitrator Joel Weisblatt's award of Essex County's fair and final offer providing sheriff's officers with a wage freeze for 1995, a two percent increase for 1996 payable on January 1, 1997, a two percent increase effective January 1, 1997, a three percent increase effective July 1, 1997, a three percent increase effective January 1, 1998, and a two percent increase effective July 1, 1998.

Essex County offered the same economic package to other units, according to the Township. When the unit representing prosecutors, detectives, and investigators went to interest arbitration on the matter, Arbitrator Weisblatt reiterated in his award of March 18, 1998, the acceptability of pattern bargaining as a "policy to be honored in appropriate circumstances, "promoting consistency, avoiding bargaining unit rivalries, and encouraging harmonious labor relations. Under the circumstances of that case, Weisblatt rejected the union's efforts to distinguish the work performed by those law enforcement officers from work

performed by the sheriff's officers and correction officers. Weisblatt awarded the same economic package he had decided for the sheriff's officers the year before.

Here, the Township argues that the Unions have not offered "one scintilla of evidence" as to why the FMBA pattern should not be followed. The Township reiterates the terms of the wage increase as follows: a four-year agreement, providing for a three percent increase effective January 1, 1997, a 3.25 percent increase effective January 1, 1998, a 3.25 percent increase effective January 1, 1999, and a 3.5 percent increase effective January 1, 2000. This averages to a 3.25 percent per year increase, the Township points out, *i.e.*, 1.25 percent below what the Unions are seeking in this interest arbitration.

With respect to other economic matters, the Township points out that the FMBA agreed to a lower starting salary guide and an increase in the number of steps on the salary guide. Specifically, the FMBA agreed to reduce the starting salary to \$26,000. The Township and the FMBA agreed to freeze the new starting salary for the duration of the contract. The Township and the FMBA also agreed to increase the number of steps on the salary guide from four to six steps

(including the new starting rate).<sup>6</sup> The Township notes that, as soon as it reached agreement with the FMBA, it hired fire fighters, and, it argues, the same will be true for police.

As for the question of longevity, the Township of Springfield points out that the FMBA agreed to reduce the cap on longevity for fire fighters from fifteen to ten percent and for captains from fifteen to twelve percent. It also agreed to reduce longevity benefits for new hires. The expired contract had provided longevity benefits for fire fighters according to the same scale as that applicable to police:

<u>Years of Service</u>	<u>Percentage</u>
5 years	2%
9 years	4%
13 years	6%
17 years	8%
19 years	10%

plus one percent longevity per year up to a maximum of fifteen percent at the completion of the 24th year of service. The Township also points out that, under the new FMBA agreement, longevity for existing employees is capped at ten

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<sup>6</sup>The Unions have expressed their willingness to accept a new starting rate and additional salary step if individuals are permitted to take the promotional test after five years, as has been the case. (Unions' letter brief, p. 23.)

percent (12% for captains); employees receiving more than ten percent were grandfathered at their longevity rates as of October 7, 1997. Fire fighters hired after the signing of the FMBA agreement receive the following reduced longevity benefits:

<u>Years of Service</u>	<u>Percentage</u>
5 years	2%
10 years	4%
15 years	6%
20 years	8%

To the Unions' argument that I should not consider the Township's longevity proposal as belatedly asserted, the Township argues that it timely filed a response to the interest arbitration petition filed on July 1, 1997 and that "longevity" was part of the interest arbitration process from the beginning. Noting that the Township originally proposed that new hires not receive longevity pay, it urges that I interpret its proposal as a mere modification of its position to the longevity cap.

In support of the position that its longevity proposal should not be rejected out of hand, the Township cites case law for the proposition that a mere

listing of issues is all the statute requires.<sup>7</sup> The Township maintains that the statute contemplates that parties will modify their positions between the time an interest arbitration petition is filed and the time agreement is reached, arguably before a hearing. Dismissing case law cited by the Unions as factually distinguishable, the Township argues that no case law supports the Unions' position that parties to interest arbitration are required to do anything more than identify the issue.

The Township further argues that, at the first day of hearing in the instant proceeding, its counsel noted that, under *N.J.A.C. 19:16-5.7(f)*, parties to an interest arbitration are required to exchange final economic and non-economic offers at least ten days before the hearing. At that time, too, the parties agreed that, since neither party had exchanged specific offers, they would do so during the hearing. They also agreed to waive any rights to raise an appeal based on a failure to submit a fair and final offer within ten days prior to the hearing. Noting that I agreed with this stipulation on the record, the Township argues that the PBA went ahead and raised the objection the next day of the hearing but failed itself to follow the statutory requirement concerning specificity of its final offer.

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<sup>7</sup> *Borough of Bogota*, 9 *N.J.P.E.R.* 237 (¶14110, 1983).

The Township argues that I should limit sick leave to ten days per year effective January 1, 1999. The current practice is unlimited sick leave up to one year. The Township asserts that the savings to it from this proposal are speculative because it cannot predict the number of sick days police officers will take during the contract term. As for the Unions' contention that I should not entertain this proposal, the Township acknowledges that it is not contained in its response to the interest arbitration petition. However, it argues that the subject did arise in negotiations with the PBA.

The Township argues that this is in sharp contrast with the Unions' demand for "union time" for union presidents. That demand, the Township insists, fails even to "remotely relate" to the Unions' demands listed in the interest arbitration petition. In addition, the Township argues that the subject never even arose during negotiations. The Township argues that, if I accept the Unions' argument with respect to the deletion of sick time from the last offer, then I must exclude "union time" from the Unions' demand.

Turning to disability benefits, the Township recalls that, in the FMBA contract, the prior plan of full pay up to six months and 80 percent pay up to five



years was modified to full pay for up to 18 months. The Township urges the same modification in this case.

Concerning the Unions' proposal to change their work schedule, the Township noted that FMBA also sought a work schedule change from a 10/14 schedule to a 24/72. The FMBA ultimately abandoned that demand, and the Township argues that the Unions in the instant proceeding have failed to meet their burden warranting deviation from the pattern. The Township contends that the FMBA pattern mandates the same result in the instant interest arbitration. The Township also opposes the Unions' proposal for a work schedule change, contending that it would increase overtime costs, pose problems with coverage, create shifts segregated as to level of seniority, and cause communications problems between supervisors and platoons.

As to the Unions' proposal for increasing call-back pay from two hours at time-and-a-half to three hours at time-and-a-half, the Township notes that the pattern established by the FMBA agreement "illustrates the unreasonableness" of the Unions' demand. Instead of increasing recall pay, the FMBA agreement actually reduced the "minimum overtime guarantee for certain recall" from three

hours at time-and-a-half to two hours at time-and-a-half. The Township argues that I should decline to award an increase in the minimum guarantee for recall.

Finally, the Township characterizes as "significant" the fact that Springfield's police and fire departments have maintained parity since at least 1992. Therefore, it argues, an award which mirrors the FMBA Memorandum of Agreement would enable the Township to continue to maintain a pattern of consistent benefits in its police and fire units.

Comparing the economic benefits Springfield proposes with economic benefits other municipalities provide their police officers, the Township argues its wage offer of two percent per year is more in line with those agreed to among police officers in all Union County municipalities. In fact, the Township continues, some benefits which Springfield provides significantly exceed the benefits nearby comparable communities provide.

Specifically, Springfield's starting salary has exceeded the County average since 1995, it asserts. While several municipalities froze or reduced their starting salaries, Springfield's starting salary exceeded the county average by 60

percent. In 1997, the Township maintains, Springfield's starting salary continues to exceed the Union County average by \$14,395. After declining a couple of years, the average percentage salary increase for Springfield police officers increased and slightly surpassed the county average. Maximum salary increases for patrol officers in Union County average 3.93 percent in 1998 and 3.65 percent in 1999, significantly below the 4.5 percent which the Unions here are demanding, the Township points out.

The Township also contends that it has maintained the highest maximum patrol officer salary in Union County. In 1994, it was more than eleven percent above the average of \$47,385. The following year, it was more than twelve percent greater than the county average of \$49,239. In 1996, the maximum patrol officer salary in Springfield was 12.42 percent greater than the average. Countering the Unions' argument that the Township's figures are skewed because they include holiday pay, the Township maintains that the Unions failed to point out that other Union County municipalities also include holiday pay in base salary. Even if holiday pay were not included in base pay, the Township argues that Springfield would still lead the County in maximum patrol officer salary.

The Township argues that, if the Unions were to receive the maximum patrol officer salary that they have demanded, it would exceed the average of \$53,600 by 12.49 percent. By contrast, the Township contends that its proposed wage increase of two percent per year "ensures" that the Township will continue to maintain a salary significantly above the Union County average. In fact, the Township maintains that even a wage freeze would still maintain Springfield's place "well above average" for the duration of a four-year contract.

Comparing salary guides in Union County municipalities, the Township points out that Springfield has the least number of steps to maximum patrol officer salary. Officers receive maximum patrol officer salary after only four steps, or completion of only three years' service. By contrast, it asserts, the towns of Linden, Westfield, Elizabeth and Fanwood have eight steps in their salary guide. Union County as a whole averages 6.6 steps. The Township argues that its salary guide as currently constituted imposes "tremendous" costs, which it seeks to reduce by, among other things, increasing the number of steps on the police salary guide. The Township points out that the FMBA agreement incorporates additional steps in the salary guide for fire fighters.

The Township adds that Springfield officers receive more liberal vacation and longevity benefits than those provided by other Union County municipalities. After only 15 years of service, Springfield gives its officers 32 vacation days per year, 3.9 vacation days more than the average number of vacation days in Union County. On average, the Township points out, Union County municipalities require officers to work for 20.3 years before they may reach maximum vacation benefits. The Township adds, however, that it does not seek to reduce the number of vacation days or to modify the vacation schedule in the instant interest arbitration.

