

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Arbitration Between:

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RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY,

"Public Employer,"

- and -

FRATERNAL ORDER OF POLICE LODGES 62  
AND 164 (SUPERIOR OFFICERS)

"Unions."

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Docket Nos. IA-2010-044 & IA-2010-029

INTEREST ARBITRATION  
DECISION AND  
AWARD

Before  
James W. Mastriani  
Arbitrator

Appearances:

**For the Employer:**

Beth Hinsdale, Esq.  
Wilentz, Goldman & Spitzer, PA

**For the Unions:**

Matthew D. Areman, Esq.  
Markowitz & Richman

I was appointed arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425 in this matter involving Rutgers, The State University ["Rutgers" or the "University"] and FOP-P, Lodge 62 and FOP-S, Lodge 164 [the "Unions" or "FOP-P" and "FOP-S"]. Several pre-interest arbitration mediations were held. Because the impasse could not be resolved, formal interest arbitration hearings were held on April 27, June 14, July 27, December 20 and 21, 2012. Testimony was received from Sergeant Matthew Gulsby, President of FOP Lodge 164, Police Officer Keith Johnson, Trustee of FOP Lodge 62, Police Officer Brian Ruditsky, FOP 62 President, R.J. Anderson, Senior Field Representative, Lieutenant Michael Rein, Sergeant Emma O'Flanagan, Sergeant Tim Wilmot, Vice President of FOP Lodge 164, Harry Agnostak, Vice President for Human Resources, Nancy Winterbauer, Vice President for University Budgeting, Bruce Fehn, Senior Vice President for Finance and Administration. Post-hearing briefs were submitted by both parties.

### **FINAL OFFERS OF THE PARTIES**

At hearing, Rutgers and the Unions submitted the following final offers:

#### **The Unions**

1. **FOP-P Unit**

Term of Agreement: July 1, 2009 through June 30, 2014

**Wages and Salary (Modifications to Article 21):**

- **Base Wage Salary Increases**

- Effective July 1, 2009 – 3.0%
- Effective July 1, 2010 – 3.0%
- Effective July 1, 2011 – 3.0%
- Effective July 1, 2012 – 3.0%
- Effective July 1, 2013 – 3.0%

**Police Officer Guide (Range 21)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2008	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2009	\$44,096	\$48,918	\$53,741	\$58,564	\$63,387	\$68,209	\$73,033	\$77,859
7/1/2010	\$45,419	\$50,385	\$55,354	\$60,321	\$65,289	\$70,255	\$75,224	\$80,194
7/1/2011	\$46,782	\$51,897	\$57,014	\$62,130	\$67,248	\$72,363	\$77,481	\$82,600
7/1/2012	\$48,185	\$53,454	\$58,725	\$63,994	\$69,265	\$74,533	\$79,805	\$85,078
7/1/2013	\$49,631	\$55,057	\$60,486	\$65,914	\$71,343	\$76,769	\$82,199	\$87,631

**Senior Police Officer Guide (Range 22)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2008	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2009	\$63,879	\$67,075	\$68,987	\$71,537	\$74,091	\$76,645	\$79,016	\$81,753
7/1/2010	\$65,795	\$69,087	\$71,057	\$73,683	\$76,314	\$78,945	\$81,387	\$84,206
7/1/2011	\$67,769	\$71,159	\$73,189	\$75,893	\$78,603	\$81,313	\$83,829	\$86,732
7/1/2012	\$69,802	\$73,294	\$75,384	\$78,170	\$80,961	\$83,752	\$86,343	\$89,334
7/1/2013	\$71,896	\$75,493	\$77,646	\$80,515	\$83,390	\$86,265	\$88,934	\$92,014

- **Lump Sum Payment**

- \$5,000 signing bonus at execution of an agreement as compensation for lost/discounted overtime and other pay during the period from July 1, 2009 through the present.

- **Step Increases**

- July 1, 2011 – Step increment for any officer who did not receive her/his increment during the period from July 1, 2009 through June 30, 2010
- July 1, 2012 – Step increment for any officer who did not receive her/his increment during the period from July 1, 2010 through June 30, 2011
- Upon execution of this Memorandum, each bargaining unit employee shall receive her/his normal step increment on her/his anniversary date.
- The parties agree that the language in Article 21, which provides that “Subject to the appropriation of the allocation to the University by the state of adequate funding ...” (hereinafter referred to as the “Subject To” language) will remain in

the parties collective negotiations agreement, but shall have no force or effect and shall be null and void for the term of this Memorandum and the resulting collective negotiations agreement expiring June 30, 2014 with respect to the salary provisions set forth above. This means all such payments and increments shall be made without regard to the appropriation of State funds or the allocation of State funds to the University.

- The Union will withdraw its grievance concerning this matter.
- **Add New Section: Night Differential**
  - Bargaining unit employees assigned to regular night shifts (5:00 p.m. to 7:00 a.m.) shall be compensated two thousand dollars (\$2,000) per year to be paid in equal amounts during each year in each pay period. Bargaining unit employees who have the majority of their regularly scheduled shift fall within the above hours shall be eligible for the night differential.

Senior Police Officer Differential (Modification to Article 22):

- **Delete Existing Paragraphs 1 and 2 and replace with the following:**
  - All bargaining unit members, in recognition of long and faithful service, shall be compensated, to be paid in equal amounts during each year in each pay period, as follows:
    - On the anniversary date which represents the completion of ten (10) years of service – 4% of base salary
    - On the anniversary date which represents the completion of fifteen (15) years of service – 6% of base salary
    - On the anniversary date which represents the completion of twenty (20) years of service – 8% of base salary
    - On the anniversary date which represents the completion of twenty-five (25) years of service – 10% of base salary
- **Modify Paragraph 4 as follows:**
  - In consideration for the existence of the differential, the University may require that qualified officers of each rank perform responsibilities of a training nature during normal working hours. In further consideration, the University may require that qualified officers within the bargaining unit perform detective duties.

Uniform Allowance (Modification to Article 28)

- **Increase annual uniform allowance as follows:**
  - One thousand dollars (\$1,000) effective July 1, 2012.

Miscellaneous

- **Modify Article 7 (Grievances) as follows:**

- In Steps 2 and 3 of the procedure only, change the filing, meeting and response timeframes from five (5) working days to fifteen (15) working days in each and every instance where it appears.

**2. FOP-S Unit**

Term of Agreement:

July 1, 2009 through June 30, 2014

Wages and Salary (Modifications to Article 18):

• **Establishment of New Salary Guide**

- Upon promotion to the rank of Sergeant or Lieutenant an individual shall be placed on Step 1 of the appropriate salary guide for the title as provided below and shall receive automatic increments on July 1:
- Sergeants Pay Scale
  - Step 1 – Shall be a minimum of 2% above a Senior Patrol Officer.
  - Step 2 – Shall be a minimum of 4% above a Senior Patrol Officer.
  - Step 3 – Shall be a minimum of 6% above a Senior Patrol Officer.
  - Step 4 – Shall be a minimum of 8% above a Senior Patrol Officer.
  - Step 5 – Shall be a minimum of 10% above a Senior Patrol Officer.
  - Step 6/Senior Step – Shall be a minimum of 15% above a Senior Patrol Officer.

**Sergeant Salary Guide- Range 23**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6/ Senior Step
7/1/2013	\$93,854	\$95,694	\$97,535	\$99,375	\$101,215	\$105,816

- Lieutenant Pay Scale
  - Step 1 – Shall be a minimum of 2% above a Senior Sergeant.
  - Step 2 – Shall be a minimum of 4% above a Senior Sergeant.
  - Step 3 – Shall be a minimum of 6% above a Senior Sergeant.
  - Step 4 – Shall be a minimum of 8% above a Senior Sergeant.
  - Step 5 – Shall be a minimum of 10% above a Senior Sergeant.
  - Step 6 – Shall be a minimum of 15% above a Senior Sergeant.

**Lieutenant Salary Guide- Range 23**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6/ Senior Step
7/1/2013	\$107,932	\$110,049	\$112,165	\$114,281	\$116,398	\$121,688

- **Transitional Salary Guide** – For current employees during the term of this agreement (in an effort to slowly transition from current salary structure)
  - Superior Officers employed upon the earlier of July 1, 2012 or the execution of an agreement shall receive five (5) base wage increases in equal amounts which shall be calculated by taking the difference between the officer's current salary and the officer's anticipated salary listed in the above-referenced guide, based on years of service on June 30, 2014, and dividing that number by five (5).
  - The five (5) base wage increases for the transitional salary guide shall take place on July 1, 2012; January 1, 2013; July 1, 2013; January 1, 2014; and June 30, 2014.
  - The Union will withdraw its grievance concerning this matter.
- **Lump Sum Payment**
  - \$5,000 signing bonus at execution of an agreement as compensation for lost/delayed overtime and other pay during the period from July 1, 2009 through the present.
- **Modify Night Differential as follows:**
  - Bargaining unit employees assigned to regular night shifts (5:00 p.m. to 7:00 a.m.) shall be compensated two thousand dollars (\$2,000) per year to be paid in equal amounts during each year in each pay period. Bargaining unit employees who have the majority of their regularly scheduled shift fall within the above hours shall be eligible for the night differential.

**Miscellaneous**

- **Modify Article 13 (Sick Leave) as follows:**
  - In paragraph 1 add sole domestic partner.
  - Add New Language: "Employees covered by this agreement shall be permitted to participate in Rutgers compassionate leave program, a donated leave bank for catastrophic illnesses, pursuant to the terms and conditions set forth in the university human resources compassionate leave program, as may be amended unilaterally from time to time by the university. The university shall provide the FOP-P with an annual statement of donation and usage transactions related to the donated leave bank. The statement will include the following university-wide data: number of people donating accrued time; number of days donated; number of people requesting leave; number of requests granted. Determinations regarding the granting or denial of compassionate leave shall be at the sole discretion of the Associate Vice President for Human Resources."
- **Modify Article 17 (Bereavement Leave) as follows:**

- Add the following relationships to the list of "immediate family" in paragraph 1: sole domestic partner; step parent; ward; great grandmother; great grandfather; mother-in-law; father-in-law; daughter-in-law; son-in-law.
- Delete paragraph 2.
- **Delete all references to Detective(s) and include references to Lieutenant, where appropriate.**
- **Modify Article 20 (Overtime) as follows:**
  - Modify Sections A, 3 and 4:
    - ~~When a Lieutenant is required to appear during his/her off duty time as a witness before a court in connection with responsibilities related to official duties, he/she shall be compensated by compensatory time on an hour for hour basis or in cash in accordance with paragraph 4~~
    - A Lieutenant may request that compensation for hours worked as specified in paragraphs 1 and 2, ~~and 3~~ be given in either time or money. When it is feasible to do so, the request will be granted, however, compensatory time may be accumulated only up to a maximum of forty (40) hours in a fiscal year. Thereafter the compensation will be in cash. Both the compensatory time and the cash payments will be at a straight time rate based on a 40-hour-workweek.
  - Modify Section B, 1, b as follows
    - ~~Sergeants and Detectives whose regular schedule is 4 x 4 with a 20-hour bank (160 hours over a 28-day cycle) will be compensated at time-and-one-half after the officer has completed twelve (12) hours of bank time, but not training days, within the 28-day cycle.~~
  - Modify Section C, 2 as follows:
    - A Lieutenant or Sergeant ~~or Detective~~ who is required to appear as a witness before any court, judicial or quasi-judicial body or agency in connection with the responsibilities related to official duties shall be compensated for such time. If the off-duty appearance is less than ~~two~~ three (3) hours, he/she shall be guaranteed a minimum of ~~two~~ three (3) hours pay. Officers shall be reimbursed for such expenses as parking fees and toll fees in connection with such appearances.
- **Modify Article 23 (On Call) as follows:**
  - Lieutenants who are regularly scheduled to be "on-call" to receive communications from the University Police Department shall be compensated at the rate of five hundred dollars (\$500.00) per quarter to be paid to be paid in equal amounts during each year in each pay period.

- Superior officers assigned to an investigative function shall be compensated at the rate of twenty dollars (\$20.00) per day of on-call work.
- If for any reason the superior officer cannot perform the on-call duty for which he or she is scheduled, that officer, upon return, shall perform the next scheduled on-call duty of the officer who replaced him or her.
- **Modify Article 31 (Miscellaneous) as follows:**
  - Section 1: Uniform allowance of One thousand dollars (\$1,000) paid quarterly effective July 1, 2012.
  - Section 5: Non-uniform clothing allowance of five hundred fifty dollars (\$550) paid quarterly, effective July 1, 2012.

**Rutgers**

**1. FOP-P Unit**

**Term of Contract:** July 1, 2009 through June 30, 2014

**Wages:**

(1)	<u>FY2010</u>	July 1, 2009	0%
(2)	<u>FY2011</u>	July 1, 2010	0%
(3)	<u>FY2012</u>	July 1, 2011 February 1, 2012	1.75% ATB 1.75% ATB
(4)	<u>FY2013</u>	July 1, 2012	1.75% ATB

Plus the FY2010 increment which had been deferred, will be paid in FY2013 on the employee's quarterly anniversary date. (Effective progressively.)

(5)	<u>FY2014</u>	July 1, 2013	1.75% ATB
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Plus the FY2011 normal increment which had been deferred will be paid in FY2014 on the employee's quarterly anniversary date. (Effective progressively)



**New Salary Guide for FOP-P Members**  
**Under the University's Offer**

**Police Officer Guide (Range 21)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2008	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2009	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2010	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2011	\$43,561	\$48,324	\$53,089	\$57,853	\$62,618	\$67,381	\$72,147	\$76,914
2/1/2012	\$44,324	\$49,170	\$54,018	\$58,865	\$63,714	\$68,560	\$73,409	\$78,260
7/1/2012	\$45,099	\$50,030	\$54,963	\$59,896	\$64,829	\$69,760	\$74,694	\$79,629
7/1/2013	\$45,888	\$50,906	\$55,925	\$60,944	\$65,963	\$70,981	\$76,001	\$81,023

**Senior Police Officer Salary Guide (Range 22)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2008	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2009	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2010	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2011	\$63,103	\$66,261	\$68,150	\$70,668	\$73,192	\$75,715	\$78,058	\$80,761
2/1/2012	\$64,208	\$67,420	\$69,343	\$71,905	\$74,473	\$77,040	\$79,424	\$82,174
7/1/2012	\$65,331	\$68,600	\$70,556	\$73,163	\$75,776	\$78,388	\$80,813	\$83,612
7/1/2013	\$66,475	\$69,801	\$71,791	\$74,444	\$77,102	\$79,760	\$82,228	\$85,076

**2. FOP-S Unit**

**Term of Contract:** July 1, 2009 through June 30, 2014

**Wages:**

- (1) FY2010 July 1, 2009 0%
- (2) FY2011 July 1, 2010 0%
- (3) FY2012 July 1, 2011 1.75% ATB  
February 1, 2012 1.75% ATB
- (4) FY2013 July 1, 2012 1.75% ATB

Plus the FY2010 increment which had been deferred, will be paid in FY2013 on the employee's quarterly anniversary date. (Effective progressive only.)

- (5) FY2014 July 1, 2013 1.75% ATB

Plus the FY2011 increment which had been deferred will be paid in FY2014 on the employee's quarterly anniversary date. (Effective progress only.)

**New Salary Guide for FOP-S Members**  
**Sergeant Salary Guide – Range 23**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Sr Step
7/1/2008	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2009	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2010	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2011	\$61,188	\$64,274	\$67,372	\$70,462	\$73,552	\$76,646	\$79,734	\$82,829	\$84,483
2/1/2012	\$62,259	\$65,399	\$68,551	\$71,695	\$74,839	\$77,988	\$81,130	\$84,278	\$85,961
7/1/2012	\$63,349	\$66,544	\$69,750	\$72,950	\$76,149	\$79,352	\$82,549	\$85,753	\$87,466
7/1/2013	\$64,457	\$67,708	\$70,971	\$74,226	\$77,481	\$80,741	\$83,994	\$87,254	\$88,996

**Senior Sergeant Salary Guide – Range 24**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Sr Step
7/1/2008	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2009	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2010	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2011	\$64,246	\$67,490	\$70,742	\$73,984	\$77,231	\$80,477	\$83,722	\$86,971	\$88,709
2/1/2012	\$65,370	\$68,671	\$71,980	\$75,279	\$78,583	\$81,885	\$85,187	\$88,493	\$93,871 <sup>1</sup>
7/1/2012	\$66,514	\$69,873	\$73,239	\$76,597	\$79,958	\$83,318	\$86,678	\$90,041	\$95,515
7/1/2013	\$67,678	\$71,095	\$74,521	\$77,937	\$81,357	\$84,777	\$88,195	\$91,617	\$97,186

**Lieutenant Salary Guide – Range 26**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
7/1/2008	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2009	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2010	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2011	\$71,186	\$74,711	\$78,240	\$81,829	\$85,417	\$88,928	\$92,512	\$96,015	\$98,023
2/1/2012	\$72,432	\$76,018	\$79,609	\$83,261	\$86,912	\$90,485	\$94,131	\$97,696	\$99,738
7/1/2012	\$73,700	\$77,349	\$81,002	\$84,718	\$88,433	\$92,068	\$95,778	\$99,405	\$101,484
7/1/2013	\$74,989	\$78,702	\$82,420	\$86,201	\$89,980	\$93,679	\$97,454	\$101,145	\$103,260

<sup>1</sup> Senior Step Sergeants received a 4% increase on 11/2011 due to a settlement grievance. For purposes of the costing provided here, the 1.75% increase in 2/1/2012 has been added to the new senior step salary. (See R.16)

## BACKGROUND

The Employer in this impasse is Rutgers, the State University. Testimony at hearing and a background summary for the understanding of the University's mission was concisely set forth in its post-hearing submission:

Rutgers is one of the country's leading public research universities and New Jersey's preeminent comprehensive public institution of higher education. The University is dedicated to providing an affordable education to a broad array of students, meeting the highest standards of excellence, and to conducting groundbreaking research. It turns knowledge into solutions for local, national and global communities. (R.97 and 99)

Rutgers was founded in 1766 as a private institution and became public in the 1940s. (NW T. 345). It is the sole university in the United States that was a colonial college, a land-grant institution and a public university. (Id.) It is also one of the nation's leading comprehensive public research universities and is New Jersey's only public university in the Association of American Universities (AAUs) - North America's approximately 60 leading universities recognized for the quality and scope of their research and educational programs. (NW Ex. 17 and NW T. 348-350).

One of the preeminent goals of Rutgers administrators is to increase its standing among its AAU peers, so that it can compete nationally and internationally for faculty and students. (Id.) As Rutgers has faced more difficult economic decisions, its standing among these peers have suffered. (Id.) This is an unfortunate result of those decisions which must be made by Dr. Winterbauer and her counterparts. (See also NW Exs. 17-25). This result, however, cannot continue or Rutgers overall mission will be jeopardized. (NW T. 348-354).

To make its financial decisions more difficult, the University, pursuant to statutory mandate, must operate specific academic units and centers. For example, it must maintain its College of Agriculture and offer instruction in agricultural fields, including forestry, horticulture, nutrition and bio-chemistry, food science, wildlife conservation, environmental science, meteorology and climatology, plant and animal pathology, entomology, nematology, soils and crops, agricultural marketing and economics, dairy, poultry and animal husbandry, turf management, weed control, agricultural crop breeding and genetics, soil microbiology and agricultural engineering. (N.J.S.A. 18A:65-43).

Similarly, Rutgers is statutorily required to maintain: (1) an academic program in ceramics and ceramic engineering (N.J.S.A. 18A:65-54 et seq.), (2) a school of criminal justice (N.J.S.A. 18A:65-55.1 et seq.), (3) a graduate school of social work (N.J.S.A. 18A:65-56 et seq.), and (4) an institute of management and labor relations (N.J.S.A. 18A:65-63 et seq.). Operation of the Center of Alcohol Studies (N.J.S.A. 18A:65-72 et seq.), and various advanced technology centers is also statutorily required (N.J.S.A. 18A:64J -1 to 45). As a result, the University's academic offerings and programs are significantly determined by legislative fiat, thereby creating extensive financial obligations in the University.

The University currently has 58,000 students at its 3 major campuses in northern (Newark), central (New Brunswick) and southern (Camden) New Jersey. (NW Ex. 9). It administers 28 colleges across these 3 campuses, offers over 160 programs, and maintains approximately 135 academic bureaus, institutes and centers focused on major research projects. (Id.) The University population is over 70,000, inclusive of full-time and part-time undergraduate and graduate students, as well as administration, faculty and staff. (Id.)

Rutgers has 16,429 residence beds university-wide, 27 dining facilities and 5,972 acres of land. On that land, Rutgers maintains 729 buildings with nearly 19,000 gross square feet of space. As testified by Dr. Winterbauer, Rutgers has not been able to keep pace with the upkeep demands on these buildings, and other space. As a result, the University presently has approximately \$800 million in deferred maintenance costs. (NW T. 338).

Moreover, due to its special responsibilities in the area of agricultural and environmental research, Rutgers maintains the New Jersey Agricultural Experiment Station ("AES"), with extension offices in every county in New Jersey. The AES covers over 3,209 acres and accounts for over 50% of total University land. (NW Ex. 9; R.97,98,99).

The University must also be financially accessible to a diverse population of students. Thus, tuition is partially subsidized through Federal and State student financial aid. (See NW Ex. 5, 6 and 7). In FY2009, 91% of Rutgers students received some kind of aid in the form of grants, scholarships or loans. (Id.) 52% were in the form of loans that must be repaid by students. (NW T. 341). At the end of a students' education at Rutgers most will leave with over \$25,000 worth of debt. (Id.) 30% of students qualify for Federal Pell grants -- meaning they are at or near poverty level. (Id.)

Dr. Winterbauer testified that the large number of students seeking financial aid demonstrates that students already find it financially challenging to attend Rutgers. (NW T. 340342). This will only get worse as tuition costs at Rutgers rise more rapidly than available financial aid.

The University's unrestricted budget primarily comes from student tuition and fees and state appropriations. (NW Ex. 26, 26a, 29, 31, 31a, 32). Tuition and fee increases have been primarily linked to declining and inadequate State appropriations. (Id.; NW T. 388-389). In fact, state appropriations have fallen dramatically as a percentage of the University's unrestricted budget. (Id.) In FY1990, for example, tuition and fees represented approximately 32.9% of the University's unrestricted budget, with state appropriations making up 67.1%. (NW Ex. 40). By FY2004, these percentages crossed, and in FY2012, tuition and fees account for 67.6% of the unrestricted budget, while state appropriations accounted for only 32.4%. As Dr. Winterbauer testified, this shift in funding is a "very dangerous trend" and has resulted in what has been referred to as the privatization of public education. (NW T.382). Dr. Winterbauer warned if the trend continues, students requiring an affordable quality education will be unable to attend Rutgers. (Id.) In that event Rutgers will fail the prime focus of its mission objectives - an affordable education to a wide array of students.

The unit employees in this impasse are employed in the Rutgers University Police Department ("RUPD"). They perform full service law enforcement duties on a year round basis. There are two bargaining units to this impasse. One bargaining unit consists of a Primary unit (FOP-P) and includes 54 police officers and senior police officers. The parties have negotiated a salary schedule with a step system. Slightly more than three-quarters of officers in this unit were eligible for step increases. The second unit in this proceeding is the Supervisory unit (FOP-2). This unit includes 29 Sergeants, Senior Sergeants and Lieutenants. This unit also has a step system. Approximately sixty (60%) percent of the unit's employees were eligible for step increases. The FOP-S unit has proposed a new or transitional salary guide to address its objections to salary compression between supervisors and non-supervisors.

The FOP asserts that the department is effective and productive. It has been accredited by the Commission on Accreditation for Law Enforcement Agencies, a distinction that only 14 agencies in New Jersey hold. Citing testimony and exhibits, the FOP units describe their functions and responsibilities as follows:

The members of the police department are fully trained, commissioned, and armed police and superior officers [*Id.*]. The officers, generally, are tasked with protecting the safety of the Rutgers student and staff population, as well as visitors to the campuses, and students and residents in the communities surrounding the campuses [*Id.*]. Officers are required to assure the observance of all the laws of the State of New Jersey, constitutional laws, local municipal laws,<sup>4</sup> and the rules and regulations of the University, both on and off campus [*Id.*].

Specifically, Rutgers police officers perform the traditional police duties of a police officer, including enforcement of Title 39, making arrests under Title 2C. [Tr. 100-101; FX-N]. Police officers are generally responsible for and/or patrol a designated area to provide assistance and protection for persons, to safeguard property, to assure observance of the law, and to apprehend law-breakers; and do related work, as required [*Id.*]. RUPD police officers carry firearms twenty-four hours a day, are deemed to be on duty twenty-four hours a day, and are authorized to make arrests anywhere and at any time within the state of New Jersey [*Id.*]. They receive the same academy training, perform the same duties, utilize the same equipment, receive the same certification and have the same authority as their municipal colleagues [*Id.*]. Finally, university police officers are required to undergo a comprehensive background check, which is reviewed by the State Police [*Id.*].

The Rutgers campuses are located at the convergence of major state and county roadways, leaving RUPD officers responsible for enforcement of the traffic code, handling motor vehicle accidents, and responding to crimes and emergencies which occur on the streets near the campuses [*Id.*]. Patrol areas incorporate expansive areas of the local communities and police officers interact with members of the general public on a regular basis. The public is aware of the availability of RUPD police officers, both on campus and between facilities, and often call on them for assistance.

Despite the prosperity that Rutgers is currently experiencing, its police force faces difficult challenges during the course of each and every day. Statistics taken from the Uniform Crime Reports, published by the New Jersey State Police, for 2009, 2010 and 2011 show that RUPD police officers report far more crime, and oftentimes more violent crime, than their counterparts at all the other colleges and universities within the State [FX- L, FX-M; RX- 100].

**Uniform Crime Reports (University and College Offense Data)**

	2009 Total / Violent Crimes	2010 Total / Violent Crimes	2011 Total / Violent Crimes
<b>RUTGERS</b>	<b>754/29</b>	<b>886/26</b>	<b>1001/38</b>
Brookdale CC	42/0	53/1	34/0
Essex County College	69/1	86/4	78/1
Kean University	152/1	113/3	106/0
Middlesex Cty College	50/0	53/0	67/0
Monmouth Univ.	69/0	57/0	61/1
Montclair State	244/9	238/7	214/9
NJIT	160/14	186/14	214/14
Richard Stockton	102/3	101/2	54/2
Rowan	125/3	119/4	102/4
Stevens Inst. of Tech	21/1	39/0	32/1
TCNJ	77/0	88/2	96/1
UMDNJ	269/22	242/33	209/21
William Paterson	83/0	67/3	93/2

For this period, Rutgers' total annual reported crimes exceeds the university with the next highest by approximately 500 to 800 during the years reviewed. In other words, Rutgers reports between 200% and 350% more total crime, on average, than the other higher educational institutions within the State of New Jersey. Moreover, RUPD officers deal with more violent crime than the other higher educational institutions within the State of New Jersey (except for 2010, where UMDNJ saw seven (7) more violent crimes).

Likewise, RUPD officers deal with the same, or in many instances greater, total crime figures than several comparable municipal departments, in particular those New Jersey jurisdictions that have CALEA accreditation and/or share a geographic proximity with Rutgers' campuses [Tr. 128-130; FX- L, FX-M].