In terms of longevity benefits, the Township complains that its police officers receive 15 percent of base salary after 24 years of service, compared to a Union County average of 9.1 percent after 22.5 years of service. Even if the Township's proposal to reduce maximum longevity benefits for patrol officers and sergeants from 15 percent to ten percent per year is granted in this proceeding, Springfield argues, its liberal longevity benefits will be exceeded only by Hillside. The Township points out that its proposal does not affect officers currently receiving above the ten percent cap. Moreover, it asserts that, if its proposal to eliminate longevity benefits for new hires is granted, Springfield will join New

Providence, Roselle Park, Westfield, and Linden, none of which provide new hires with longevity benefits.

Finally, the Township argues that it may be the only municipality in Union County that provides a clothing allowance as a percentage of base salary, which will increase automatically with any increase in base salary. In short, Springfield contends, the benefits it provides in every category are "superior."

To further its contention that its proposals are reasonable and should be awarded, the Township points to the recent interest arbitration award in New Providence, dated January 6, 1998, the only other such award in Union County this year. There, Arbitrator Barbara Zausner awarded a three-year contract, beginning in 1997, imposing a four percent per year increase and increasing the clothing allowance by \$25 in each of the three years of the contract. The award also eliminated longevity pay for new hires, reduced the number of personal days from five to three per year, and made major changes in health benefits, including increasing the deductibles, increasing co-insurance requirements, instituting mandatory second opinions, and requiring pre-admission certification and continued-stay review.

Even with the wage increase awarded there, the maximum salary for patrol officers in New Providence in the final year of the contract will fall more than \$3,000 below Springfield's 1996 maximum salary. Thus, the Township argues, its status as the highest paying municipal police department in Union County "renders reasonable" an award well below the "going rate."

The Township opposes the Unions' demand for a schedule change based on projections of increased overtime costs, scheduling difficulties, communications problems, and the Township's contention that unit members should not select their own shifts. Furthermore, the Township argues that a work schedule change award would disappoint the FMBA bargaining unit, which, it asserts, "fought just as vociferously" as the Unions herein for a 24/72 schedule. The Township maintains that the Unions have not met the burden of proving the appropriateness of "such a radical change."

Several witnesses testified for the Township in opposition to the work schedule change. One was Captain John A. Keaveney, from the City of Plainfield Police Department. He testified that, six months after his force converted to a 4 on/4 off schedule with eleven-and-a-quarter hours days, from a 4 on/2 off schedule.

overtime costs increased dramatically; scheduling difficulties arose for court dates after a full shift; sick time increased, and productivity suffered. Keaveney said the 4 on/4 off schedule created communication problems between the platoons. In addition, he said, after an initial improvement, morale actually suffered in the long run.

Springfield Captain Vernon Pederson testified for the Township that the 4/4 work schedule would not be in the interest of management or the interest and welfare of the public for several reasons. He said it presents manpower problems. Whereas a 4/2 schedule averages only two hours and forty minutes in a 24-hour schedule during which only four officers are on duty, the 4/4 schedule would result in a seven-and-a-half-hour period during which only four patrol officers would be on duty, assuming 22 patrol officers. Captain Pederson also testified that, under the 4 on/4 off schedule, officers assigned to work under the Township's four-man minimum patrol requirement from dusk to dawn would be forced to work more than 2,737 hours a year. Under a 4 on/2 off schedule, Captain Pederson testified, they would be scheduled to work only 937 hours and 20 minutes of the year. In addition, if the Township increased the number of patrol officers to 23, under a 4 on/2 off schedule, the Township argues, it would be able to staff



minimum of five officers on all shifts. By contrast, a 4 on/4 off schedule would require 24 officers to staff a minimum of five officers on all shifts. The scheduling problems of a 4 on/4 off shift are compounded when officers take sick and vacation time, according to the Township.

The Township maintains that a 4/4 schedule would result in supervisory difficulties as well. With eight supervisors, two supervisors would cover 19 hours of a 24-hour day; and one supervisor would cover six hours of a 24-hour day. Under a 4/2 schedule, the Township argues, with eight supervisors, two supervisors could cover all but four eight-hour tours in a six-day cycle, when only one supervisor would cover. The addition of one supervisor would enable the Township to assign two supervisors to every tour, it argues. A 4/4 schedule would require two additional supervisors before the Township could assign two supervisors to every tour. In short, the Township argues, a 4on/4 off schedule would impose additional manpower costs to enable the same coverage that a 4 on 2 off schedule provides.

Last-minute calls could also be a problem on a 4 on/4 off schedule, according to the Township, because 4 on/4 off requires six tour changes per day or

six opportunities for last-minute calls. By contrast, a 4 on/2 off schedule involves just three tour changes and only three opportunities for last-minute calls. Because last-minute calls require an officer to remain on duty until his relief reports for duty, the 4 on/4 off schedule could result in increased overtime costs.

A 4 on/4 off schedule also could mean additional costs related to training, in the Township's view. Several training courses are required annually. The present schedule permits them to be provided during or right before an officer's scheduled tour. The Township argues that a 4/4 schedule "has so many shifts" that it would require the Township to hire the instructor to repeat the course several times to cover all the tours or pay overtime to officers to fill in for other officers attending training sessions. The Township also offered Springfield Police Chief William Chisholm's testimony. He had spoken to a number of captains or chiefs of Union County departments that had adopted the 4/4 schedule, including Clark, Cranford, Elizabeth, Fanwood, Hillside and Plainfield. Chief Chisholm reported that they had experienced many of the same problems that the Township's witnesses described: increased overtime costs, increased use of sick leave, communication difficulties, and seniority-based scheduling problems.

The Township of Springfield sums up its argument on the Unions' proposed 4 on/4 off schedule, saying it represents significant additional costs in overtime and/or hiring of additional officers and supervisory personnel. For all these reasons, as well as to maintain parity with the FMBA, the Township opposes the Unions' request for a schedule change.

Concerning the Unions' proposals for an increase in outside employment pay and for a limitation in the Township's administrative fee, the Township contends that the latter demand ignores the costs which the Township incurs in administering outside employment for the police department. These costs include workers' compensation insurance, liability for officers injured on outside overtime, and the cost of collecting from contractors who fail to pay the Township for the officers' services. The Township argues that I should reject the Unions' demand concerning outside employment. It acknowledges, however, the parties' agreement to hold this issue in abeyance pending further settlement negotiations and that I retain jurisdiction of it.

As to matters to which the parties have stipulated, the Township concurs in the Unions' statement that they have agreed to a four-year contract.

Turning to the statutory criterion concerning the lawful authority of the employer, the Township points out that the Reform Act specifically requires an interest arbitrator to consider, in evaluating this factor, the limitations imposed upon the employer by the New Jersey Local Government Cap Law (the "Cap Law"), *N.J.S.A. 40A:4-45.1 et seq.*. It observes that the Cap Law restrains the lawful authority of the employer; by limiting overall budget increases, it restricts a municipality's ability to grant wage increases. Specifically, the Township points out, the Cap Law controls the cost of local government by prohibiting a municipality from increasing its tax levy and budget appropriations by more than the index rate over the previous year's amounts. Only if a municipality approves an ordinance or referendum may it increase its tax levy up to five percent. It cites case law for the proposition that it is the budget as a whole, rather than each component of it, which is subject to the index rate or five percent ceiling.<sup>8</sup> Because salary expenditures fall within the Cap, the Township asserts, the Legislature "has already predetermined" the maximum amount the Borough may increase taxes to cover police salary expenditures. The Township further points out that an interest arbitration award which fails to take into account the impact of the Cap Law on the

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<sup>8</sup> *N.J. State P.B.A., Local 29, v. Town of Irvington*, 80 N.J. 271, 281-92 (1979).

municipality is subject to vacatur on grounds of procurement by undue means.<sup>9</sup> Although the Cap Law contemplates exceptions such as emergencies requiring temporary appropriations, those appropriations must be limited to three percent of the municipality's operating appropriations and the limited amount must be included in the following year's budget as well as in the following year's permissible Cap limit. Moreover, the State Director of the Division of Local Finance must approve all emergency appropriations which exceed the three percent level.

The Township asserts that it has not passed an ordinance or referendum increasing the Cap-allowed increase to five percent. The significance of that here is that according to the Township, the Unions' total package averages 5.91 percent per year, substantially exceeding Springfield's index rate. To grant the Unions' package would require the Township to reduce other expenditures falling within the Cap to the extent that the cost of the economic demands exceeds 2.5 percent. The Township warns that granting the Unions' demands may require the Township to reduce personnel through lay-offs or reduce budgetary appropriations for non-payroll costs to keep the Township's budget within the index rate.

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<sup>9</sup> *City of Atlantic City v. Laezza*, 80 N.J. 255, 269 (1979).

Turning to the financial impact on the governing unit, its residents and taxpayers, the Township points out that consideration of this factor does not merely equate with the municipality's ability to pay. The Township also points out that the municipality does not bear the burden of proving its financial inability to meet union demands. In this case, the Township argues that its economic proposals consider the financial impact question, because they take into account the impact of the recent severe economic recession in the New York metropolitan area upon Springfield's budget.

Specifically, the Township states that, in March, 1998, unemployment in New Jersey "edged" up in one month from five percent to 5.1 percent. By contrast, the national unemployment rate, that month, was 4.7 percent. The Township asserts that New Jersey "still lags significantly" behind the national rate.

In addition, the Township argues that, despite strong competition for qualified workers, corporations are continuing to downsize. As examples, the Township cites AT&T's plans to cut 800 jobs at facilities in Bridgewater and South Plainfield. It cites a *Star Ledger* report of April 2, 1997, that Pathmark planned to cut 300 jobs at 12 sites, as well as a *Star Ledger* report of April 25, 1997 that the

Garden State Parkway planned to cut 51 jobs to save \$1.1 million. In short, the Township argues that the "'lackluster'" state of New Jersey's economy directly affects the Township's ability raise revenue through taxes to pay for police salary increases.