### Uniform Crime Reports

	2009 Total/Violent Crimes	2010 Total/Violent Crimes	2011 Total/Violent Crimes
<b>RUTGERS</b>	<b>754/29</b>	<b>886/26</b>	<b>1001/38</b>
Barnegat	254/24	277/33	247/30
Burlington Twp.	466/35	392/36	438/37
Camden City	5,962/1,885	5,517/1,848	6,749/2,166
Chatham Borough	64/3	72/0	58/3
East Brunswick	997/52	888/45	864/47
Edison Twp.	2,509/264	1,910/142	2,062/143
Evesham	654/38	753/41	776/39
Highland Park Boro	217/11	185/17	216/12
Lincoln Park	64/4	93/2	108/4
Long Hill Twp.	87/1	70/3	73/1
Mahwah	154/6	109/3	110/3
Manalapan	410/22	405/19	418/17
Newark	12,366/2,679	13,199/2,974	14,512/3,360
North Brunswick	889/81	818/57	833/55
Ridgewood	206/10	222/7	193/8
West Orange	784/71	670/87	874/77
Woodbridge	2,577/152	2,505/171	2,702/129

As demonstrated above, among these comparable jurisdictions, Rutgers' total crime statistics are exceeded only by the likes of Camden City, Edison Twp., Newark City and Woodbridge. Meanwhile, Rutgers' total crime is comparable to the medium to large sized municipalities of West Orange, North Brunswick, Evesham, and East Brunswick, and is far greater than several of the remaining comparable jurisdictions. Nevertheless, as discussed more completely below, RUPD officers rank far behind these comparable jurisdictions in terms of wages and benefits.

While RUPD officers perform all the traditional duties of municipal and county police officers, they also engage in several non-traditional police activities, particularly due to the nature of the University setting and the population which they serve. This has given rise to the label "Cops Plus," which is used to describe the job of a Rutgers police officer. For example,



as Officer Keith Johnson ("Johnson") testified, from time to time Rutgers University attracts high-profile visitors who require police attention, such as the Dali Lama, Louis Farrakhan, and presidential candidates [Tr. 102]. The football stadium seats upwards of 30,000 fans on any given Saturday, and it is the responsibility of the RUPD to liaise with State Police, the FBI, Dept. of Homeland Security and other outside agencies to ensure the safety of the players and guests [Tr. 104-105]. Johnson also highlighted the fact that Rutgers, being as diverse as it is, requires police coverage in settings as urban as any big city (such as Newark and Camden) and as rural as the agricultural facility of the Cook Campus [Tr. 102-103]. Sgt Matthew Gulsby ("Gulsby") explained that Rutgers houses an irradiator on campus, the security for which the RUPD officers have been specially trained and are responsible [Tr. 41-43]. Johnson elaborated on some of the non-campus based activities that RUPD officers have responsibility for, such as policing the late-night food trucks (also known as "grease trucks") located slightly off campus [Tr. 107-109]. Johnson even recalled having the privilege of guarding the torch of the Statue of Liberty, when the renovations brought the torch to the Rutgers campus for safekeeping [Tr. 109]. Officer Brian Ruditsky ("Ruditsky") provided testimony about some of the more mundane daily tasks of a RUPD officer, which fall outside the scope of "traditional" police work, such as performing building checks, and assisting with flat tires and jump-starts for the Rutgers community [Tr. 163-164,200-201].

There was substantial testimony concerning the University's budget. It is made up of three basic categories: (1) the restricted budget which cannot be used to pay for day-to-day operational expenses of the University, including salary costs or increases; (2) the auxiliary services budget, with revenues generated from student fees, and is dedicated to supporting those services; and, (3) the unrestricted budget, which includes all money received from the State's general appropriation to Rutgers, and which includes student tuition and fees not for specific auxiliary services. Salaries account for approximately 70% of Rutgers' yearly unrestricted budget. The University has received reductions in state appropriations requiring it to increase student tuition and fees. The University, unlike a municipality, does not have the power to tax in order to raise funds. Its revenue is mainly supported by tuition and state funding. In 2011, tuition brought in

\$614,003,000 in revenue, a 59% increase over the \$386,823,000 in 2006. The record reflects that state funding has been significantly reduced. In FY 1990, state appropriations made up 67.1% of its unrestricted budget compared to the 32.4% received in FY 2012. The record further reflects that additional financial pressure will be placed on the University when it merges with the University of Medicine and Dentistry [UMDNJ] due to the costs associated with preparing for and effectuating the merger. According to the University, the merger will cost more than \$75 million from the unrestricted budget to pay for consolidation issues. Rutgers will also assume approximately \$457 million of UMDNJ's debt. The University is expected to acquire an additional 16,000 employees in 13 separate negotiations units, including 62 police officers. Rutgers will also acquire 6,000 students on eight campuses.

Rutgers police officers have experienced increase call volume including more violent crimes than their counterparts in the other college and Universities in the State. Rutgers officers perform all of the traditional police duties of municipal and county police officers and engage in several non-traditional police activities including security for high-profile famous visitors; being the liaison with the State Police, FBI, and Homeland Security for football games. They must also maintain a sensitivity towards the students who attend the University.

### **POSITIONS OF THE PARTIES**

Against this general overview, the parties provided extensive submissions in support of their respective positions. I summarize them as follows.

## FOP-P

FOP-P represents the rank and file police officers. FOP-P seeks a five-year agreement with a duration from July 1, 2009 through June 30, 2014. It proposes five 3% across-the-board increases effective each July 1. In addition, FOP-P seeks salary increments retroactive to July 1, 2011 to any officer who did not receive his/her increments from July 1, 2009 through June 30, 2010. Effective July 1, 2012, it seeks retroactive step increments for officers who did not receive their increments during July 1, 2010 through June 30, 2011. It proposes continued step increments to be paid on each officer's anniversary date for the duration of the agreement. Article 21 of the parties' expired agreement provides that salaries are subject to the appropriation and allocation of the University's budget. FOP-P seeks to have this language declared null and void for the duration of the award. FOP-P also seeks \$5,000 per unit member as compensation for what it deems "lost/discounted overtime and other pay" during the period from July 1, 2009 through the present. Other compensation enhancements proposed are a senior police officer differential as discussed below and an increase in the uniform allowance.

In support of its wage proposal, FOP-P points out that it would cost the University only less than one-half of 1% of its budget. It asserts Rutgers has more than sufficient assets and reserves to fund it. The FOP-P and FOP-S rely on their economic expert's testimony and written report to highlight the financial success of the University. These elements include: a plan to recruit out-of-state students to take advantage of the higher tuition they pay; a \$614,003,000 increase in tuition revenue which is a 59% increase

over 2006; \$655.9 million raised by the University's foundation; assets that exceed \$4 billion; cash balances that have increased by \$386,991,000 or 432.75% from June 30, 2006 through June 30, 2011; and investment balances that have increased by a total of \$345,648,000 or 34.82% from June 30, 2006 through June 30, 2011. The units further contends that their proposals are more than reasonable when viewed in the context of the mandatory increase in unit members' health care premiums required by Chapter 78, P.L. 2011 that have substantially reduced take home pay.

Under the interest and welfare of the public, the FOP-P argues its proposal supports the Department's mission to maintain order and to protect the public by keeping the University in high standing within the State of New Jersey and beyond. The FOP-P points to record evidence that the unit has experienced low morale due to substandard wages in comparison with similar law enforcement agencies and the pay freezes imposed by the University. The low morale is said to result in a high rate of attrition from a record low of 55 officers in April 2012 that dropping further to 39 officers at the time the record closed.

The FOP-P also supports its proposal under the comparison of wages, salaries and other conditions of employment. The FOP-P has selected other police units with similar accreditation to RUPD as well as municipal jurisdictions:

Department	Top Rate 2009	Top Rate 2010	Top Rate 2011	Top Rate 2012	Top Rate 2013
FOP-P proposal	\$81,753.16	\$84,205.75	\$86,731.93	\$89,333.89	\$92,013.90

Barnegat	\$83,835.82	\$87,189.25	N/A	N/A	N/A
Burlington Township	N/A	N/A	\$93,315	\$95,181	\$97,085
Camden City	\$80,191	N/A	N/A	N/A	N/A
Chatham Borough	N/A	N/A	\$106,634.22	\$108,233.37	\$110,398.41
East Brunswick	\$92,537	\$96,146	N/A	N/A	N/A
Edison Township	N/A	\$97,497	\$101,891	\$104,438	\$107,049
Evesham	N/A	\$97,498.74	\$99,448.71	\$102,183.55	\$105,249.06
Highland Park	\$93,566	\$97,215	\$101,006	N/A	N/A
Lincoln Park	\$104,461	\$108,369	\$112,985	\$117,504	N/A
Long Hill Township	\$90,004	\$90,004	\$92,704	\$95,485	\$98,350
Mahwah	N/A	N/A	\$124,679	\$127,796	N/A
Manalapan	\$83,268 (2006)	N/A	N/A	N/A	N/A
Monmouth County Sheriff	N/A	N/A	N/A	N/A	N/A
Morris County Sheriff	\$82,429	\$85,726	N/A	N/A	N/A
Newark	\$82,842.58	\$84,913.65	\$87,248.77	\$89,866.23	N/A
North Brunswick	\$89,055	\$92,172	\$95,398	N/A	N/A
Ridgewood	\$111,330	\$116,055	\$120,980	\$126,114	N/A
Woodbridge	\$93,018	\$96,041	\$99,402	N/A	N/A

The top step for Rutgers police officers, as proposed, in 2009 would be \$81,753.16, which FOP-P points out is still below the proposed comparable agencies. Even if awarded, the FOP-P's proposal would still have the next to lowest wage in 2009 and the lowest in years 2010-2014. FOP-P asserts its proposal must be awarded to keep its salaries competitive with the comparable jurisdictions.

As to internal comparability, FOP-P points to a settlement of a salary freeze dispute with its faculty and teaching/graduate assistants that resulted in a 4% retroactive pay increase to July 1, 2010 and a second 4% increase in 2011. In addition, it cites the URA/AFT unit settlement which included 2.25% wage increases on April 1, 2011 (retroactive); February 1, 2012, October 1, 2012, and July 1, 2013 plus bonus payments exceeding \$2,000 equaling a 17% increase from July 1, 2010 through July 1, 2013. It cites the AAUP-AFT unit settlement of 16.25% over the same period. It submits that EOF counselors and teaching and graduate assistants received base wage increases and lump sum payments and that the doctors' unit settled on November 30, 2012 with increases exceeding 6% for 2012, plus 2.0125% in 2013. According to FOP-P, employees in these units are also eligible to receive merit pay.

As to the financial impact on the employer, the FOP-P points to record testimony from Bruce Fehn, Senior Vice President for Finance and Administration. It attributes his view as representing that the cost of the FOP-P's proposal was never an issue but a matter of choice resulting in the University's administration opposition to the proposals. In response, the FOP-P highlights other choices of the University that were made at the same time the University froze the wages of police and other employees. These include: compensating sports coaches with million dollar contracts, housing perks, country club memberships, and cars; spending hundreds of millions of dollars on a new football stadium and other capital projects; and providing high-level administrators with lucrative compensation packages.

The FOP-P calculates that the parties' proposals are \$899,466 apart for the term of the agreement or less than \$200,000 per year which equates to 0.01% of the University's \$1.6 billion budget and 0.03% of the flexible \$683 million in FY 2013. It asserts the estimated annual cost per student to fund the FOP-P's proposal would be \$1.01.

Under the cost of living factor, FOP-P points to its expert financial report prepared by PP&D Accounting Services that the cost of living is never constant and changes throughout the year. He believes that low inflation is not sustainable with the historical trend and that since 2009 it reflects upward movement. It asserts its proposals are in line with inflation and notes in 2012 the Social Security COLA is 3.6%; the New Jersey State Fiscal year COLA is 2.5%; and the NJ State Length of Service Award Program Municipal CY 2011 COLA is 3%. FOP-P discounts the CPI as a reliable measure due to the low housing costs that masks the increases in other daily expenses like gasoline.

Under the continuity and stability of employment factor, FOP-P asserts that it cannot overstate the high level of unit turnover in the past few years due to the low wages and unilateral freezing of step increments in 2009 and 2010 which exacerbates the wage discrepancy between Rutgers' police officers and those employed by other law enforcement agencies. FOP-P argues that the unit must be awarded a salary that reflects the work they perform which, in turn, will promote better morale and lower turnover.

## FOP-S

FOP-S has proposed a non-traditional wage proposal. It is specifically aimed at rectifying the anomaly that 50% of the superior officers are paid less than the officers they supervise. The proposal includes: a sergeant scale with six steps: step 1 would reflect a salary 2% above a senior patrol officer [SPO]; step 2, 4% above SPO; step 3, 6% above SPO; step 4, 8% above SPO; step 5, 10% above SPO; and step 6, 15% above SPO. For lieutenants, the proposed guide also reflects a salary scale with six steps: step 1, is 2% above a senior sergeant's [SS] salary; step 2, 4% above a SS; step 3, 6% above a SS; step 4, 8% above SS; step 5, 10% above SS; and step 6, 15% above SS.

In both ranks, the FOP-P proposal would move superior officers through their steps on their anniversary dates. FOP-S proposes a salary phase-in period lasting the term of the agreement with officers employed on July 1, 2012 receiving five base wage increases in equal amounts calculated by taking the difference between the officer's current salary and the officer's anticipated salary based on years of service on July 1, 2014 and dividing that number by 5. The five phased in increases would take place on July 1, 2012; January 1, 2013; July 1, 2013; January 1, 2014; and June 30, 2014 retroactively where applicable. FOP-S' proposal also includes a \$5,000 lump sum payment as compensation for lost/discounted overtime and other pay during the period from July 1, 2009 through the present.



FOP-S asserts it has met its burden to justify the salary changes. It cites the interest and welfare of the public criterion as reason to cure the existing problem of salary compression. It asserts that the loss of officers in the FOP-P unit has resulted in less senior officers being promoted to fill vacancies in the superior officer ranks. The compression was compounded by Rutgers two-year long wage freeze that FOP-S alleges further suppressed wages of officers that were promoted into the supervisory unit. FOP-S argues the avoidance of vertical salary compression between ranks serves the interests of the public. It notes the discrepancy between some unit members' salary and those of the FOP-P unit whom they supervise can reach \$20,000. In 2012, three lieutenants made less than a SPO, with two making approximately \$10,000 less. A fourth lieutenant made less than the SS rate. During the same time period, ten of the 19 sergeants made less than a SPO, with five making \$16,000 to \$20,000 less than the SPO rate. This compression is said to create morale and retention issues that ultimately affect the public.

As to the comparison of wages, salaries and other conditions of employment, FOP-S offers the following external comparable:

Department	Top Rate 2009 Sgt./Lt.	Top Rate 2010 Sgt./Lt.	Top Rate 2011 Sgt./Lt.	Top Rate 2012 Sgt./Lt.	Top Rate 2013 Sgt./Lt.
FOP-S Proposal	\$93,669.20/ \$101,407.20	\$96,728.40/ \$106,477.40	\$99,757.60/ \$111,547.60	\$107,786.80 \$121,617.80	\$110,816.00/ \$126,688.00
Barnegat	N/A	N/A	\$107,556.23/ \$118,311.85 Min 10% difference between ranks	\$109,653.58/ \$120,618.93 Min 10% difference between ranks	\$111,791.82/ \$122,791.00 Min 10% difference between ranks
Burlington Township	N/A	N/A	\$101,082/ \$115,466	\$103,104/ \$117,775	\$105,166/ \$120,131

Camden City	\$93,357.36/ \$101,544.28	N/A	N/A	N/A	N/A
Chatham Borough	N/A	N/A	\$114,144.93/ \$122,264.19	\$115,856.10/ \$124,098.15	\$118,174.25/ \$126,580.12
East Brunswick	\$106,226/ \$116,795	\$110,368/ \$121,350	N/A	N/A	N/A
Edison Township	N/A	\$109,684/ \$123,394 Min 12.5% difference between ranks	\$112,426/ \$126,478.85 Min 12.5% difference between ranks	\$115,237/ \$129,649 Min 12.5% difference between ranks	\$118,118/ \$132,890 Min 12.5% difference between ranks
Evesham	N/A	\$107,257.08/ \$114,980.52	\$109,402.22/ \$117,280.13	\$112,410.78 \$120,505.33	\$115,783.10/ \$124,120.49
Highland Park	\$100,856/ \$112,797	\$104,790/ \$117,123	\$108,876/ N/A	N/A	N/A
Lincoln Park	\$113,683/ \$123,992	\$118,231/ \$128,952	\$122,960/ \$134,110	\$127,878/ \$139,474	N/A
Long Hill Township	\$101,312/ \$118,792	\$101,312/ \$118,792	\$104,352/ \$122,356	\$107,482/ \$126,026	\$110,707/ \$129,807
Mahwah	N/A	N/A	\$132,718/ \$140,753	\$136,036/ \$144,272	N/A
Manalapan	\$96,607/ \$106,124 (2006)	N/A	N/A	N/A	N/A
Monmouth County Sheriff	\$119,152/ \$123,787	\$121,535/ \$126,263	\$123,966/ \$128,788	\$126,445/ \$131,364	\$128,974/ \$133,991
Morris County Sheriff	\$101,482/ \$107,771	\$105,541/ \$112,082	N/A	N/A	N/A
Newark	\$93,623.27/ \$103,555.73	\$96,015.10/ \$106,144.63	\$98,665.52/ \$109,063.60	\$101,615.18/ \$112,335.51	N/A
North Brunswick	\$99,074/ \$110,219	\$102,541/ \$114,077	\$106,130/ \$118,070	N/A	N/A
Ridgewood	\$122,791/ \$138,672	\$128,190/ \$144,557	\$133,630/ \$150,692	\$139,301/ \$157,088	N/A
Woodbridge	N/A	N/A	N/A	N/A	N/A

FOP-S asserts that based on its proposed comparables, the unit would still lag behind other jurisdictions even if its proposal were awarded. The top Sergeant rate would still trail the proposed comparable except Camden City and Newark. The Lieutenants would trail behind all comparable jurisdictions except Newark. FOP-S also

asserts that awarding its proposal would be in line with internal comparability as to the wage increases awarded to the other University units as set forth above.

FOP-S points out that its proposed comparable jurisdictions do not indicate salary compression issues. By way of example, Edison and Barnegat both provide for a 12.5% and 10% differential, respectively, between the ranks. FOP-S further asserts that no other unit in the University has the same salary compression problem as the RUPD where a supervisor makes less money than his/her subordinate.

With regard to the financial impact on the University, FOP-S acknowledges that its proposal costs \$2.2 million more than the University's proposal. It asserts this is still affordable as it equates to 0.3% of the \$683 million in flexible spending for FY 2013 alone. The FY 2012 portion of the proposal is \$645,984 or 0.009% of the FY 2012 flexible spending. It calculates the cost of its proposal to be \$2.54 annually per student assuming the FOP-P unit is awarded its proposal of 3% per year plus step increments.

FOP-S reiterates the argument of the FOP-P regarding vertical wage compression leading to reduced morale, increased attrition, and difficulty recruiting new superior officers. It asserts this favors its proposal under the continuity and stability of employment criterion.

In addition to the salary proposals, the FOP units propose other compensation improvements. FOP-P has proposed a Senior Officer Differential. The prior agreement

included this differential which conferred a \$500 annual benefit for officers achieving 15 years of service and a \$1,500 annual benefit for officers achieving 20 years. Since the FOP-P officers are now required to perform investigative duties that were historically performed by detectives in the FOP-S unit, the FOP-P unit seeks an enhancement to this benefit as compensation for the new and additional investigative work required by the officers. FOP-P asserts that a senior officer differential is a common component of police contracts and provides a list of proposed comparable jurisdictions that reward officers for their years of service.

FOP-P points to the current top patrol rate of \$79,372 where the current 20 year differential equals less than 2% of salary. In contrast, its proposed comparables award 2% or more after 5 years, with 20-year officers receiving 10% to 16% on higher salaries. The financial impact of the senior officer differential is estimated to cost the University \$50,000 per year. The union argues the proposal is affordable as the University is saving the cost of five detectives paid at the sergeants rate equaling \$266,000 per year, even when coupled with the 4% negotiated by the FOP-S unit for giving up the detective work.

The FOP-P unit also seeks a night/shift differential similar to the FOP-S unit which has a \$1,000 base compensation per year night/shift differential. Both units are seeking a \$2,000 base compensation night/shift differential. In support of the proposals, the units argue that the college campus setting lends itself to busy night shifts. Sixty percent of call volume occurs between 5:00 p.m. and 7:00 a.m., with more than 30% of

the daily call volume occurring in the five-hour span between 10:00 p.m. and 3:00 a.m. According to Officer Ruditsky, working the night shift takes a toll on the officers' bodies, particularly when the University has required more night shift officers to participate in day training and other activities. The proposal of \$2,000 per year is equivalent to 2.5% of the top patrol rate in the expired FOP-P agreement and 2.2% of the top sergeant rate in the expired FOP-S agreement. According to the unions, the financial impact of the proposal on the University is negligible. Less than a quarter of the officers would be eligible resulting in an approximate annual cost of \$19,500 for the FOP-P unit and \$5,250 for the FOP-S unit or \$123,750 over the life of the contract.

Both units proposed increasing the uniform allowance from \$860 (FOP-P) and \$865 (FOP-S)<sup>2</sup> to \$1,000 per year. FOP-S has proposed increasing the non-uniform clothing allowance for officers required to wear street clothes to \$550 per year. Both proposals would be effective on July 1, 2012. The purpose of the proposal is to permit officers to fulfill their obligation to maintain their attire at University standards. Both units have provided proposed comparables to establish that the \$1000 is modest compared to other jurisdictions. As to the financial impact on the employer, the unions have proposed the cost for the two-year period is \$18,760 or 0.17% of the current annual salary at the top of the FOP-P guide, less for a superior officer.

The remaining economic proposals for the FOP-S are: 1) to remove references to detectives from the prior agreement; 2) increase the court minimum from two to three

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<sup>2</sup> The FOP-S contract also has a \$515 non-uniform clothing allowance in the expired contract. As stated above, there are no longer detectives in the FOP-S unit.

hours for all superior officers; and 3) increase lieutenant on-call pay from \$325 per quarter to \$500 per quarter. The increase in the court minimum is to provide equal benefits with the FOP-P and avoid a situation where a sergeant and lieutenant are both called to testify on a matter and the sergeant receives special minimum pay and the lieutenant does not. In respect to on-call, the on-call lieutenant serves in this position for the purpose of providing superior officer coverage even when not technically on-call at police headquarters. The on-call lieutenant will be contacted on their off-duty time to deal with matters requiring a lieutenant's attention. The on-call lieutenant is limited in their off-duty activities while on call. When the on-call procedure was implemented, there were approximately ten lieutenants who rotated and were paid \$325 per quarter. There are currently four lieutenants who rotate on-call duty more frequently. With ten lieutenants, the cost was \$3,250 per quarter. With four lieutenants, at the \$500 per quarter proposal, the cost would be \$2,000.

### **Rutgers University**

Rutgers has proposed: 0% wage increases for FY 2010 and 2011; a 1.75% increase on July 1, 2011 and February 1, 2012; a 1.75% increase for FY 2013 plus payment of the 2010 increment (not retroactive); and a 1.75% increase for FY 2014 plus payment of the FY 2011 increment (not retroactive). Rutgers asserts that its proposal between July 2, 2009 and June 30, 2014 will provide across-the-board increases for the FOP-P unit between 7.2% and 66.5% by deferring, but not foregoing, step increment costs to FY 2013 and 2014. It asserts the total cost for the FOP-P unit would be \$1,641,829 - an average of 6.6% increase per year over the term of the agreement and

that the cost for its proposal for the FOP-S unit is \$764,203 - an increase of 17.3% over the term of the agreement or 3.46% per year. Rutgers points out the difference in the costs per unit is due to a greater number of superior officers being at the top step, thus resulting in less increment costs.

In support of its offer, Rutgers asserts that its final offers, nor the unions' final offers, would be permitted under the terms of the revised Interest Arbitration Statute because the aggregate increases exceed 2% in base salary (including step movements). Rutgers asserts its police employees are well compensated and receive a generous wage and benefits package. In addition to base salaries of up to \$79,372 for rank and file police officers, \$90,670 for senior sergeants, and \$96,337 for lieutenants as of June 30, 2009, both units' members receive a comprehensive benefits package. It points out that SPOs receive an additional \$1,500 at 20 years of service and \$500 at 15 years of service.

Rutgers officers also receive: 1) up to 25 vacation days; 2) up to 15 sick days (which accumulate); 3) terminal leave of one-half accumulated sick days upon retirement (maximum of \$15,000); 4) three personal days; and 5) three administrative leave days. The University asserts that paid leave represents between 22% and 38% of all scheduled work days depending on the officer's schedule (3, 4, or 5 days per week).

Rutgers officers are eligible for enrollment in the New Jersey State Health Benefits Program, including an eye care program, a dental program and a prescription

drug program. They also have access to a flexible spending account. They are covered by the Police and Fire Retirement System and are provided access to the University's library system and use of recreational and workout facilities at no cost. A unique benefit that Rutgers' police officers receive is an entitlement to tuition remission for courses taken in any undergraduate, graduate or professional division of the University. Upon attaining an advanced degree, an officer becomes entitled to additional compensation of \$250 for an Associate's Degree, \$500 for a Bachelor's Degree, and \$1,000 for a Master's Degree. Tuition remission also extends to all of their dependent children for all courses leading to a first baccalaureate degree. The program is also open to retirees and their dependents.

The University argues that Rutgers officers' wages and benefits compare favorable to other (1) other Rutgers negotiations units, (2) college and university police across the state, and (3) private and public sector employees. As to internal comparability, the University asserts that it has 11 total negotiations units: two FOP units (police); one IAFF unit (firefighters); two AFSCME units (Local 888 and 1761); 1 EOF unit (Educational Opportunity Fund); 1 IUOE unit (International Union of Operating Engineers); 1 SEIU unit (Service Employees International Union); 1 part-time lecturers (PTL) unit; 1 URA-AFT unit (administrative and supervisory employee) unit, 1 AAUP-AFT (faculty) units, and 1 doctors unit. Negotiations with all but the newly formed IAFF unit were completed prior to this arbitration. All of the units and other University nonunionized employees, except the FOP, AFSCME, and IUOE units, are paid either



totally based on merit or substantially based on merit. The University has a limited number of high level employees who have individual employment agreements.

For internal comparison purposes, the University suggests the FOP units are most similar to the AFSCME locals that represent approximately 2100 service workers, security officers, maintenance employees, clerical and laboratory employees. The IUOE represents approximately 35 operating engineers who run the University's boilers and co-generation plant and work on a 24-hour a day, 7-day a week operation in rotating shifts similar to police employees. These are also the only other negotiations units who have step incremental systems and additional pay that is not merit based. According to the testimony of Harry Agnostak, Vice President for Human Resources, no unionized or non-unionized group of employees received new money in either FY 2010 or FY 2011 and he believes that this award must follow this pattern. In addition, Rutgers police receive a wage and benefits package superior to any other unionized group at Rutgers. Police officers' base wages are higher than the non-police counterparts at the top salary range and police receive more paid time off. PFRS also offers a more generous retirement system. Other units do not receive on-call benefits, and police officers receive higher meal allowances, higher uniform allowances, and a senior officer differential. No other University employees receive longevity benefits. When compared to the AFSCME units, the University's final offer to the FOP-P unit equates to an average increment of 8.47% while increments for the AFSCME units (at Range 20) range from 4.6% to 3.9%. The University stresses its final offer is designed to conform to its internal pattern of bargaining settlements.

The University urges the arbitrator to find that the closest external comparable departments are not other municipal police departments that are represented by the union in other jurisdictions, but instead are other college and university police units. Specifically, this includes UMDNJ, NJIT and other state colleges and universities whose police personnel (campus police) as included in the SLEC units. Since the University campuses, offices, buildings, and land cover most of New Jersey, the University asserts making comparisons to specific local municipalities is less important. It believes that the most significant factor in an external comparison analysis is the nature of the employing unit and the nature of the service provided/applicable crime rate. Rutgers asserts these considerations favor comparison to other education institutions.