Further, the Township argues that nearly a third of the Township's residents are over 60 years of age and bear a disproportionately high tax burden, in comparison to other Union County municipalities. In 1997, it continues, Springfield had the third highest total tax levy per capita in Union County, at \$2,064. At the same time, the Township noted that Springfield collected 96.38 percent of its tax levy and had the fourteenth highest percentage of tax levy collected in the County. At \$63.36, its debt service per capita is the seventh highest in the County. Its per capita income of \$27,006 also ranks seventh highest in Union County. With a median family income of \$58,177 and a median household income of \$48,647, the Township contends that Springfield residents bear a substantial tax burden in comparison to other Union County residents.

Moreover, it argues that the Township has suffered a significant reduction in added assessments, which provide the municipality with a means of

increasing revenue without increasing the tax rate. According to the 1997 Municipal Data Book, cited by the Township, Springfield issued only four building permits for new privately owned housing units. By contrast, twelve Union County municipalities issued more building permits for new privately-owned housing units than Springfield, including Berkeley Heights, which issued 119 building permits. Adding to the financial picture, the Township points out that Springfield lost \$37,736 in state aid. Pension costs increased, as did the Township's reserve for uncollected taxes; but MRNA decreased.

The bottom line, as the Township suggests, is that less money is available than the Unions contend to fund the salary increases they demand. Even if the interest arbitration award grants the Unions the increases they seek, the Township argues that its ability to pay in and of itself cannot render a 4.5 percent salary increase reasonable because a municipality's ability to pay "bears no relationship to providing compensation to police officers at market rate." In short, the Township contends, because of the Township's status as the highest-paid municipal police department in the County, I should give little weight to the municipality's ability to pay.



As to the cost of living criterion, which must be considered in any interest arbitration award, the Township cites a "recent" report in the *Star Ledger* that the Consumer Price Index ("CPI") is at a 33-year low. For the first time since January, 1994, the CPI did not rise at all in January, 1998. Consumer prices for the 12-month period ending March, 1998 in the New York region increased only 1.3 percent, the Township asserts, down from 1.5 percent for the 12-month period ending February, 1998. By contrast, the Township argues that the Unions in the instant proceeding consistently received wage increases, from 1985 through 1996, 2.8 percent above the CPI. Even with a two percent wage increase at this time, the Township maintains, the Unions will remain significantly above the CPI. The Township argues that I should consider not only the Township's status as the highest paid municipal police department in the County but also the fact that the Unions' wage demand of a 4.5 percent wage increase for 1997, for example, exceeds the 1997 CPI increase of 1.7 percent by 2.8 percent.

As to the statutory criterion of continuity and stability of employment, the Township argues simply that the elements of its proposal will best allow the Township to maintain and continue a stable work force in the Police Department and throughout the municipality. It insists that its proposal more reasonably

protects the stability and continuity of police officers' employment than would the Unions'.

With respect to the non-economic positions of the parties, the Township characterizes none of the Unions' demands as non-economic. It characterizes certain of its own proposals as non-economic. They include the following:

(i) The Township proposes deleting existing contract language which prohibits a "non-police officer or part-time or other personnel" from either replacing a full-time employee covered by the contract or covering his or her post. The Township wants unrestricted authority to use auxiliaries or "specials" as permitted by law. The Township cites case law for the proposition that managerial prerogatives permit a public employer to avoid having to negotiate shifting unit work for non-economic reasons.<sup>10</sup> In the view of the Township, the existing language is overly broad, whereas the language it proposes complies with the New Jersey Supreme Court's decision.

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<sup>10</sup> *City of Jersey City v. Jersey City Police Officers Benevolent Association*, Docket No. A-128-97, July 9, 1998.

(ii) Contending that departmental meetings foster an improved working environment and better labor relations within the Department, the Township proposes the following language:

At the discretion of the Chief, three annual meetings may be called per year. The Chief may make proper notification 30 days prior to each of the meetings by distributing written notice in each member's mail slot and posting said notice on board containing daily memorandums. Departmental meetings shall not be scheduled for Saturdays, Sundays, or holidays. Absence from duty requests submitted prior to the distribution of notice shall be granted. Chief may grant excuses to members who cannot attend. There will be no compensation for attending an annual meeting and this Article is not subject to the grievance procedure.

(iii) The Township insists on a detailed "zipper clause," entitled, "Fully Bargained Agreement," asserting that it will encourage the Unions to bring all negotiable issues to the bargaining table before execution of a new agreement and will encourage the parties to resolve all outstanding negotiable issues for the entire term of the contract. Further, the Township argues that clause will prevent the Unions from demanding mid-term bargaining on a mandatory subject of bargaining because the parties could have but did not negotiate about that item. Such mid-term negotiations impose additional costs on the Township's residents and taxpayers, in the Township's view, by causing the Township repeatedly to "marshal the money and manpower essential to the collective bargaining process."

(iv) The Township proposes to include a Management Rights provision identical to that agreed to in the 1997-2000 FMBA agreement, arguing that it would maintain the FMBA pattern.

(v) The Township also proposes to add language to the grievance procedure's Step 1, requiring an immediate superior to respond to an aggrieved party in writing within five days and to direct a copy of the answer to his division commander. The proposal would also modify Step 2 by requiring that a written decision be rendered within five working days, filing which the aggrieved party may file appeal to the Chief of Police. The unions had signed off on this in negotiations but withdrew that agreement when the parties went to interest arbitration.

(vi) Finally, the Township proposes language concerning "Miscellaneous" matters, as in the 1997-2000 FMBA agreement, providing a hold-harmless clause to protect the Township from claims against it for non-negligent action taken at the request of the FMBA under the contract's Agency Shop provision.

In conclusion, the Township asserts that its proposals are more consistent with the statutory criteria than the Unions' demands, especially with respect to the interest and welfare of the public, the police officers' overall compensation package, salaries in the private and public sectors, and benefits provided to the FMBA and police in comparable communities.

The Township maintains that its proposals consider the impact of the Cap Law on the Township's ability to grant wage increases and the financial impact on the governing unit, its residents and taxpayers in light of the recent recession and modest increases in the cost of living. The Township also argues that its proposals better serve continuity and stability of employment of the police officers at issue. As a result, the Township requests that I award its proposals.

### **CONCLUSIONS**

On the entire record before me, including my assessments of witnesses' credibility and the probative value of evidence, I have determined that the relevant statutory criteria require me to issue the following Awards for each of the two units at issue:

**FOR THE PBA UNIT**

**A. TERM:**

Article XXXIII ("Duration") of the parties' collective bargaining agreement ("Agreement") shall be amended to read, "This Agreement shall become effective as of January 1, 1997, and shall terminate on December 31, 2000."

**B. SALARY:**

Article IV ("Salaries") of the Agreement shall be amended as necessary to provide the following across-the-board percentage increases, exclusive of increments, for the contract years:

1997	3.0%	Effective 1-1-1997
1998	3.25%	Effective 1-1-1998
1999	3.25%	Effective 1-1-1999
2000	3.5%	Effective 1-1-2000

**Starting Salaries:**

The starting salary will be frozen at \$26,000 for each year of the Agreement.

**Step Schedule:**

Employees hired after the date of this Award shall be placed on a step schedule with five equal steps between the starting rate and top grade.

Those employees shall be permitted to take the Sergeant's examination in accordance with applicable law

**Acting Up Pay:**

Effective beginning January 1, 1998, officers assigned to perform the work of a higher-paid job shall receive the pay of that job from the first day of such assignments. This shall apply to plain clothes officers assigned to the Detective Bureau.

**C. LONGEVITY:**

Article V ("Longevity") of the Agreement shall be amended as necessary to provide that longevity benefits for officers hired before the date of this Award shall be capped at ten percent (10%), except that officers now receiving longevity benefits greater than that amount shall continue at their current rates. Officers hired after the date of this Award shall receive longevity benefits in accordance with the following schedule:

<u>Years of Service</u>	<u>Percentage</u>
5 years	2%
10 years	4%
15 years	6%
20 years and thereafter	8%

**D. CALL BACK PAY:**

Article XV ("Overtime"), Section 2, of the Agreement shall be amended as necessary to provide that, following the date of this Award, officers recalled to duty from time off shall receive a minimum of three hours' overtime instead of two hours, subject to the same conditions as now apply.

**E. DISABILITY INSURANCE BENEFITS:**

Article XI ("Insurance"), Section 4, of the Agreement shall be amended to provide that, following the date of this Award and effective upon the Township's obtaining a new disability insurance policy, the existing plan of full pay up to six months and 80% for up to five years thereafter shall be replaced by a plan providing full pay for eighteen months.

**F. WORK SCHEDULE:**

**Steady Tours**

Article XVI ("Workweek"), Section 1, of the Agreement shall be amended to provide for continuation of the current 4 on/2 off work schedule but all Patrol Division tours of duty shall be fixed rather than rotating. Officers may choose their tours of duty in accordance with seniority, subject to these conditions, when the Chief can deviate from



seniority: (a) for assignments requiring special skills or needs, or for good cause, all subject to the grievance procedure, (b) for emergency situations, and (c) to ensure a minimum of one officer with at least four years' police service (and at least two years' police service in Springfield) actually present and working on each shift. In no event shall implementation of steady tours increase the total number of hours worked per year.

### **Scheduling Committee**

The parties shall, within one month following the date of this Award establish a Joint Labor-Management Scheduling Committee comprising two Patrol Division officers from each unit and not less than two sworn managerial personnel. That Committee shall gather relevant data for evaluation purposes, meet at least every other month to discuss their data and ideas, and report their findings and recommendations to the Township Committee, to the Department, and to the Unions not later than the second week of January, 2000.