Rutgers proposes the following comparable data:

	RUTGERS	NJIT	UMDNJ	SLEC
Top Police	\$79,372	\$73,385	\$70,345	\$69,365
Top Sergeant	\$87,183	\$85,720	\$86,544	\$80,238
Top Lieutenant	\$96,337	\$85,720	\$86,544	\$88,546

Under its final offer, the University asserts its officers will maintain their superior ranking. Rutgers offers the following comparison of benefits with UMDNJ:

	RUTGERS	UMDNJ
Longevity	Up to \$1,000 at 20 years	None
Meal Allowance	\$10.75	\$0
Uniform Maintenance	\$865	\$175 plus replacement
Vacation Days	25	25
Administrative Leave Days	3	0
Sick Days	15	12

Rutgers asserts the above benefits establish that Rutgers police enjoy a superior benefits package and stresses that it cannot be ignored that Rutgers will become the employer of the UMDNJ police unit. Although the legislation permits the units to remain separate unless and until they determine otherwise through negotiations, creating a larger wage gap between these two employers will make for a more difficult transition into a single agreement. Finally, Rutgers points to the data summarizing all PERC interest arbitration awards and settlements as favoring its final offer. The FY 2012 average award was 1.82% and voluntary settlement was 1.83%.

Turning to the financial impact on the employer criterion, Rutgers asserts the arbitrator must consider its ability to: (1) maintain existing programs; (2) expand existing services; and (3) initiate new programs and services. Rutgers submits that its final offer reflects the judgment of University officials as to how to best allocate shrinking revenues and increasing demands and that the University cannot raise revenue by any other means than raise tuition. The University points to the testimony of Dr. Nancy Winterbauer, Vice President for University Budgeting and Bruce Fehn, Senior Vice President of Finance and Administration. She testified to a decline in Rutgers financial position including increases in costs, reductions in revenue and increases in tuition. Both witnesses testified to the continuing decline in State appropriations including that Rutgers received less in State appropriations in FY 2013 than it did in 1995. The University argues that the evidence presented establishes that every dollar of its unrestricted operational budget has been spent and any increases to the police officers that is greater than the University's final offer would have to be taken from another source and could result in losses of personnel. Employee salaries make up 70% of the unrestricted funds leaving 30% of the FY 2013 budget of \$1.368 billion for day-to-day expenses. A problem exacerbated by the history of the State either not funding or funding a small percentage of Rutgers salary program since 1990 is that it has led to a greater dependence on tuition. Between FY 1999 and FY 2002, the cumulative shortfall of the reductions in state appropriations and the failure to fully fund for salary increases was \$33,201,000. That amount increased to \$54,445,000 between FY 2003 and FY 2006. Between FY 2007

through FY 2010, the cumulative impact rose to \$139,013,000. Rutgers states that it had to respond by cutting costs and raising tuition and points out that this approach is getting more difficult as the cumulative shortfall in FY 2011 through FY 2013 is \$78,8003,000 resulting in the University freezing wages and increments and renegotiating contracts with unionized employees. In addition, in FY 2010 and FY 2011, the State imposed caps on tuition increases.

Rutgers also emphasizes that there is additional pressure on its budget because of the merger with UMDNJ that took effect on July 1, 2013. The merger is anticipated to cost \$75 million that must be paid out of Rutgers budget while State appropriations are not anticipated to increase. At the time of the hearing, Moody's had placed Rutgers "under review" for a possible downgrade of its AA2 bond rating which was eventually downgraded from "stable" to "negative" at the close of the record. The University asserts that it is in the lower tier of its AAU counterparts in terms of bond rating and if reduced further, it would be one of two public AAU institutions with a rating less than AA2.

With regard to the cost of living, Rutgers argues that its final offer provides compensation that has far exceeded the cost of living and will continue to provide "real dollar gains" to officers. Rutgers points to evidence presented in the record of the comparison of the salary history of four officers to the CPI. In each case, the officer received increases significantly above those required by the cost of living even when the officer was not promoted. It provides examples. Officer A's

salary increased by \$40,123 or 102% over nine years while the compounded CPI increases amounted to \$11,224 thereby outpacing the CPI by 73.5% over nine years. Officer B was hired in 2005 and received no promotion in rank. Officer B received a salary increase of \$26,593 over four years which is a 76% increase compared to the compounded CPI of \$3,620 or 10%. Officer B out-paced the cost of living by 66% or 16.5% per year. Officer C started his career in 1994 and was not promoted. From hire date through July 2009, Officer C's salary increased by \$46,405 (140%). The CPI compounded increased by \$16,124. Officer C's wages outpaced the cost of living by over 91% in 14 years or 6.5% more per year than the CPI.

The University points out that officers who were promoted received greater compensation than those who were not. As an example, the University points to an officer who, between November 1999 and 2009, received a salary increase from \$46,773 to \$94,364 or \$47,891 (103%) in 10 years. During the same time period, the CPI increased by 33% outpacing the CPI by 70%. If step and promotional increases are excluded, FOP across-the-board increases outpaced the cost of living. Between 1995 and 2011, the CPI increases (not compounded) were 44.55%. The University calculates Rutgers' across-the-board increases over the same time period have outpaced the CPI by 61.4%, not compounded and not including increments. Rutgers argues that given the small CPI increases over the last several years, its final offer will continue to outpace the CPI over the life of the contract.

Rutgers also states that its final offer is calculated to encourage and enhance the continuity and stability of officer employment. Police employees at Rutgers, unlike municipal officers and other University employees, did not experience a layoff or hiring freeze as a result of the deep recession. The University points out that there was a 9.5% unemployment rate as of December 2012 in New Jersey. Rutgers emphasizes that fiscal responsibility as to compensation supports employment stability while excessive raises increases the likelihood of layoffs. The University restates that Dr. Winterbauer testified that any award above the University's final offer would be passed onto the police department's set budget that could lead to budget cuts including the potential for reductions in force. Rutgers states, despite the unions' position, that there has been a high turnover rate. Therefore, an award of the FOP's final offer would not necessarily result in officers staying employed with the University. It asserts police officers leave Rutgers for many reasons voluntarily that are often unrelated to specific salary increases.

Rutgers argues that the interest and welfare of the public strongly supports adoption of its final offer. Rutgers is not a municipality with taxpaying residents but is an educational institution supported by tuition-paying students. Financial accessibility to a wide range of students, both inside and outside of New Jersey is key to Rutgers mission. Keeping tuition affordable is a priority for Rutgers' administrators and is state-mandated. The cost of labor is a major

University operating expense accounting for 70% of the unrestricted budget, leaving 30% to pay for other expenses including roof maintenance, library books, utility bills and new buildings. In the past 11 years, tuition and fees have increased from \$6,052 in FY 2001 to \$12,754 in FY 2011, a 111.9% increase. The tuition increase has subsidized day-to-day operations including salaries and salary increases. Rutgers asserts its final offer balances the University's competing demands to advance its mission objectives, provide competitive compensation to officers, keep officers' pay increases in line with other University employees and with its comparators, and maintain control over tuition increases when state appropriations remain uncertain.

Rutgers submits that the interest and welfare of the public dictate that it cannot make a Rutgers education less affordable and that the public will not be served by diminishing Rutgers' standing in comparison to its peer AAU institutions or its stature as a national research university by having to reduce student services as a result of excessive salary costs. Tuition increases should be used to pay for increases in services to students, not solely to increase salaries of Rutgers' employees. Although the police force is not a major percentage of the total University labor force, it claims that it would be irrational to use the size of the workforce to justify imprudent expenses or reallocation of expenses. Rutgers argues that the merger with UMDNJ adds to the need for fiscal restraint and the need for deference to its decisions against unwarranted spending.



The University responds to the proposals of the FOP-P unit as unsupported by the record and inconsistent with the statutory criteria. Rutgers calculates the cost of the FOP-P proposal to equate to wage increases between 15.9% and 79.3% over the contract term plus the \$5,000 lump sum bonus. Over the term of the contract, it calculates the total cost of the FOP-P proposal as an additional \$3,977,982, an increase in 44% in base salary or 8.8% more per year. Rutgers asserts this is a figure in excess of the 2% cap contained in the new interest arbitration law; that it does not conform to the pay freezes the other University employees endured; that it is not in line with other college and University police contracts; and that it exceeds the average of police interest arbitration awards and voluntarily settlements over the same time period. Rutgers opposes the FOP-P's additional demand for longevity and points out that no other University employee has a longevity benefit; that UMDNJ, NJIT and the other state colleges and universities do not have longevity benefits; and that longevity increases to base salary would contribute to larger costs for wage increases. The amendment to the interest arbitration law, while not applicable here, would prohibit an award of this benefit as a new economic benefit.

Rutgers similarly opposes the FOP-S final offer. It submits that despite the claims of the FOP-S, no officer receives a salary decrease upon promotion and that no officer has ever refused to accept a promotion due to the current step system. The University argues that some senior police officers (SPOs) do make

more money than some superior officers, but the superior officer will eventually reach a higher salary as he/she moves up the salary schedule. Rutgers calculates the FOP-S offer to equal increases of 27% (sergeant) and 40% (lieutenant) over current top rates. It claims that linking the wage scales of the FOP-S with FOP-P salary increases would create an illegal parity provision. It calculates the total cost of the increases in the FOP-S proposal as \$875,762 or 31% or 6.2% per year. The University warns that the back loading method for achieving the increases sought by the FOP-S is especially harmful when Rutgers merges with UMDNJ.

Rutgers opposes both units' request for \$5000 signing bonuses citing lack of justification for same. It asserts any award of the bonus would not represent lost or discounted overtime, but rather an unjust reward for not reaching a timely agreement with the University as the other 11 negotiations were able to achieve. It also opposes the night/shift differential stating there is a lack of evidence in the record linking the night shift with a hardship to the officer and that it represents a new economic benefit. Rutgers also opposes the clothing allowance increases from both units based on a lack of evidence in the record necessitating an increase, especially given the fact that it provides officers with uniforms.

Rutgers also opposes the proposed changes to the grievance procedure, Article 7, citing a lack of evidence or argument justifying the change. Rutgers agrees with the proposal to delete all references to detectives within the FOP-P

and FOP-S contracts because the rank should be eliminated, but it argues that any changes in the overtime provisions or changes otherwise necessitated by the FOP-S' prior agreement to eliminate the Detective rank in exchange for a 4% increase to a top step sergeants pay must be denied because a grievance resolution resolved the matter. Rutgers also opposes the increase in minimum court appearance for sergeants and lieutenants as having no record support.

Finally, Rutgers opposes the FOP-S' proposal to increase the on-call quarterly payments to lieutenants. Specifically, Rutgers opposes the increase to officers who are assigned to an investigative function to be compensated \$20 per day for "on call" work because the rank of detective was removed from the contract in a previous grievance settlement. The remainder of the proposal, the University asserts, is also not supported by the record.

### **DISCUSSION**

Rutgers and the Unions have offered lengthy testimony and substantial documentary evidence in support of their final offers. I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (9) which I find relevant to the resolution of those negotiations. I am also required to indicate which of these factors are deemed relevant, satisfactorily explain any determinations that any of the others are not relevant, and provide an analysis of the evidence on each

relevant factor. These factors, commonly called the statutory criteria, are as follows.

- (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).
- (2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
  - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq.).

- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.
- (9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Unions and the University have, in comprehensive fashion, submitted evidence and argument on each statutory criterion to support their

respective proposals. The evidence and arguments have been carefully reviewed, considered and weighed.

This proceeding was conducted pursuant to P.L. 1995, c. 425. This requires the terminal procedure to be conventional arbitration. Under this procedure, the arbitrator has the discretion to fashion an award that is not confined to the final or last offer of either party. Further, the arbitrator's authority in respect to wages is not limited by the ceiling on the amounts of annual base salary increases that can be awarded as is required by P.L. 2010, c. 125 as amended by P.L. 2014, c. 11.

Although salary and other compensation issues are the major areas in dispute, there are other issues in disagreement. The party seeking to change terms and conditions of employment bears the burden of establishing the basis for such modification by without providing sufficient evidentiary support. No proposed issue can be deemed presumptively valid in the absence of credible evidence justifying change. These principles have been applied to all of the economic and non-economic issues in dispute. Each proposal by either party will be reviewed and decided on its merits and will consider evidence previously set forth in the Background section of this decision.

During the hearing, the parties engaged in stipulations on certain issues. I will incorporate them into the award, consistent with what is authorized by N.J.S.A. 34:13A-16g(4). (See Tr. 8-10)<sup>3</sup>. They are as follows:

**Collective Negotiations Agreement between  
FOP-P, Local 62 and Rutgers**

1. Article 7 - Grievances: In steps 2 and 3 of the procedure, modify the filing, meeting and response timeframes from five (5) working days to fifteen (15) working days in each and every instance where said timeframe appears.
2. Article 13 - Sick Leave: In paragraph 1, the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.
3. Article 13 - Sick Leave: The parties agree to incorporate the following new language, with the understanding that the language refers to the compassionate leave program that is currently in existence at the University:  
  
"Employees covered by this agreement shall be permitted to participate in Rutgers compassionate leave program, a donated leave bank for catastrophic illnesses, pursuant to the terms and conditions set forth in the university human resources compassionate leave program, as may be amended unilaterally from time to time by the university. The university shall provide the FOP-P with an annual statement of donation and usage transactions related to the donated leave bank. The statement will include the following university-wide data: number of people donating accrued time; number of days donated; number of people requesting leave; number of requests granted. Determinations regarding the granting or denial of compassionate leave shall be at the sole discretion of the Associate Vice President for Human Resources."
4. Article 17 - Bereavement Leave: the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.

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<sup>3</sup> At hearing, the parties represented that the stipulations were applied to both units.