**G. MANPOWER STIPULATION:**

Article XII ("Manpower") of the Agreement shall be amended to eliminate the four-man guarantee from dusk to dawn.

**H. OUTSIDE EMPLOYMENT:**

By agreement of the parties, this issue shall be held in abeyance pending further negotiations; and I retain jurisdiction of it.

**I. GRIEVANCE PROCEDURE:**

Article III ("Grievance Procedure") of the expired agreement shall be amended to add the following to Steps 1 and 2:

1. The immediate superior shall respond to the aggrieved party in writing within five (5) days and direct a copy of the answer to his division commander.
  
2. A written decision shall be rendered within five (5) working days. If the aggrieved party is not satisfied or a written decision is not rendered within five (5) working days, he may then file a written grievance with the Chief of Police.

**J. MISCELLANEOUS:**

Article XXII ("Miscellaneous"), Section 3 shall be amended to add this sentence:

The union agrees that it will indemnify and save harmless the Township against all actions, claims, demands, losses, or expenses (including reasonable attorney fees) in any matter resulting from any non-negligent action taken by the Township at the request of the union under this Article.

**FOR THE SOA UNIT**

**A. TERM:**

Article XXXIII ("Duration") of the parties' collective bargaining agreement ("Agreement") shall be amended to read, "This Agreement shall become effective as of January 1, 1997, and shall terminate on December 31, 2000."

**B. SALARY:**

Article IV ("Salaries") of the Agreement shall be amended as necessary to provide the following across-the-board percentage increases, exclusive of increments, for the contract years:

1997	3.0%	Effective 1-1-1997
1998	3.25%	Effective 1-1-1998
1999	3.25%	Effective 1-1-1999
2000	3.5%	Effective 1-1-2000

**Acting Up Pay:**

Effective beginning January 1, 1998, sergeants assigned to perform the work of lieutenants shall receive lieutenants' pay from the first day of such assignments.

**C. LONGEVITY:**

Article V ("Longevity") of the Agreement shall be amended as necessary to provide that longevity benefits for officers hired before the date of this Award shall be capped at ten percent (12%), except that officers now receiving longevity benefits greater than that amount shall continue at their current rates. Officers hired after the date of this Award shall receive longevity benefits in accordance with the following schedule:

<u>Years of Service</u>	<u>Percentage</u>
5 years	2%
10 years	4%
15 years	6%
20 years and thereafter	8%

**D. CALL BACK PAY:**

Article XV ("Overtime"), Section 2, of the Agreement shall be amended as necessary to provide that, following the date of this Award, officers recalled to duty from time off shall receive a minimum of three hours' overtime instead of two hours, subject to the same conditions as now apply.

**E. DISABILITY INSURANCE BENEFITS:**

Article XI ("Insurance"), Section 4, of the Agreement shall be amended to provide that, following the date of this Award and effective upon the Township's obtaining a new disability insurance policy, the existing plan of full pay up to six months and 80% for up to five years thereafter shall be replaced by a plan providing full pay for eighteen months.

**F. WORK SCHEDULE:**

**Steady Tours**

Article XVI ("Workweek"), Section 1, of the Agreement shall be amended to provide for continuation of the current 4 on/2 off work schedule but all Patrol Division tours of duty shall be fixed rather than rotating. Officers may choose their tours of duty in accordance with seniority, subject to these conditions, when the Chief can deviate from

seniority: (a) for assignments requiring special skills or needs, or for good cause, all subject to the grievance procedure, (b) for emergency situations, and (c) to ensure a minimum of one officer with at least four years' police service (and at least two years' police service in Springfield) actually present and working on each shift. In no event shall implementation of steady tours increase the total number of hours worked per year.

### **Scheduling Committee**

The parties shall, within one month following the date of this Award establish a Joint Labor-Management Scheduling Committee comprising two Patrol Division officers from each unit and not less than two sworn managerial personnel. That Committee shall gather relevant data for evaluation purposes, meet at least every other month to discuss their data and ideas, and report their findings and recommendations to the Township Committee, to the Department, and to the Unions not later than the second week of January, 2000.

**G. MANPOWER STIPULATION:**

Article XII ("Manpower") of the Agreement shall be amended to eliminate the four-man guarantee from dusk to dawn.

**H. OUTSIDE EMPLOYMENT:**

By agreement of the parties, this issue shall be held in abeyance pending further negotiations; and I retain jurisdiction of it.

**I. GRIEVANCE PROCEDURE:**

Article III ("Grievance Procedure") of the expired agreement shall be amended to add the following to Steps 1 and 2:

1. The immediate superior shall respond to the aggrieved party in writing within five (5) days and direct a copy of the answer to his division commander.
  
2. A written decision shall be rendered within five (5) working days. If the aggrieved party is not satisfied or a written decision is not rendered within five (5) working days, he may then file a written grievance with the Chief of Police.

**J. MISCELLANEOUS:**

Article XXII ("Miscellaneous"), Section 3 shall be amended to add this sentence:

The union agrees that it will indemnify and save harmless the Township against all actions, claims, demands, losses, or expenses (including reasonable attorney fees) in any matter resulting from any non-negligent action taken by the Township at the request of the union under this Article.

In reaching those results, I have denied the Unions' demands for an across-the-board wage increase of 4.5 percent; for retroactivity for acting-up pay to the first day of the Agreement; for "union time" for Union presidents; and for a fixed schedule of four, ten-and-three-quarters hours days on, followed by four days off.

With respect to the Township's demands, I have denied its demands for an across-the-board wage increase of 2.0 percent; for modification of the salary guide to nine steps; for complete elimination of longevity benefits for all employees hired after January 1, 1998; for rotating tours of duty not assigned by seniority; for modification of disability benefits to full pay for one year; for



modification of sick leave benefits to providing only ten (working) sick days per year effective January 1, 1999; for modification of medical insurance benefits; and, finally, for requiring that an officer have 22 years of service in the Township of Springfield before qualifying for the rank of corporal.

As required by the statute, I have separately and conservatively determined that the following total net economic changes for each year of the agreement are reasonable under Subsection (g)'s eight criteria:

**TOTAL NET ECONOMIC CHANGES FOR PBA and SOA UNITS**

<u>Year</u>	<u>Item</u>	<u>New \$</u>	<u>Cum.New \$</u>
1997	3.0% across-the-board on \$2,249,653 base	\$67,490	\$67,490
	Increment: 0.98% over 1996 base	22,047	89,537
	Acting-up pay (no calculated cost; subject to mgt. control)		
	Call-back pay (no calculated cost; subject to mgt. control)		
	(Less: provisions for Disability Insurance, Longevity, reduced starting pay, and additional salary steps that will generate savings that similarly cannot be calculated.)		
		<u>\$89,537</u>	<u>\$89,537</u>

**Total % increase = 3.0% + 0.98% = 3.98%**

1998	3.25% across-the-board on \$2,317,143 base	\$75,307	\$164,844
	Increment: 0.84% over 1997 base	19,464	184,308
	Acting-up pay (no calculated cost; subject to mgt. control)		
	Call-back pay (no calculated cost; subject to mgt. control)		
	(Less: provisions for Disability Insur- ance, Longevity, reduced starting pay, and additional salary steps that will generate savings that similarly cannot be calculated.)		
		<u>\$94,771</u>	<u>\$184,308</u>

**Total % increase = 3.25% + 0.84% = 4.09%**

1999	3.25% across-the-board on \$2,392,450 base	\$77,754	\$262,062
	Increment: 0.21% over 1998 base	5,024	267,086
	Acting-up pay (no calculated cost; subject to mgt. control)		
	Call-back pay (no calculated cost; subject to mgt. control)		
	(Less: provisions for Disability Insur- ance, Longevity, reduced starting pay, and additional salary steps that will generate savings that similarly		

cannot be calculated.)	<u>\$82,778</u>	<u>\$267,086</u>
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**Total % increase = 3.25% + 0.21% = 3.46%**

2000	3.5% across-the-board on \$2,470,204 base	\$86,457	\$353,543
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Increment: 0.0% over 1999 base  
(Employees on step during the  
contract term will be at maximum  
step by Year 2000 resulting in  
no incremental salary costs this  
year)

Acting-up pay (no calculated  
cost; subject to mgt. control)

Call-back pay (no calculated  
cost; subject to mgt. control)

(Less: provisions for Disability Insur-  
ance, Longevity, reduced starting  
pay, and additional salary steps  
will generate savings that similarly  
cannot be calculated.)

<u>\$86,457</u>	<u>\$353,543</u>
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**Total % increase = 3.5% + 0.0% = 3.5%**

**Total annual increases exclusive of increment = 13% or 3.25% per year.**

**Total annual increases including increment = 15.03% or 3.76% per year.**

**Cumulative "new money" increases: \$353,543/\$2,249,653 (1996 base) =  
15.71% or 3.92% per year.**

In calculating the above costs, I have relied upon the Township's data. They were the only figures provided to me concerning increment costs, which are essential to a true picture of the cost of these increases.<sup>11</sup>

I have reached the above conclusions for the following reasons, giving due weight to those statutory criteria that I have judged relevant.

**(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.)**

I find this criterion to be a relevant one. The interests and welfare of the public served by competent police protection are self-evident. The Unions maintain that Springfield's police will perform better on the job under a non-rotating schedule than under the current rotating one. They argue that the non-rotating schedule that they propose will actually put more officers on the street, that officers will chalk up less sick time because they will be able to recuperate from the rigors of the job faster, and that fewer morale problems will plague the officers

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<sup>11</sup>These calculations are conservative. See explanation at pages 105-09.

under a schedule of steady tours. The Unions also argue that the wage increase they seek would have an insignificant impact on taxes.

The Township urges me to follow the pattern set in bargaining with the FMBA. That, the Township, contends, would promote harmony and peaceful labor relations from which residents and taxpayers would benefit. The Township acknowledges that fairness to public employees should not be sacrificed for the sake of funding "frivolous" government services, but on the other hand, that public employees should not cause a municipality to reduce essential government services in order to satisfy "over-reaching" economic demands.

The Township's point, in theory at least, is well taken. I do not find any evidence, however, either that the Township of Springfield has sought to provide frivolous services or that the Unions have made over-reaching economic demands. Both parties have made reasoned arguments for their respective positions which appear to be motivated by the desire to secure the best terms possible, tempered by the realization that taxpayers demand greater accountability for how their tax dollars are spent.

I find that the interests and welfare of the public require police personnel of high morale, which influences their commitment to the public weal. Morale depends in large part on the perception of appreciation for one's services, and terms and conditions of employment express that appreciation most concretely. Morale suffers when police personnel see their wages rates fall dramatically relative to police in other jurisdictions and when their rotating work schedules cause stresses and disruptions of their personal lives. This is particularly so when, as here, the officers have proposed a schedule of non-rotating tours that could improve their productivity and job performance.

I also find that the concept of patterns in uniformed service collective bargaining is an important one. Although nominally competitive, police and fire personnel share a fraternity that transcends departmental lines. They are so closely allied with each other by the very nature of their work and sacrifices that maintaining comparability in compensation and working conditions is a factor of the psychological readiness that their jobs demand. This statutory criterion is an important one, and it connects in an important way with the second statutory criterion, *i.e.*, comparability, which follows.

**(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 [N.J.S.A. 34:13A-16.2]; provided, however, that each party shall have the right to submit additional evidence for the arbitrator's consideration.**

#### **Private employment**

There are, of course, no private sector employees who perform "the same or similar services" as public sector police. None face the same risks, and none have the same duties and obligations. For the most part, they do not suffer disruptions of family life and circadian rhythms due to rotating shifts. Few are subject to comparable physical danger and unremitting public scrutiny. Although private sector employees are not strictly "comparable" to public sector police, I have still given consideration to the parties' data on this subject.

The Unions offered evidence published in April, 1998, from the Bureau of Labor Statistics comparing average hours and earnings of production and non-supervisory workers on private, non-farm payrolls. The figure most closely paralleling police officers, they argue, is the "total for the service producing industries." There, the average hourly rate, in February, 1997, was \$11.64. One year later, it was 4.38 percent higher, at \$12.15. The Unions contend that the 4.5 percent they seek is in line with the private sector.

The Township cites statistics compiled by the Bureau of National Affairs ("BNA") to the effect that the median pay increase in collective bargaining agreements covering 1.2 million private sector employees in 1997 was three percent. The Township asserts that second and third year wage increases found in those settlements also stood at three percent. It is reasonable to conclude, therefore, that private sector employees generally have been faring well, posting negotiated wage increases at or exceeding three percent for the past year or two.

The New Jersey Department of Labor's most recent report of Average Wages in Public and Private Sector Employment Covered by Unemployment Insurance - 1996 and 1997 (distributed by PERC in December 1998) shows private



sector wages in Union County increased by 4.5% during those two years. In neighboring Essex County, however, the increase was only 2.18%. Total government wages in New Jersey increased during that period by 3%, reflecting a rise in federal government wages of 5%, in State government wages of 2.1%, and in local government wages of 3.0%.

The discrepancy between the figures the Unions and the Township use to justify their wage proposals may result from their use of different "averages." The Township uses median pay increases; the Unions cite an arithmetic mean. The median is a midpoint in a succession of figures; an arithmetic mean, derived by adding a succession of figures and dividing by the number of figures added, can result in a different "average" altogether. Regardless of the "average" used as a benchmark here, it is clear that a wage increase for police officers of between three and 4.5 percent is reasonable in comparison with developments in the private sector. It is also apparent that the parties themselves contemplate an increase in that range.

Turning to the health insurance question, the Township argues that its proposals to require employees to pay more for health insurance is in line with the

private sector trend. It cites BNA statistics suggesting that many private employers have reduced health insurance benefits and are now requiring employees to contribute to premiums, raising deductibles, or eliminating health care coverage altogether. The Township cites several private employers in New Jersey –Merck, Bell Atlantic, and Citicorp– that are doing this.

The Unions provide no private sector statistics of their own but threaten to arbitrate more claims over health coverage cutbacks if the Township has its way on this issue. They also argue that the Township's proposal does not parallel a health insurance provision in the FMBA contract, which says nothing about requiring unit members to contribute to their own premiums, pay higher deductibles, or do without free health care coverage.

The Township's data on this point are relevant, and I have considered them. I find, however, that they are less significant in my judgment than the public sector data and the pattern the Township established with the FMBA unit.

**I. GRIEVANCE PROCEDURE:**

Article III (“Grievance Procedure”) of the expired agreement shall be amended to add the following to Steps 1 and 2:

9. The immediate superior shall respond to the aggrieved party in writing within five (5) days and direct a copy of the answer to his division commander.
  
10. A written decision shall be rendered within five (5) working days. If the aggrieved party is not satisfied or a written decision is not rendered within five (5) working days, he may then file a written grievance with the Chief of Police.

**J. MISCELLANEOUS:**

Article XXII (“Miscellaneous”), Section 3 shall be amended to add this sentence:

The union agrees that it will indemnify and save harmless the Township against all actions, claims, demands, losses, or expenses (including reasonable attorney fees) in any matter resulting from any non-negligent action taken by the Township at the request of the union under this Article.

### **Public employment generally**

The Unions support their wage demand by citing, among other things, a 1998 interest arbitration award by Arbitrator Zausner. That award gave members of the New Providence PBA increases averaging 4.5 percent over the five-year life of the contract. The Unions argue that, if I were to award the Township's offer, Springfield's police would fall behind the rate of increase awarded in this recent interest arbitration. The Unions also assert they are not unmindful of the Township's need to reduce the starting salary of unit members and in fact are willing to go with a new starting salary. But starting at \$22,500, which the Township has proposed, would rank Springfield at the bottom of the list in this category, they argue. That they cannot accept, nor are they willing to add four steps to the current salary guide, as the Township has proposed. One new step, however, would be acceptable. Although the Unions are adamant about these two points, they offer no comparative evidence to support their position.

I find, however, that the New Providence award is distinguishable from this case, where the employees are at or near the top of the heap in all categories of compensation and benefits. I believe that the starting rate and step guides established in the FMBA agreement are appropriate, will ease the financial

impact of the increases awarded, and will not significantly affect the relative standing of these police personnel among comparable communities.

As for the overall wage increase issue, the Township cites BNA statistics in its comparison with public sector employment in general. It points to a 2.9 percent median wage increase for all state and local government employment contracts settled during the first eight weeks of 1998. Major American cities including Philadelphia, Chicago, Detroit and Los Angeles, have reached agreement with municipal workers on wage increases averaging from 1.25 to two percent.

Closer to home, the Port Authority police contract provides for a 3.5 percent annual increase from 1996 to 2003, but the Township maintains that overtime reductions may lower the actual cost to between one and 2.8 percent per year. Ten other Port Authority contracts negotiated since 1996 provide annual wage increases ranging from 2.3 to 2.6 percent.

The Township points, as well, to a contract between the New Jersey Sports and Exposition Authority, actually providing for an average 1.2 percent increase in pay over the five-year term of the agreement. The Township also cites an

interest arbitration award imposing a four-year contract on 6,000 PBA members employed by the State of New Jersey, with a wage increase averaging 1.75 percent. It also cites four-year agreements between the State and other public employees granting them wage increases averaging 1.69 to 1.75 percent annually.

The Township argues that its maximum patrol officer salary exceeds police officer salaries in some of the nation's largest cities, like New York, where the maximum a patrol officer can make is 35 percent lower; San Francisco, where it is twelve percent lower; and Chicago, where the figure is almost 25 percent lower.

While I find the BNA statistics on public employment wage rates in general pertinent to the instant proceeding, the weight that I accord them is limited. The same is true for the cited statistics on wages of State PBA members, toll collectors, clerical and faculty, albeit workers in the State's employ. My reasoning is that working conditions and circumstances of those other public employees cited by the Township are too remote to be relevant to the working conditions and circumstances of the unit members at issue here. Moreover, each of those employers has very different fiscal resources. While I have not ignored evidence

on the public sector in general, I have relied most heavily in my decision on the evidence of comparable jurisdictions and of the FMBA settlement that the parties offered.

### **Same or similar comparable jurisdictions**

The bulk of the Unions' comparability argument focuses on data about police contracts in neighboring communities. The average wage increase for rank-and-file as well as superior officers for all comparable jurisdictions in Union County, say the Unions, was 3.995 percent in 1997 and 4.165 percent in 1998. Teachers saw an increase for the 1996-97 school year of 4.34 percent. The Unions cite a report by the New Jersey State Public Employment Relations Commission indicating salary increases for the preceding year averaging more than 4.0 percent.

The Unions contend that I should disregard statistics offered by the Township as unreliable, incomplete, and unfairly comparing "apples and oranges."

The Unions interpret the Township's position, correctly I believe, as advocating the same terms and conditions of employment as those which the FMBA achieved in their three-year contract with the Township. They dispute the "sincerity" of the Township's professed interest in parity and argue that parity is not

"all that important" to the Township's governing body. However, the Unions have not proved on the record before me that those same terms would not adequately serve their members' economic needs.

The Township, on the other hand, has made a strong case to establish the adequacy of compensation levels in these units. Specifically, Springfield's starting salary has exceeded the county average by 60 percent since 1995. The average percentage salary increase slightly surpasses the county average, after declining for a couple of years. Maximum salary increases for patrol officers in Union County have averaged 3.93 percent in 1998 and 3.65 in 1999. Maximum patrol officer salary in Springfield was 12.42 percent greater in 1996 than the county average.