**Collective Negotiations Agreement between  
FOP-S, Local 164 and Rutgers**

1. Article 13 - Funeral Leave: the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.
2. Article 14 - Sick Leave: In paragraph 1, the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.
3. Article 14 - Sick Leave: The parties agree to incorporate the following new language, with the understanding that the language refers to the compassionate leave program that is currently in existence at the University:

"Employees covered by this agreement shall be permitted to participate in Rutgers compassionate leave program, a donated leave bank for catastrophic illnesses, pursuant to the terms and conditions set forth in the university human resources compassionate leave program, as may be amended unilaterally from time to time by the university. The university shall provide the FOP-P with an annual statement of donation and usage transactions related to the donated leave bank. The statement will include the following university-wide data: number of people donating accrued time; number of days donated; number of people requesting leave; number of requests granted. Determinations regarding the granting or denial of compassionate leave shall be at the sole discretion of the Associate Vice President for Human Resources."

I next turn to the individual issues.

**Contract Duration  
FOP-P and FOP-S**

The University and the FOP-P and FOP-S both propose a contract duration of five (5) years with effective dates of July 1, 2009 through June 30, 2014. Given the parties' common positions on contract duration, I accept their



agreement as a stipulation pursuant to N.J.S.A. 34:13A-16g(4) and award a new contract duration with effective dates of July 1, 2009 through June 30, 2014.

### **Article 7 - Grievance Procedure**

#### **FOP-P**

FOP-P proposes to modify the grievance procedure as follows:

In Steps 2 and 3 of the procedure only, change the filing, meeting and response timeframes from five (5) working days to fifteen (15) working days in each and every instance where it appears.

As previously noted, the parties have agreed to the disposition of this issue through stipulated agreement. Accordingly, pursuant to stipulation Article 7 – Grievance Procedure shall be modified in accordance with the FOP-P proposal.

### **Article 22 – Senior Police Officer Differential**

#### **FOP-P**

The current Agreement provides for a senior police officer differential. The existing provision states as follows:

1. Effective July 1, 2003, a police officer achieving twenty (20) years of service with the Rutgers University Police Department and who notifies, in writing, his/her supervisor that he/she has completed such twenty (20) years of service, shall receive a senior police officer differential of fifteen hundred dollars (\$1500.00), to be paid in equal amounts during each year in each pay period, provided that the police officer has not been suspended for poor work performance in the previous year.

2. Effective July 1, 2003, a police officer achieving fifteen (15) years of service with the Rutgers University Police Department and who notifies, in writing, his/her supervisor that he/she has completed such fifteen (15) years of service, shall receive a differential of five hundred dollars (\$500.00), to be paid in equal amounts during each year in each pay period, provided that the police officer has not been suspended for poor work performance in the previous year.
3. These differentials shall not be cumulative.
4. In consideration for the existence of the differential, the University may require that qualified officers of each rank perform responsibilities of a training nature during normal working hours.

The FOP-P proposes to modify the above provision. It would delete paragraphs 1 and 2 and replace those paragraphs with the following:

- All bargaining unit members, in recognition of long and faithful service, shall be compensated, to be paid in equal amounts during each year in each pay period, as follows:
  - On the anniversary date which represents the completion of ten (10) years of service – 4% of base salary
  - On the anniversary date which represents the completion of fifteen (15) years of service – 6% of base salary
  - On the anniversary date which represents the completion of twenty (20) years of service – 8% of base salary
  - On the anniversary date which represents the completion of twenty-five (25) years of service – 10% of base salary

The FOP-P also proposes to modify paragraph 4 as follows:

- In consideration for the existence of the differential, the University may require that qualified officers of each rank perform responsibilities of a training nature during normal working hours. *In further consideration, the University may require that qualified officers within the bargaining unit perform detective duties.*

The FOP-P contends that this proposal is reasonable in light of several factors. It characterizes the existing senior officer differential as meager, especially in light of the investigative duties that have been thrust on police officers that had traditionally been performed by Detectives in the FOP-S unit. It acknowledges that the cost of its proposal over the five year period amounts to \$307,598 and when the University's current costs of \$45,500 are deducted, the difference is \$262,098. However, the FOP-P points out that there are substantial offsets to these costs. It submits:

... the University is saving the cost of five (5) detectives paid at the sergeant's rate (even at the lowest sergeant's rate (\$53,244), the five (5) detectives cost Rutgers approximately \$266,000 per year. Even when coupled with the 4% bargained for by the FOP 164 unit (ironically, for "giving up" the work of detectives), the FOP 62 proposal is a bargain over the term of the proposed agreement. More specifically, the 4% added to the contractual top sergeant rate of \$87,183 results in an increase of approximately \$3,500 to that rate. In 2012, seven (7) sergeants were paid at the top rate, thus costing Rutgers approximately \$24,000. When coupled with the proposed approximate annual cost of the FOP 62 proposal of \$50,000, the University still saves close to \$200,000 per year over what it had traditionally spent for detectives.

The FOP-P further contends that a longevity payment of the kind that it has proposed is a common component in a law enforcement agreement and promotes the retention of police officers and the valuable experience they attain during the course of their careers. Its submits a chart of what it deems comparable law enforcement agencies all of which include longevity provisions at varying percentage amounts, many of which contain amounts at the highest level

of 10%, 11% or 12% of base pay. In contrast, it states that the existing 20 year differential at Rutgers based on the current top patrol rate of \$79,372 only amounts to less than 2% of salary.

The University urges denial of the above proposals. It submits that the proposal would convert the senior police officer differential benefit now provided into a new longevity proposal containing extraordinary costs to the University. Beyond its objection to cost, the University points out that no University employee has the type of longevity benefit the FOP has proposed. Moreover, it points out that no police officers employed at NJIT, UMDNJ or any police officer employed by any other state college or university in the state system have such a benefit. In short, Rutgers submits that this new and costly benefit should not be awarded because it has not been justified by the FOP-P.

I do not award the proposal. In essence, it deletes the senior officer differential and would replace it with a percentage longevity scheme that would be a new benefit not present in any of the many collective negotiations agreements that exist at the University. Although longevity schedules are common in municipal police departments, I find the comparability analysis with the Rutgers units and the law enforcement units at other New Jersey State colleges or universities must be given the more substantial weight. The substantial costs associated with the benefit cannot be justified and would create adverse financial impact on the budget of the police department. I am not

persuaded that there is merit FOP-P's cost benefit analysis that renders its proposal as cost neutral.

**Article 28 – Uniform Allowance**

**FOP-P**

**Article 31 – Miscellaneous (Uniforms)**

**FOP-S**

The existing FOP-P agreement, at Article 28, provides for the supplying of uniforms and an annual uniform maintenance allowance. It reads as follows:

1. Rutgers will supply uniforms to officers and replace and repair items that are worn or damaged in line of duty. Initial alterations and insignia placement will be provided by Rutgers.
2. Each officer shall receive an annual uniform maintenance allowance, payable quarterly, of eight hundred fifty-five dollars (\$855) effective July 1, 2007, and eight hundred sixty dollars (\$860) effective July 1, 2008.

The FOP-P has proposed to modify Article 28, Section 2 by increasing the annual uniform maintenance allowance from \$860 to \$1,000 effective July 1, 2012.

The issue of uniform maintenance allowance for the FOP-S unit is set forth at Article 31 – Miscellaneous, in Sections 1 and 5. The existing language in these sections is as follows:

1. Each officer shall receive an annual uniform maintenance allowance, payable quarterly, of eight hundred fifty-five dollars (\$855) effective July 1, 2006; eight hundred sixty dollars (\$860) effective July 1, 2007; and eight hundred sixty-five dollars (\$865) effective July 1, 2008.
  
5. Effective July 1, 2006, detectives and senior detectives shall receive a non-uniform clothing allowance of five hundred five dollars (\$505) annually. Effective July 1, 2007, detectives and senior detectives shall receive a non-uniform clothing allowance of five hundred ten dollars (\$510) annually. Effective July 1, 2008, detectives and senior detectives shall receive a non-uniform clothing allowance of five hundred fifteen dollars (\$515) annually.

The FOP-S proposes to modify Article 31 as follows:

- Section 1: Uniform allowance of One thousand dollars (\$1,000) paid quarterly effective July 1, 2012.
- Section 5: Non-uniform clothing allowance of five hundred fifty dollars (\$550) paid quarterly, effective July 1, 2012.

The FOP submits that its proposals for uniform maintenance allowance increases in both units are justified by comparisons made with other law enforcement departments and that if its proposal were awarded, it would have negligible financial impact on the University. Among the comparisons it makes are Manalapan with a \$1,300 allowance, North Brunswick with a \$1,750 allowance, Evesham with a \$1,050 allowance, Morris County Sheriff with a \$1,200 and Newark with a \$1,000 allowance. The proposal would increase the allowance by \$140 per person annually for the FOP-P and \$135 annually for the FOP-S in each of the last two years of the contracts. The FOP calculates the cost for the current complement of 67 officers in both units as \$18,760 over the

term of the proposed contract. When translated into percentages, it calculates the cost as equating to 0.17% of the current annual salary for a top step police officer and less than this percentage for a top salaried superior officer. The FOP-S has also proposed to increase the annual non-uniform clothing allowance from \$515 to \$550 effective July 1, 2012.

The University urges the denial of the proposals offered by both units. It submits that the Agreement requires the University to provide officers with uniforms and that no evidence was offered as to why the allowance should be increased. In respect to comparables, the University points out that many of the comparables presented receive less in the annual uniform allowance. For similar reasons, it seeks the rejection of the FOP-S proposal to increase the non-uniform portion of the clothing allowance. It points out that the FOP-S unit no longer has detectives in the unit.

I do not award the FOP-S proposal to increase the annual non-uniform clothing allowance. It appears that the intent of this benefit was to support clothing requirements for detectives whose job title no longer exist. There is insufficient evidence as to other employees who receive the benefit. The existing non-uniform benefit of \$515 shall remain and be carried forward.

Given the amount of time that has passed since the last increase in the annual uniform maintenance allowance (July 1, 2008) there is justification for a

modest increase in this benefit to offset increased costs that have occurred since July 1, 2008. I award an increase in the annual uniform maintenance allowance in the FOP-P unit from \$860 to \$900 effective July 1, 2012 and an increase in the annual uniform maintenance allowance in the FOP-S unit from \$865 to \$900 effective July 1, 2012. The estimated cost of the implementation of the increases for the two units is \$5,850 over the two years is \$2,700 annually.

**Article 21 –Salary - Night Differential**

**FOP-P**

**Article 18 – Salary – Night Differential**

**FOP-S**

The FOP-P proposes to add a new provision to the Agreement that would provide for a night differential. The proposal reads as follows:

Bargaining unit employees assigned to regular night shifts (5:00 p.m. to 7:00 a.m.) shall be compensated with two thousand dollars (\$2,000) per year to be paid in equal amounts during each year in each pay period. Bargaining unit employees who have the majority of their regularly scheduled shift fall within the above hours shall be eligible for the night differential.

The FOP-S agreement currently provides a night shift differential to be paid to Lieutenants. It states:

Lieutenants assigned to permanent night shifts (5:00 p.m. to 7:00 a.m.) shall receive an additional two hundred-fifty dollars (\$250) base compensation per quarter. If the majority of a lieutenant's scheduled permanent night shift is between the hours of 5:00 p.m.



and 7:00 a.m., the lieutenant shall be eligible for the night shift differential.

FOP-S proposes to modify its night differential provision to read as follows:

Bargaining unit employees assigned to regular night shifts (5:00 p.m. to 7:00 a.m.) shall be compensated two thousand dollars (\$2,000) per year to be paid in equal amounts during each year in each pay period. Bargaining unit employees who have the majority of their regularly scheduled shift fall within the above hours shall be eligible for the night differential.

The FOP-P contends that its proposal is justified pointing out that the FOP-S agreement has a night/shift differential of \$1,000 in base compensation annually broken down into quarterly payments of \$250 while the FOP-P unit has no provision for the differential. It supports the proposals to add a night shift differential for the FOP-P and to increase the existing differential for the FOP-S to \$2,000 annually by record testimony showing that night shifts are less desirable, busier and more dangerous citing the number of calls received. It points out that 60% of the total call volume for an entire day occurs between the hours of 5 p.m. and 7 a.m. and that 30% of the daily call volume occurs in a five hour span between 10 p.m. and 3 a.m. Pointing to the testimony of Officer Ruditsky, the FOP-P asserts that more night shift officers have been required to participate in daytime training and other activities. It submits a chart reflecting that many law enforcement departments provide night differential payments. The University seeks the rejection of all of the night differential proposals. It submits that the FOP has shown no linkage for the \$2,000 proposal for either unit nor proof of any of the alleged hardships that occur by having to work the night shift.

I do not award the FOP-S proposal for an increase in the night differential from \$1,000 to \$2,000. There is insufficient evidence to support an increase in the existing allowance nor to award the FOP-P proposal to provide a night/shift differential to its unit members in similar fashion to the existing benefit received by FOP-S Lieutenants. There may be merit to the internal comparability factor serving to support reasonably consistent benefits between bargaining units, especially where unit employees are employed by the same department and perform similar functions that support the departmental mission. However, the existing benefit is now limited to Lieutenants and it is reasonable to infer that the intent of this limitation is to reward the ranking officer for the increase in managerial responsibilities during the night shift.

### **Article 23 – On Call**

#### **FOP-S**

The current agreement contains a provision covering Lieutenants and Detectives for "on-call" work. It states as follows:

1. Lieutenants who are regularly scheduled to be "on-call" to receive communications from the University Police Department shall be compensated at the rate of three hundred twenty five dollars (\$325.00) per quarter effective July 1, 2003.
2. Detectives shall be compensated at the rate of twenty dollars (\$20.00) per day of on-call work, effective July 1, 2007.

3. If for any reason a Detective cannot perform the on-call duty for which he or she is scheduled, that detective, upon return, shall perform the next scheduled on-call duty of the Detective who replaced him or her.

The FOP-S proposes to modify Article 23 as follows:

- Lieutenants who are regularly scheduled to be "on-call" to receive communications from the University Police Department shall be compensated at the rate of five hundred dollars (\$500.00) per quarter to be paid in equal amounts during each year in each pay period.
- Superior officers assigned to an investigative function shall be compensated at the rate of twenty dollars (\$20.00) per day of on-call work.
- If for any reason the superior officer cannot perform the on-call duty for which he or she is scheduled, that officer, upon return, shall perform the next scheduled on-call duty of the officer who replaced him or her.