Addressing the Unions' argument that the Township has compared "apples and oranges" insofar as comparable salary statistics are concerned, the Township points out that other Union County municipalities also include holiday pay in base salary. Even if this were not so, Springfield would still lead the County in maximum patrol officer salary. Moreover, the 4.5% increases the Unions seek would result in compensation levels exceeding the County average by 12.49%.



The Township urges that its "emphasis" during this interest arbitration proceeding "should indicate the package" the Township "would like" me to award: the pattern of the FMBA agreement. It argues correctly that pattern settlements are well accepted in public sector labor negotiations and that only "substantial overwhelming reasons" can justify deviation from a pattern once established. The Township also insists that the existence of a pattern supports a presumption that the pattern will continue. Without a showing of equally significant countervailing factors, that presumption should be a controlling element under the statutory criteria. The Township argues that the Unions have not introduced any reason to warrant deviating from the terms of the FMBA agreement.

I find that the Unions' arguments to impeach the credibility of the Township's evidence as relying to some degree on outdated figures in the Municipal Data Book have some substance. But I find these differences, to the extent that they are material, are subordinate to the importance of the pattern set in the FMBA agreement.

On the issue of longevity, the Township again points to the FMBA agreement to reduce the cap for fire fighters from 15 to 10 percent and for captains

from 15 to 12 percent, as well as an agreement to modify longevity benefits for new hires. Employees receiving more than the new cap were grandfathered at their current rates. The Township's offer of a ten percent cap for all patrolmen and sergeants and a twelve percent cap for other superior officers mirrors the FMBA settlement, and I see no reason on the record before me to depart from that pattern.

The Unions contend that the Township's longevity proposal was belatedly asserted and that I should not even consider the Township's argument on this point. I find that the issue of longevity was, indeed, discussed before the parties traded their fair and final offers. Although the question of longevity caps for veteran officers was not raised early on, I am satisfied that the parties had ample opportunity to bargain on the issue. Veteran officers will not "lose" longevity benefits they have accrued and will be in the same situation as their FMBA counterparts. I accordingly find that a longevity cap for Springfield's police officers is in line with practice within the same jurisdiction. For the same reasons, I am also satisfied on the record before me that the reduced longevity schedule for new hires is consistent with the statutory standards because of its identity with that established in the FMBA pattern.

The Unions also object to my consideration of the Township's proposal to reduce the number of sick days from unlimited days to ten per year, effective January 1, 1999. The Unions object on the ground that this proposal was never addressed by the Township before the hearing stage of these proceedings. The Township does not deny that, but it argues that the Unions' proposal for time off for their presidents to attend to union business was also belatedly asserted. If I consider that proposal, the Township argues, then I should also consider the Township's proposal limiting sick days. As to the substance of its proposal, the Township admits that the savings which purportedly would accrue from this change in the current practice are speculative because of the fact that it cannot predict the number of sick days police officers will take during the life of the contract.

I will not entertain the Township's proposal to reduce the number of sick days, nor will I consider the Unions' proposal for time off for Union presidents. I find that both these proposals are untimely asserted. Even if I were to find them timely asserted, I would not find for one party or the other for substantive reasons. Although both sides presented evidence on these issues, there was no showing that sick leave constitutes major problem that cannot be addressed by

steady tours or responsible management attention. In addition, while I can understand a union president's wanting to attend more meetings related to union business, no evidence was presented showing that these Unions have actually been by their presidents' not having been able to attend because they did not have paid time off for that purpose.

With respect to the Unions' demand for an increase in the hourly rate for outside employment and decrease of the Township's administrative fee, the parties agreed to hold that issue in abeyance pending further negotiations. In accordance with their agreement, I am retaining jurisdiction of that issue.

With respect to "acting up" pay, I find that the record supports the Unions' demand. The Township's shortage of lieutenants results from its failure to promote any employees to that position since 1989 while, during that period, two lieutenants retired. Instead of replacing them with other lieutenants, the Township has assigned sergeants to perform their duties. In the past, a sergeant had commanded a shift only if a lieutenant was not available. Otherwise, both a lieutenant and a sergeant were assigned to every shift. Sergeants in Springfield routinely act as lieutenants in charge of their shifts and receive no additional

compensation until that out-of-title assignment has lasted an inordinate period of time.

The Township asserts that, in 1997, sergeants filled in for lieutenants on about 400 eight-hour shifts. Using 1996 salaries exclusive of longevity pay, lieutenants earned \$35.92 an hour, and sergeants, \$33.74. The Unions' proposal, the Township asserts, for 1997 alone would have cost \$6,976, or 0.31 percent of base salary. Annualizing these figures, the Township contends that the 1998 cost would equal about the same as for 1997, *i.e.*, \$6,976 or 0.31 percent of 1996 base salary, and about 0.31 percent of base salary in each year of the contract. The Township maintains that plain clothes officers never perform the work of detectives; the Township would accordingly never incur any costs from this aspect of the Unions' proposal.

I find that the Unions' proposal on this issue makes sense and comports with basic fairness to those who are called upon to act in place of their superiors. Few things can dishonor and demoralize a work force more than failing to pay for work performed. When a police officer performs the work of a superior officer, he deserves to receive pay commensurate with that work. The Township

makes no argument to the contrary; nor does the Township deny the Unions' assertion that it has failed to hire lieutenants for the past ten years, opting instead to assign lower ranking officers, at savings to the Township. The Township raises no objection except as it adds to the overall cost of the contract. While this is not inconsequential, the important policy of maintaining sound labor relations overrides the relatively small cost to the Township. And, by promoting an appropriate number of lieutenants, the Township can virtually eliminate any cost increase from this source.

I shall accordingly award acting up pay for affected unit personnel in accordance with the Unions' proposal. To ensure fairness to the officers so burdened by the Township's past policy without unduly increasing the cost of this Award, I shall direct that the new acting up provision be retroactive one year, to January 1, 1998.

Still another aspect of overall compensation on which the Unions presented testimony is call-back pay, arguing that a three-hour minimum should apply. Under the expiring agreement, members receive a two-hour minimum overtime guarantee in the event the Township recalls an officer to duty. In some

instances, a three-hour minimum applies, as when a uniformed Breathalyzer operator or an officer assigned to the Investigative Division is recalled to duty. It is understood that the call-back minimum does not apply to hours worked that are contiguous with an officer's regular shift.

The Township argues that this proposal, if awarded, should not be granted retroactively because the Unions did not specify retroactivity in their demands, as they did for acting-up pay. The Township estimates the cost of the Unions' call-back pay proposal at \$6,226 more than what call-back pay would cost the Township at the current rate, with that cost "attribute[d] . . . to each year of the contract."

I have used the Township's computation on this because the Union provided none. The calculation assumes that the Township recalled only patrol officers, even though supervisors received recalls as well. From January 1, 1998, through July 22, 1998, the Township recalled officers under the two-hour minimum recall provision 70 times. The Township extrapolates the annual number of recalls at 140, each for a minimum of two hours at time-and-a-half. Since patrol officers earn a 1996 hourly rate of \$29.65, the Township figures the total 1998, two-hour

minimum recalls will cost about \$12,453. Figuring, instead, three hours of time-and-a-half at the same rate, the Township arrives at \$18,679 and subtracts the \$12,453, for a total difference of \$6,226, or 0.28 percent of 1996 base salaries.

I shall use that figure in conservatively calculating the annual cost of increases although I find it inflated by the assumption that all recalls were and will be for the minimum or less. When a recall lasts more than the minimum, the minimum cannot be considered a cost factor; for the Township would have had to pay overtime for the full time worked. Indeed, the only chargeable cost of either minimum should be the amount of paid time *not* worked. All worked time would have been paid at overtime rates in any event. The Township's data are accordingly incomplete. The real purpose of call-back minimum guarantees is to ensure that the employer will not lightly recall an officer from time off. Indeed, the employer can avoid many recall situations by careful anticipation and planning of needs. I shall accordingly grant the three-hour minimum that the Unions seek on a prospective basis.

With respect to disability benefits, the Township proposes modifying the existing disability benefit of full pay for up to six months and 80 percent of full



pay for up to five years to full pay for one year. The Township acknowledges that the FMBA contract, which it asserts should control my Award, provides full pay for 18 months. In fact, the Township states in no uncertain terms that it "seeks to continue the pattern by providing the PBA and SOA with the same disability benefits as the FMBA." It acknowledges that the savings to the Township are speculative because of the Township has not yet chosen a policy and, thus, cannot estimate its cost. In view of the Township's evidence that this benefit has been subject to abuse in the past and to follow the established pattern, I find that the terms of the FMBA contract on disability are justified here.

Turning to the Union's scheduling demand, I find that raises two distinct issues: (a) the 4 on/4 off ten-and-three-quarter-hour work schedule and (b) steady tours. As to the first, I find the evidence before me to be in equipoise. Although other jurisdictions may be using similar schedules, there is still significant basis for the Township's concern that increasing the length of work days and the time between four-day "weeks" will increase manpower and overtime costs, complicate scheduling, and disrupt training and communication between supervisors and rank and file. The Unions have failed to bear their burden of proof with respect to justifying an arbitral change of the status quo.

The issue of non-rotating tours is quite different. I find the Unions' proofs credible and persuasive. Rotating tours disrupt circadian rhythms and create stresses that torpedo productivity and can trash personal lives. Indeed, the Township has advanced no significant argument against steady tours. Its complaint on pattern grounds that the FMBA failed to secure its demand for a 24/72 schedule is unavailing. Patterns deal with compensation packages, not rejected schedule demands. Given the fact that police officers must react with split-second speed in matters of life or death, it is axiomatic that they be in peak physical, mental and emotional health. Steady tours chosen by seniority will help achieve that goal and improve morale, and I shall accordingly award them, subject to appropriate management tools to address manpower special manpower needs that may be at odds with seniority principles. Subjecting those tools to review in the grievance procedure will ensure that they are not abused.

I recognize, however, that my decision on this operational issue departs from both parties' proposals. The Unions did not get their 4 on/4 off ten-and-three-quarter-hour tours, and the Township did not want seniority-based shift assignments. I shall accordingly direct that they form a Joint Labor-Management Scheduling Committee comprising two Patrol Division officers from each unit and

not less than two sworn managerial personnel. That Committee shall gather relevant data for evaluation purposes, meet at least every other month to discuss their data and ideas, and report their findings and recommendations to the Township Committee, to the Department, and to the Unions not later than the second week of January, 2000. By working together in a problem-solving environment without the pressure of adverse negotiations, the parties may be able to find a "win/win" solution that serves both their interests.

**(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.**

As noted above, there is no argument concerning the adequacy of overall compensation. Indeed, Springfield's police personnel rank at or near the top of every category in Union County. The salary scale for police officers ranged, in 1996, from a low of \$42,365 for probationary officers to \$58,699 for the rank of Corporal. After completion of three years of service, officers in Springfield receive maximum patrol officer salary after four steps. Vacation for police officers with 15 years of service was 32 days a year. Police officers receive 15 percent of base salary after 24 years of service, in longevity benefits. A clothing allowance is

a percentage of base salary, increasing automatically as base salary increases. This is a significant factor, and it supports the modest give-backs provided in my Award.

**(4) Stipulations of the parties.**

The parties have stipulated (a) that the PBA agreed to eliminate the four-man guarantee from dusk to dawn, (b) that the parties agreed that a successor agreement would cover a four-year period, and (c) that a decision on my part concerning the Unions' demand concerning outside employment should be held in abeyance subject to my retained jurisdiction, pending further settlement negotiations between the parties on this issue. All other items that the parties tentatively agreed to in mediation came off the table when the parties proceeded to interest arbitration.

**(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976 c. 68 (N.J.S.A. 40A:4-45. 1 *et seq.*)**

Evaluating the "lawful authority of the employer" in determining a conventional award, an interest arbitrator must consider "the limitations imposed

upon the employer by [The New Jersey Local Government Cap Law (“the Cap Law”), *N.J.S.A.* 40A:4-45.1 *et seq.*” The Cap Law limits the overall budget increases incurred by the public employer and restricts its ability to grant wage increases to public employees by prohibiting a municipality from increasing its tax levy by more than the index rate over the previous year’s tax levy. Only if the municipality in question approves an ordinance or referendum may it increase its tax levy as high as five percent. *N.J.S.A.* 40A:4-45.14(b).

The Township rightly notes here that salary expenditures fall within the Cap and that costs incurred to fund an interest arbitration award must be taken into account by the municipality in determining whether overall budgetary appropriations exceed the index rate or the five percent ceiling imposed by the Cap Law. The Township cites *Irvington*, 80 N.J. 284-92 and *City of Atlantic City v. Laezza*, 80 N.J. 255, 266 (1979). In fact, an interest arbitrator is bound to consider the impact of the Cap Law, or the award will be subject to vacatur on grounds of procurement by undue means. *Laezza*, 80 N.J. at 269.

The New Jersey Supreme Court has interpreted the Cap Law by pointing out that “it is the final line of appropriations in a municipal budget [minus

excepted expenditures] which cannot exceed by more than [the index rate or] 5% the previous year's overall appropriations diminished by that year's Cap exclusions...." *N.J. State P.B.A. Local 29 v. Town of Irvington*, 80 N.J.271, 281-82 (1979) The Cap Law does not preclude an increase in any particular line item or items. It is the budget "as a whole, rather than each component thereof," that is subject to the limitation, the Court explained. *Id.*

The public policy behind the Cap Law is, without dispute, sound and reasonable, *i.e.*, to protect homeowners from spiraling local tax increases. The Legislature has acknowledged, however, that "local government cannot be constrained to the point that it would be impossible to provide necessary services to its residents." Although Witness Foti testified that the wage increases sought by the Unions here could be funded entirely by the MRNA funds, the more cautious approach, in my estimation, is not to rely entirely on that source but to look to other sources as well. The Township contends that granting the Unions' salary demands in full would put it over the top in terms of the Cap Law, requiring it to prove the existence of emergencies not anticipated during the budget-making process. I see no such emergencies in this case on the basis of the evidence presented to me. The Cap Law, then, precludes me from granting the Unions' full salary demand. I see

no such restrictions, however, in granting something less than the annual 4.5 percent increase demanded. The Township has strongly indicated that a salary package commensurate with the one granted the FMBA would be acceptable, and, in the absence of evidence to the contrary, would also be affordable without running afoul of the Cap Law. Indeed, I found Foti's testimony credible that the Township's conservative budgeting and excellent tax collection performance virtually ensure that it will operate at a surplus that will make Cap Law restrictions inapposite.

- (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 of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.**

I have heard the parties' arguments on this criterion, and I have decided to accord it less weight in reaching my determination than other, more pertinent criteria. In the first place, the record before me establishes that no tax increase will be necessary to fund the modest increases provided. Nor will there be any reduction of existing local programs and services or undercutting of new programs and service. In addition, I am not persuaded of that the "downsizing" of private corporations is dispositive evidence that the local economy is headed for a downturn or is likely to remain in doldrums, as the Township suggests. Nor are the unemployment figures particularly supportive of the Township's position.

There is no dispute that the economic health of Springfield is good, and its prospects for the foreseeable future are the same. At the same time, I am not persuaded by the Unions' argument that Arbitrator Tener's *Morris County* award "mandates" that Springfield remain the top-paying municipality in Union County. Nothing in the statute guarantees a police or fire unit's relative "standing" vis-à-vis other municipalities. Comparables establish a range of appropriateness for salary and benefit levels. And, on the entire record before me, I am satisfied that the package I am awarding will leave Springfield police comfortably within that range and most probably at their accustomed position atop it.



**(7) The cost of living.**

The Township argues that I should consider that the Unions' demand of a 4.5 percent wage increase for 1997 exceeds the 1997 Consumer Price Index ("CPI") by 2.8 percent. CPI was 1.7 percent that year, a 33-year low, and January, 1998 was the first time in four years that the CPI did not rise. While the CPI remained low, the Unions consistently received wage increases over the CPI from 1985 through 1996. The Township maintains that, even with the money the Township is willing to offer the Unions now, they will remain above the CPI.

With regard to the Township's argument that the Unions received increases exceeding the CPI over a nine-year period, I find past CPI data of limited relevance. Current data are important to the extent that they show the extent to which current salaries will be eroded by anticipated inflation. As to the current purchasing power of salaries, which is a major concern of working people, the Township's wage offer would keep the Unions' members slightly ahead of inflation. The Township has made it clear that it can afford and would find acceptable an Award mirroring the FMBA pattern. And that I have done.

- (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.**

On this criterion, the Unions contend that no numbers were offered by either party indicating the turn-over rate among police officers in Springfield nor the number of people waiting to gain employment in the Township. They maintain, therefore, that I should not consider this criterion in making my determination. The Township simply argues that its proposal will do more than the Unions' demands to allow Springfield to keep a stable work force in the Police Department and throughout the municipality as well. The Township cautions that awarding the Unions' full wage demand would risk layoffs to pay for those who remain.

Factors which the parties have not specifically addressed under this criterion but have addressed elsewhere and which do relate to this criterion include the length of the collective bargaining agreement and making their grievance procedure more efficient and responsive. Longer contracts permit longer periods of labor stability. Indeed, the parties have agreed to a four-year agreement, permitting a reasonable period of time before having to re-enter negotiations with

the disruptions and resentments inherent in the process of negotiation. And the Township's grievance procedure proposal, which mirrors that of the FMBA settlement, will ensure timely responses by management to grievances at Steps I and II. Following the FMBA pattern will avoid unproductive competition and "whipsawing" between these units. For the same reasons, I have also awarded the indemnification provision of the FMBA pattern. Such provisions are common in public sector contracts with agency fee clauses, and I see no reason to withhold that here.

As to all other proposals of the parties, I find insufficient evidence in the record to justify including them in the Awards. These additional reasons have informed that conclusion:

- Deleting existing contract language prohibiting "non-police officer or part-time or other personnel" from replacing a full-time employee covered by the contract or covering his or her post will impinge significantly on the stable labor relations which the Township and the Unions have enjoyed. It will create morale problems with lasting effects as unit members see their job security and opportunities for

overtime erode. An the record is barren of evidence supporting the need for non-unit-member personnel to replace or cover for unit members.

- Adding contract language to permit three annual departmental meetings, called at the discretion of the Chief of Police, with no compensation for attendance is an unnecessary intrusion into the personal time. Although any employee can rightly be required to attend business meetings, the notion of denying pay for required appearances has long passed from the scene of sophisticated employment relations. The need for any such proposal is entirely unsupported by evidence here.
- Adding a zipper clause has some merit. Mid-term negotiations can be disruptive. But precluding bargaining on unanticipated, newly-arisen issues could be counterproductive, depending on the issue. In the absence of evidence that mid-term bargaining has caused the Township expense and disruption, it will not be awarded here.
- Adding a Management Rights provision could significantly change the labor-relations landscape. Although many collective bargaining agreements in many jurisdictions contain such a provision, and indeed

the FMBA agreement now contains one, I am loath to make this addition without evidence, as here, on which to base such a decision.

By reason of the foregoing, I issue the following:

**AWARDS**

**FOR THE PBA UNIT**

**A. TERM:**

Article XXXIII ("Duration") of the parties' collective bargaining agreement ("Agreement") shall be amended to read, "This Agreement shall become effective as of January 1, 1997, and shall terminate on December 31, 2000."