According to the FOP-S, the on-call payment is reserved to Lieutenants because the University receives superior officer coverage by making this payment even if there is no lieutenant technically on duty at the police headquarters. When a Lieutenant is on call, the Lieutenant is limited in his or her ability to participate in off duty activities and that the Lieutenants' availability to provide attention to situations that require a Lieutenant's participation while being off duty is proper justification for the payment. FOP-S points out that there are now only four Lieutenants who rotate in the on-call position compared to previously when there were ten Lieutenants who served as on-call Lieutenants on a rotational basis. The proposal would add \$175 per quarter for the four

lieutenants. The FOP-S estimates that the cost of its proposal would be an additional \$2,800 annually.

The University submits that the FOP-S has not justified an increase to the on-call payment. I disagree. The existing amount paid for the on-call requirement was set in 2003 without change. There have been no adjustments since that time despite increases in salary since 2003. The amount of employees eligible for the payment has been substantially reduced requiring greater on-call participation. I award an increase in the on-call payment of \$175 per quarter effective July 1, 2013. The cost of the increase to the University is \$2,800 annually.

**Article 13 – Sick Leave**

**FOP-P**

**Article 14 – Sick Leave**

**FOP-S**

Article 14, Section 1 for FOP-S currently states as follows:

Sick leave is defined as a necessary period of absence because of illness. The meaning of sick leave may be extended to include periods of time (up to five (5) days) for emergency attendance on a member of the immediate family (mother, father, spouse, child, foster child, sister, brother, grandmother, grandfather) residing in the officer's household who is seriously ill, or for exposure to contagious disease.

Article 13, Section 1 for FOP-P includes a similar provision. Both units propose to modify Section 1 to add "sole domestic partner" to the categories that are currently set forth. In addition, both units propose to add a new section to Article 13 and Article 14 respectively stating the following:

Employees covered by this agreement shall be permitted to participate in Rutgers compassionate leave program, a donated leave bank for catastrophic illnesses, pursuant to the terms and conditions set forth in the university human resources compassionate leave program, as may be amended unilaterally from time to time by the university. The university shall provide the FOP-P with an annual statement of donation and usage transactions related to the donated leave bank. The statement will include the following university-wide data; number of people donating accrued time; number of days donated; number of people requesting leave; number of requests granted. Determinations regarding the granting or denial of compassionate leave shall be at the sole discretion of the Associate Vice President for Human Resources.

As previously noted, the parties have agreed to the disposition of these issues through stipulated agreement. Accordingly, in both agreements, the language "sole domestic partner and partner in a civil union" shall be added to the list of immediate family members. Similarly, I award the above stated proposal concerning the Rutgers Compassionate Leave Program pursuant to the parties' stipulations.

**Article 17 – Bereavement Leave**

**FOP-P**

**Article 13 – Funeral Leave**

**FOP-S**

Both agreements contain an article that covers bereavement leave. The FOP-P agreement is entitled "Bereavement Leave" while the FOP-S agreement is entitled "Funeral Leave." Except for this difference in description both articles are identical. They state as follows:

1. An officer who is absent from work due to death in the immediate family (mother, father, spouse, child, foster child, sister, brother, grandmother, grandfather, grandchild, or any relative of the officer residing in the officer's household) may charge up to three (3) days for such absence to bereavement leave. However, in the event that a funeral of a member of the immediate family is held at some distant location and the officer will attend, an exception to the above may be requested by the officer to provide for up to five (5) days of absence to be charged to bereavement [funeral] leave.
2. Officers are eligible to receive one (1) day of bereavement [funeral] leave for attendance at the funeral of the officer's mother-in-law, father-in-law, son-in-law, daughter-in-law.

Both units propose to modify Article 13 and Article 17 as follows:

- Add the following relationships to the list of "immediate family" in paragraph 1: sole domestic partner; step parent; ward; great grandmother; great grandfather; mother-in-law; father-in-law; daughter-in-law; son-in-law.

They also propose to delete paragraph 2.

As previously noted, the parties have agreed to the disposition of these issues through stipulated agreement. Accordingly, in both agreements, the

language “sole domestic partner and partner in a civil union” shall be added to the list of immediate family members.

### **Contract Clarification – Detectives**

#### **FOP-P and FOP-S**

Both units propose to delete all references to Detective(s) and include references to Lieutenant wherever appropriate. The University does not disagree so long as the contract changes are not meant to add to terms and conditions of employment for any employee of either unit. This proposal is intended to clarify and conform language in the agreements in response to a November 22, 2011 grievance agreement between Rutgers and FOP-S that eliminated the ranks of Detective and Senior Detective and provide compensation to top step Sergeants pay. The Grievance Settlement Agreement is referenced in the record as R. Exhibit #16. I award this proposal as being consistent with the terms of the grievance settlement but do not foreclose the parties from discussing or clarifying any references to Detectives that are relevant concerning the ranks of Sergeant or Senior Sergeant when deleting such reference to Detectives.

### **Article 20 – Overtime, Compensatory Time and Extra Pay**

#### **FOP-S**

Article 20 is a comprehensive provision covering overtime, compensatory time and extra pay. It is broken down into three Sections: A, B and C. The existing article is set forth below in its entirety with the modifications proposed

identified by a strikethrough for the FOP-S' proposed deletions, and by an underline for proposed additions.

A. Lieutenants

1. Lieutenants shall not be paid overtime, except as set forth in the following paragraphs, until they have worked more than 45 hours in a workweek. A Lieutenant assigned to the 4 x 4 (160-hour/28 day) cycle will receive compensation for working more than five (5) hours over the 40-hour, 4-day work period only if he/she has completed bank time, but not training days Compensation for hours worked beyond 45 in a workweek may be hour for hour compensatory time off or in cash in accordance with paragraph 4 below.
2. A Lieutenant who is called back to work after he/she has completed his/her regular workshift and has left his/her place of work shall be compensated by compensatory time on an hour for hour basis or in cash in accordance with paragraph 4.
3. ~~When a Lieutenant is required to appear during his/her off-duty time as a witness before a court in connection with responsibilities related to official duties, he/she shall be compensated by compensatory time on an hour for hour basis or in cash in accordance with paragraph 4.~~
4. A Lieutenant may request that compensation for hours worked as specified in paragraphs 1 and 2, ~~and 3~~ be given in either time or money. When it is feasible to do so, the request will be granted, however, compensatory time may be accumulated only up to a maximum of forty (40) hours in a fiscal year. Thereafter the compensation will be in cash. Both the compensatory time and the cash payments will be at a straight time rate based on a 40-hour-workweek.
5. Extra Pay:  
  
The following assignments shall be compensated at time-and-one-half, based on a 40-hour-workweek:  
  
Athletic events, concerts, lectures, dances & commencement



Special events not sponsored by the University

Special assignment such as parking registration and bookstore sales

When the University Police Department declares a state of emergency.

B. Sergeants and Detectives

1. Overtime requested and authorized by the University Police Department shall be compensated in accordance with existing calculations. That is:

- a. Reimbursable assignments and commencement exercises - Sergeants and Detectives are compensated at time-and-one-half.

In addition:

- b. Sergeants and Detectives whose regular schedule is 40 hours per week will be compensated at time-and-one-half after working in excess of 40 hours in a workweek;

~~Sergeants and Detectives whose regular schedule is 4 x 4 with a 20-hour bank (160 hours over a 28-day cycle) will be compensated at time-and-one-half after the officer has completed twelve (12) hours of bank time, but not training days, within the 28-day cycle.~~

2. A Sergeant or Detective called back to work after he/she has completed his/her regular workshift and has left his/her place of work, shall be guaranteed a minimum of four hours pay. Such officer shall be required to work all hours which are required by his/her supervisor. If the officer elects to leave before the end of the four hours, and the supervisor approves, he/she will be paid only for the time actually worked.

C. General Provisions

1. Rutgers will insofar as possible provide an equal opportunity for overtime work and shall maintain an overtime log for this purpose which shall be available to the FOP-S for review. Sergeants and Detectives will be assigned to appropriate work in connection with University-sponsored events to the extent they are available prior to employing non-Rutgers personnel. In the event that there is an

insufficient number of Rutgers personnel willing to cover a given overtime assignment, then Rutgers may assign the necessary number.

2. A Lieutenant or Sergeant ~~or Detective~~ who is required to appear as a witness before any court, judicial or quasi-judicial body or agency in connection with the responsibilities related to official duties shall be compensated for such time. If the off-duty appearance is less than ~~two~~ three (3) hours, he/she shall be guaranteed a minimum of ~~two~~ three (3) hours pay. Officers shall be reimbursed for such expenses as parking fees and toll fees in connection with such appearances.

According to the FOP, the purpose of its proposal is to "clean up the contract by removing references to detectives." The University agrees that all references to detectives as a rank within both contracts should be eliminated. However, it disagrees with any changes to the overtime provisions as improper proposals that go beyond the grievance resolution that resolved eliminating the detective rank in exchange for a 4% increase to a top step Sergeant's pay.

I do not award any changes to Article 20 other than those required by the elimination of the detective rank. I also note that I have awarded the FOP's proposal to eliminate reference to detectives wherever appropriate. In short, insufficient justification has been presented in support of the FOP-S proposal and it is denied.

**Article 21 – Salary – FOP-P**

**Article 18 – Salary – FOP-S**

All parties have salary proposals that are at impasse. Because the proposals address changes in each bargaining unit and include individual components, each proposal for each unit has been set forth below:

**FOP-P**

The FOP-P's salary proposal contains four main components. First, is an across the board wage increase that affects the police officer guide (Range 21) and the senior police officer guide (Range 22). This proposal, as well as the proposed adjusted salary guides is set forth below in separate fashion:

**Base Wage Salary Increases**

- Effective July 1, 2009 – 3.0%
- Effective July 1, 2010 – 3.0%
- Effective July 1, 2011 – 3.0%
- Effective July 1, 2012 – 3.0%
- Effective July 1, 2013 – 3.0%

**Police Officer Guide (Range 21)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2008 <b>(Existing)</b>	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2009	\$44,096	\$48,918	\$53,741	\$58,564	\$63,387	\$68,209	\$73,033	\$77,859
7/1/2010	\$45,419	\$50,385	\$55,354	\$60,321	\$65,289	\$70,255	\$75,224	\$80,194
7/1/2011	\$46,782	\$51,897	\$57,014	\$62,130	\$67,248	\$72,363	\$77,481	\$82,600
7/1/2012	\$48,185	\$53,454	\$58,725	\$63,994	\$69,265	\$74,533	\$79,805	\$85,078
7/1/2013	\$49,631	\$55,057	\$60,486	\$65,914	\$71,343	\$76,769	\$82,199	\$87,631

### Senior Police Officer Guide (Range 22)

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2008 <b>(Existing)</b>	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2009	\$63,879	\$67,075	\$68,987	\$71,537	\$74,091	\$76,645	\$79,016	\$81,753
7/1/2010	\$65,795	\$69,087	\$71,057	\$73,683	\$76,314	\$78,945	\$81,387	\$84,206
7/1/2011	\$67,769	\$71,159	\$73,189	\$75,893	\$78,603	\$81,313	\$83,829	\$86,732
7/1/2012	\$69,802	\$73,294	\$75,384	\$78,170	\$80,961	\$83,752	\$86,343	\$89,334
7/1/2013	\$71,896	\$75,493	\$77,646	\$80,515	\$83,390	\$86,265	\$88,934	\$92,014

The second component of the FOP-P salary proposal concerns step increases. The proposal concerning step increases is set forth below:

1. July 1, 2011 – Step increment for any officer who did not receive her/his increment during the period from July 1, 2009 through June 30, 2010
2. July 1, 2012 – Step increment for any officer who did not receive her/his increment during the period from July 1, 2010 through June 30, 2011
3. Upon execution of this Memorandum, each bargaining unit employee shall receive her/his normal step increment on her/his anniversary date.

The third component of the FOP-P salary proposal would require the University to make a lump sum payment. According to the Union, the payment would come in the form of a \$5,000 signing bonus at execution of an agreement as compensation for lost/discounted overtime and other pay during the period from July 1, 2009 through the present.

The fourth component of the FOP-P's salary proposal would eliminate the "subject to" language in Article 21 that precedes references to salary guides,

automatic increments and appointments to Senior Police Officer. The existing language the FOP-P seeks to eliminate states as follows:

The parties agree that the language in Article 21, which provides that "Subject to the appropriation of the allocation to the University by the state of adequate funding ..." (hereinafter referred to as the "Subject To" language) will remain in the parties collective negotiations agreement, but shall have no force or effect and shall be null and void for the term of this Memorandum and the resulting collective negotiations agreement expiring June 30, 2014 with respect to the salary provisions set forth above. This means all such payments and increments shall be made without regard to the appropriation of State funds or the allocation of State funds to the University. ...

The Union represents that an award of its proposal would result in the withdrawal of its grievance concerning this matter.

### **Rutgers Proposals to FOP-P**

The University's salary proposals to the FOP-P unit includes across the board increases, language concerning the payments of increments for FY 2010 and FY 2011 that had been deferred and salary schedules. The University rejects all other proposals made by FOP-P. Its salary proposals are as follows:

#### **Wages**

(1)	<u>FY2010</u>	July 1, 2009	0%
(2)	<u>FY2011</u>	July 1, 2010	0%
(3)	<u>FY2012</u>	July 1, 2011 February 1, 2012	1.75% ATB 1.75% ATB

- (4) FY2013 July 1, 2012 1.75% ATB

Plus the FY2010 increment which had been deferred, will be paid in FY2013 on the employee's quarterly anniversary date. (Effective progressively only.)