**B. SALARY:**

Article IV ("Salaries") of the Agreement shall be amended as necessary to provide the following across-the-board percentage increases, exclusive of increments, for the contract years:

1997	3.0%	Effective 1-1-1997
1998	3.25%	Effective 1-1-1998
1999	3.25%	Effective 1-1-1999
2000	3.5%	Effective 1-1-2000

**Starting Salaries:**

The starting salary will be frozen at \$26,000 for each year of the Agreement.

**Step Schedule:**

Employees hired after the date of this Award shall be placed on a step schedule with five equal steps between the starting rate and top grade.

Those employees shall be permitted to take the Sergeant's examination in accordance with applicable law.

**Acting Up Pay:**

Effective beginning January 1, 1998, officers assigned to perform the work of a higher-paid job shall receive the pay of that job from the first day of such assignments. This shall apply to plain clothes officers assigned to the Detective Bureau.

**C. LONGEVITY:**

Article V ("Longevity") of the Agreement shall be amended as necessary to provide that longevity benefits for officers hired before the date of this Award shall be capped at ten percent (10%), except that officers now receiving longevity benefits greater than that amount shall continue at their

current rates. Officers hired after the date of this Award shall receive longevity benefits in accordance with the following schedule:

<u>Years of Service</u>	<u>Percentage</u>
5 years	2%
10 years	4%
15 years	6%
20 years and thereafter	8%

**D. CALL BACK PAY:**

Article XV ("Overtime"), Section 2, of the Agreement shall be amended as necessary to provide that, following the date of this Award, officers recalled to duty from time off shall receive a minimum of three hours' overtime instead of two hours, subject to the same conditions as now apply.

**E. DISABILITY INSURANCE BENEFITS:**

Article XI ("Insurance"), Section 4, of the Agreement shall be amended to provide that, following the date of this Award and effective upon the Township's obtaining a new disability insurance policy, the existing plan of full pay up to six months and 80% for up to five years thereafter shall be replaced by a plan providing full pay for eighteen months.

**F. WORK SCHEDULE:**

**Steady Tours**

Article XVI ("Workweek"), Section 1, of the Agreement shall be amended to provide for continuation of the current 4 on/2 off work schedule but all Patrol Division tours of duty shall be fixed rather than rotating. Officers may choose their tours of duty in accordance with seniority, subject to these conditions, when the Chief can deviate from seniority: (a) for assignments requiring special skills or needs, or for good cause, all subject to the grievance procedure, (b) for emergency situations, and (c) to ensure a minimum of one officer with at least four years' police service (and at least two years' police service in Springfield) actually present and working on each shift. In no event shall implementation of steady tours increase the total number of hours worked per year.

**Scheduling Committee**

The parties shall, within one month following the date of this Award establish a Joint Labor-Management Scheduling Committee comprising two Patrol Division officers from each unit and not less than two sworn managerial personnel. That Committee shall gather



relevant data for evaluation purposes, meet at least every other month to discuss their data and ideas, and report their findings and recommendations to the Township Committee, to the Department, and to the Unions not later than the second week of January, 2000.

**G. MANPOWER STIPULATION:**

Article XII ("Manpower") of the Agreement shall be amended to eliminate the four-man guarantee from dusk to dawn.

**H. OUTSIDE EMPLOYMENT:**

By agreement of the parties, this issue shall be held in abeyance pending further negotiations; and I retain jurisdiction of it.

**I. GRIEVANCE PROCEDURE:**

Article III ("Grievance Procedure") of the expired agreement shall be amended to add the following to Steps 1 and 2:

1. The immediate superior shall respond to the aggrieved party in writing within five (5) days and direct a copy of the answer to his division commander.

2. A written decision shall be rendered within five (5) working days. If the aggrieved party is not satisfied or a written decision is not rendered within five (5) working days, he may then file a written grievance with the Chief of Police.

**J. MISCELLANEOUS:**

Article XXII ("Miscellaneous"), Section 3 shall be amended to add this sentence:

The union agrees that it will indemnify and save harmless the Township against all actions, claims, demands, losses, or expenses (including reasonable attorney fees) in any matter resulting from any non-negligent action taken by the Township at the request of the union under this Article.

**FOR THE SOA UNIT**

**A. TERM:**

Article XXXIII ("Duration") of the parties' collective bargaining agreement ("Agreement") shall be amended to read, "This Agreement shall become effective as of January 1, 1997, and shall terminate on December 31, 2000."

**B. SALARY:**

Article IV ("Salaries") of the Agreement shall be amended as necessary to provide the following across-the-board percentage increases, exclusive of increments, for the contract years:

1997	3.0%	Effective 1-1-1997
1998	3.25%	Effective 1-1-1998
1999	3.25%	Effective 1-1-1999
2000	3.5%	Effective 1-1-2000

**Acting Up Pay:**

Effective beginning January 1, 1998, sergeants assigned to perform the work of lieutenants shall receive lieutenants' pay from the first day of such assignments.

**C. LONGEVITY:**

Article V ("Longevity") of the Agreement shall be amended as necessary to provide that longevity benefits for officers hired before the date of this Award shall be capped at ten percent (12%), except that officers now receiving longevity benefits greater than that amount shall continue at their current rates. Officers hired after the date of this Award shall receive longevity benefits in accordance with the following schedule:

<u>Years of Service</u>	<u>Percentage</u>
5 years	2%
10 years	4%
15 years	6%
20 years and thereafter	8%

**D. CALL BACK PAY:**

Article XV ("Overtime"), Section 2, of the Agreement shall be amended as necessary to provide that, following the date of this Award, officers recalled to duty from time off shall receive a minimum of three hours' overtime instead of two hours, subject to the same conditions as now apply.

**E. DISABILITY INSURANCE BENEFITS:**

Article XI ("Insurance"), Section 4, of the Agreement shall be amended to provide that, following the date of this Award and effective upon the Township's obtaining a new disability insurance policy, the existing plan of full pay up to six months and 80% for up to five years thereafter shall be replaced by a plan providing full pay for eighteen months.

**F. WORK SCHEDULE:**

**Steady Tours**

Article XVI ("Workweek"), Section 1, of the Agreement shall be amended to provide for continuation of the current 4 on/2 off work schedule but all Patrol Division tours of duty shall be fixed rather than rotating. Officers may choose their tours of duty in accordance with seniority, subject to these conditions, when the Chief can deviate from seniority: (a) for assignments requiring special skills or needs, or for good cause, all subject to the grievance procedure, (b) for emergency situations, and (c) to ensure a minimum of one officer with at least four years' police service (and at least two years' police service in Springfield) actually present and working on each shift. In no event shall implementation of steady tours increase the total number of hours worked per year.

**Scheduling Committee**

The parties shall, within one month following the date of this Award establish a Joint Labor-Management Scheduling Committee comprising two Patrol Division officers from each unit and not less than two sworn managerial personnel. That Committee shall gather

relevant data for evaluation purposes, meet at least every other month to discuss their data and ideas, and report their findings and recommendations to the Township Committee, to the Department, and to the Unions not later than the second week of January, 2000.

**G. MANPOWER STIPULATION:**

Article XII ("Manpower") of the Agreement shall be amended to eliminate the four-man guarantee from dusk to dawn.

**H. OUTSIDE EMPLOYMENT:**

By agreement of the parties, this issue shall be held in abeyance pending further negotiations; and I retain jurisdiction of it.

**I. GRIEVANCE PROCEDURE:**

Article III ("Grievance Procedure") of the expired agreement shall be amended to add the following to Steps 1 and 2:

1. The immediate superior shall respond to the aggrieved party in writing within five (5) days and direct a copy of the answer to his division commander.

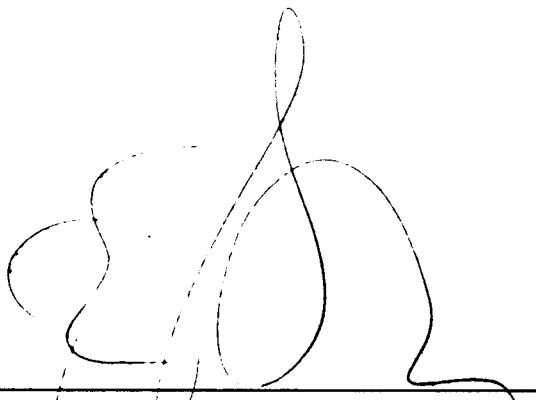
2. A written decision shall be rendered within five (5) working days. If the aggrieved party is not satisfied or a written decision is not rendered within five (5) working days, he may then file a written grievance with the Chief of Police.

**J. MISCELLANEOUS:**

Article XXII ("Miscellaneous"), Section 3 shall be amended to add this sentence:

The union agrees that it will indemnify and save harmless the Township against all actions, claims, demands, losses, or expenses (including reasonable attorney fees) in any matter resulting from any non-negligent action taken by the Township at the request of the union under this Article.

Dated: December 14, 1998  
Roseland, New Jersey



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**JOHN E. SANDS**  
**Interest Arbitrator**

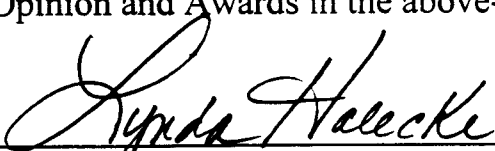
**ACKNOWLEDGMENT**

State of New Jersey )

ss.:

County of Essex )

On December 14, 1998, JOHN E. SANDS, whom I know, came before me and acknowledged that he had executed the foregoing as and for his Interest Arbitration Opinion and Awards in the above-captioned matters.



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Lynda Halecki

A Notary Public of New Jersey

My Commission expires May 15, 2002