- (5) FY2014 July 1, 2013 1.75% ATB

Plus the FY2011 normal increment which had been deferred will be paid in FY2014 on the employee's quarterly anniversary date. (Effective progressively only)

**Police Officer Guide (Range 21)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2008 <b>(Existing)</b>	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2009	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2010	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2011	\$43,561	\$48,324	\$53,089	\$57,853	\$62,618	\$67,381	\$72,147	\$76,914
2/1/2012	\$44,324	\$49,170	\$54,018	\$58,865	\$63,714	\$68,560	\$73,409	\$78,260
7/1/2012	\$45,099	\$50,030	\$54,963	\$59,896	\$64,829	\$69,760	\$74,694	\$79,629
7/1/2013	\$45,888	\$50,906	\$55,925	\$60,944	\$65,963	\$70,981	\$76,001	\$81,023

**Senior Police Officer Salary Guide (Range 22)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6:	'Step 7,	Sr Step
7/1/2008 <b>(Existing)</b>	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2009	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2010	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2011	\$63,103	\$66,261	\$68,150	\$70,668	\$73,192	\$75,715	\$78,058	\$80,761
2/1/2012	\$64,208	\$67,420	\$69,343	\$71,905	\$74,473	\$77,040	\$79,424	\$82,174
7/1/2012	\$65,331	\$68,600	\$70,556	\$73,163	\$75,776	\$78,388	\$80,813	\$83,612
7/1/2013	\$66,475	\$69,801	\$71,791	\$74,444	\$77,102	\$79,760	\$82,228	\$85,076

## **Article 18 – Salary**

### **FOP-S**

The FOP-S proposes to change the structure in which salaries are set for Sergeants and Lieutenants. The main thrust of its proposal is to eliminate salary compressions that result in some superior officers being paid less than officers whom they supervise. In general, the proposals include a procedure for the salary placement of police officers who are promoted to the rank of Sergeant or Lieutenant on Step 1 of the appropriate salary guide, new pay scales for Sergeants and Lieutenants based upon percentages calculated off of salaries set immediately below the rank of Sergeants and/or Lieutenants and a transitional salary guide for current employees to transition them from the current salary structure to the new pay scales to ease the costs of placing them on the new pay scales.<sup>4</sup> Each element of the FOP-S salary proposal is set forth below:

#### **Establishment of a New Salary Guide**

1. Upon promotion to the rank of Sergeant or Lieutenant an individual shall be placed on Step 1 of the appropriate salary guide for the title as provided below and shall receive automatic increments on July 1:

#### **Sergeants Pay Scale**

- Step 1 – Shall be a minimum of 2% above a Senior Patrol Officer.
- Step 2 – Shall be a minimum of 4% above a Senior Patrol Officer.
- Step 3 – Shall be a minimum of 6% above a Senior Patrol Officer.
- Step 4 – Shall be a minimum of 8% above a Senior Patrol Officer.

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<sup>4</sup> Although not specifically set forth in the FOP-S unit proposal, its proposals are intended to include the language proposed in the FOP-P unit that would eliminate existing language in Article 18 that makes salary increases subject to the appropriation of and allocation to the University by the State of New Jersey.

- Step 5 – Shall be a minimum of 10% above a Senior Patrol Officer.
- Step 6/Senior Step – Shall be a minimum of 15% above a Senior Patrol Officer.

**Sergeant Salary Guide- Range 23**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6/Senior Step
7/1/2013	\$93,854	\$95,694	\$97,535	\$99,375	\$101,215	\$105,816

**Lieutenant Pay Scale**

- Step 1 – Shall be a minimum of 2% above a Senior Sergeant.
- Step 2 – Shall be a minimum of 4% above a Senior Sergeant.
- Step 3 – Shall be a minimum of 6% above a Senior Sergeant.
- Step 4 – Shall be a minimum of 8% above a Senior Sergeant.
- Step 5 – Shall be a minimum of 10% above a Senior Sergeant.
- Step 6 – Shall be a minimum of 15% above a Senior Sergeant.

**Lieutenant Salary Guide- Range 23**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6/ Senior Step
7/1/2013	\$107,932	\$110,049	\$112,165	\$114,281	\$116,398	\$121,688

**Transitional Salary Guide**

For current employees during the term of this agreement (in an effort to slowly transition from current salary structure)

- Superior Officers employed upon the earlier of July 1, 2012 or the execution of an agreement shall receive five (5) base wage increases in equal amounts which shall be calculated by taking the difference between the officer's current salary and the officer's anticipated salary listed in the above-referenced guide, based on years of service on June 30, 2014, and dividing that number by five (5).
- The five (5) base wage increases for the transitional salary guide shall take place on July 1, 2012; January 1, 2013; July 1, 2013; January 1, 2014; and June 30, 2014.
- The Union will withdraw its grievance concerning this matter.



### **Lump Sum Payments**

An additional component of the FOP-S salary proposal would require the University to make a lump sum payment in the same amount the Union has proposed for the FOP-P unit. The payment would come in the form of a \$5,000 signing bonus at execution of an agreement as compensation for lost/discounted overtime and other pay during the period from July 1, 2009 through the present.

### **Rutgers Proposals to FOP-S**

The University's salary proposal to the FOP-S unit includes across the board increases, language concerning the payments of increments that had been deferred and salary schedules. The University rejects the proposals made by FOP-P. Its salary proposals are as follows:

#### **Wages**

(1)	<u>FY2010</u>	July 1, 2009	0%
(2)	<u>FY2011</u>	July 1, 2010	0%
(3)	<u>FY2012</u>	July 1, 2011	1.75% ATB
		February 1, 2012	1.75% ATB
(4)	<u>FY2013</u>	July 1, 2012	1.75% ATB

Plus the FY2010 increment which had been deferred, will be paid in FY2013 on the employee's quarterly anniversary date. (Effective progressively only.)

(5)	<u>FY2014</u>	July 1, 2013	1.75% ATB
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Plus the FY2011 increment which had been deferred will be paid in FY2014 on the employee's quarterly anniversary date. (Effective progressively only.)

The University proposes the following new salary guides for the FOP-S unit:

**Sergeant Salary Guide – Range 23**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Sr Step
7/1/2008	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2009	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2010	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2011	\$61,188	\$64,274	\$67,372	\$70,462	\$73,552	\$76,646	\$79,734	\$82,829	\$84,483
2/1/2012	\$62,259	\$65,399	\$68,551	\$71,695	\$74,839	\$77,988	\$81,130	\$84,278	\$85,961
7/1/2012	\$63,349	\$66,544	\$69,750	\$72,950	\$76,149	\$79,352	\$82,549	\$85,753	\$87,466
7/1/2013	\$64,457	\$67,708	\$70,971	\$74,226	\$77,481	\$80,741	\$83,994	\$87,254	\$88,996

**Senior Sergeant Salary Guide – Range 24**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Sr Step
7/1/2008	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2009	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2010	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2011	\$64,246	\$67,490	\$70,742	\$73,984	\$77,231	\$80,477	\$83,722	\$86,971	\$88,709
2/1/2012	\$65,370	\$68,671	\$71,980	\$75,279	\$78,583	\$81,885	\$85,187	\$88,493	\$93,871*
7/1/2012	\$66,514	\$69,873	\$73,239	\$76,597	\$79,958	\$83,318	\$86,678	\$90,041	\$95,515
7/1/2013	\$67,678	\$71,095	\$74,521	\$77,937	\$81,357	\$84,777	\$88,195	\$91,617	\$97,186

**Lieutenant Salary Guide – Range 26**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
7/1/2008	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2009	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2010	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2011	\$71,186	\$74,711	\$78,240	\$81,829	\$85,417	\$88,928	\$92,512	\$96,015	\$98,023
2/1/2012	\$72,432	\$76,018	\$79,609	\$83,261	\$86,912	\$90,485	\$94,131	\$97,696	\$99,738
7/1/2012	\$73,700	\$77,349	\$81,002	\$84,718	\$88,433	\$92,068	\$95,778	\$99,405	\$101,484
7/1/2013	\$74,989	\$78,702	\$82,420	\$86,201	\$89,980	\$93,679	\$97,454	\$101,145	\$103,260

\* Senior Step Sergeants received a 4% increase on 11/2011 due to a settlement grievance. For purposes of the costing provided here, the 1.75% increase in 2/1/2012 has been added to the new senior step salary. (See R.16)

### Analysis of Salary Proposals

I first address the FOP proposals to delete the first paragraph of the Salary provisions set forth in Articles 18 of the FOP-S Agreement and Article 21 of the FOP-P Agreement. The parties commonly refer to the language as the "subject to" provision. It states as follows:

Subject to the appropriation of and allocation to the University by the State of adequate funding for the specific purpose identified in this article for the full period of this Agreement, the following salary increases will be granted to officers in the unit during the term of this Agreement. In the event that the funding appropriated and allocated to the University by the State is not adequate for the specific purposes and periods identified in this article, the University shall give notification to the FOP-P concerning the actions it intends to take, because of the inadequate funding, which will impact on the officers represented by the FOP-P. If the FOP-P, in response to the University's notification, elects to reopen negotiations on the salary program, the FOP-P shall notify the University within fifteen (15) days subsequent to such notification and negotiations within twenty (20) days.

I do not award the proposal to delete the "subject to" language. The Unions point out that the language creates uncertainty on commitments that the University makes to the units during economic negotiations. However, the record clearly reflects that the University has traditionally received substantial amounts of State appropriations in the past and continues to do so. Although State appropriations have declined as a percentage of the University revenues, the University's financial commitments remain dependent on State funding. The

University's continued reliance on these revenues, despite the percentage declines, weighs heavily against the deletion of the "subject to" language. Moreover, the language is commonplace in University bargaining unit agreements as well as in the labor agreements between the State of New Jersey and its many bargaining units. The University represents that the language will not be applied for the remainder of the Agreement. The proposal is denied.

The main emphasis of support for the FOP's salary proposals is that they are justified by the evidence and that Rutgers has the ability to fund them. The FOP relies heavily on the financial report of its expert Joseph R. Petrucelli, CPA/CFF. The report lays out the case that the vast funding mechanisms of the University and its diverse revenue sources can fund an award equal to the FOP's proposals without causing adverse impact on the University's finances. Mr. Petrucelli's financial report is comprehensive and cannot be summarized in its totality. An overview of the report has been referenced in the Background section. The report provides specific financial details concerning Rutgers' finances from which Mr. Petrucelli draws the following conclusions:

- **Rutgers total net assets have increased \$595,843,000** (\$2,040,826,000 less \$2,636,739) or **29.1 percent** (\$595,843,000/\$2,040,826,000) from June 30, 2006 to June 30, 2011.
- Total asset **exceeded \$4 billion** (\$4,091,238,000) at June 30, 2011 and **have increased** since 2006. **Total assets have increased by \$1,266,789,000** (4,091,238,000 less \$2,824,449,000) or **44.85%** (\$1,266,789,000/\$4,091,238,000) since 2006.

- Net assets have increased since 2006 and have increased by \$595,913,000 (2,636,769,000 less \$2,040,826,000) or 29.10% ( $\$595,913,000/\$2,040,826,000$ ) since 2006.
- Rutgers cash and investment balances have increased since 2006. For the five year period June 30, 2006 to June 30, 2011, the cash balance has increased by \$386,991,000 (\$476,416,000 less \$89,425,000) or 432.75% ( $\$386,991,000/\$89,425,000$ ).
- The investment balances have also increased every year since 2006. For the five year period June 30, 2006 to June 30, 2011 the investment balances have increased by \$345,684,000 (\$1,338,530,000 less \$992,846,000) or 34.82% ( $\$345,684,000/\$992,846,000$ );
- Rutgers has maintained an Aa2 bond rating from Moody's. On March 17, 2011, Moody's issued Rutgers an Aa2 rating on new debt and on July 20, 2011 Moody's affirmed the Aa2 rating on existing debt. Bonds rated Aa are judged to be of high quality by all standards. Moody's has also ranked Rutgers outlook as "Stable". The stable outlook reflects Moody's expectation that Rutgers will maintain stable enrollment, positive operating performance and good debt service coverage which offset elevated leverage levels and state funding decreases.
- Rutgers has enjoyed significant revenue growth every year since June 30, 2006. Total revenues have grown by \$433,618,000 (\$2,012,522,000 less \$1,578,904,000) or 27.46% ( $\$433,618,000/\$1,578,904,000$ ) for the five year period June 30, 2006 to June 30, 2011.
- Student tuition and fees revenues have increased every year resulting in a five year revenue increase of 59%. Overall unrealized gains on securities increased by 179% over the five year period June 30, 2006 to June 30, 2011. Auxiliary revenues (which include housing, dining, bookstore and athletics) have increased every year and overall have increased by 32% for the five year period June 30, 2006 to June 30, 2011.
- The cost for the Rutgers Police Department salaries is .31% of total expenses for the year ended June 30, 2011.
- The June 30, 2011 Current Ratio of 2.05 indicates that for every \$1 of current liabilities, Rutgers has \$2.05 of current assets with which to pay for them.

- The June 30, 2011 viability ratio of .92 is well below the range of 1.25 to 2.0 which indicates extremely high creditworthiness.
- The June 30, 2011 interest payments to total revenue ratio of .02 indicates that Rutgers has sufficient revenues to cover its interest payment obligations.

[underlines in original].

The FOP also provides evidence by way of external comparability in law enforcement generally to support its proposals for higher wages and improved compensation related benefits. The evidence includes charts depicting salary maximums and certain compensation related benefits. The FOP does not dispute evidence reflecting internal comparables that the University provides from which the University argues represent patterns of settlement that preclude the substantial deviations in terms sought by the FOP. However, the FOP submits that the internal comparables show certain differences and defeat the University's claim to a pattern. It also presents specific considerations as to job descriptions, skills and requirements in law enforcement that are unique to the FOP units and support different salary results from those achieved in the other units. The FOP further points to evidence of turnover from which it contends supports its proposals by application of the continuity and stability of employment factor. A compelling article, Is the Door Revolving? An Analysis of Officer Turnover in the Rutgers University Police Department, written by a graduate student in the spring of 2012 was submitted into evidence. The article concludes that salary was the main cause of high turnover.

Rutgers does not contend that it has an "inability" to pay. Instead, it submits that an award beyond what it has offered would stress its already strained resources and undermine the manner in which its collective negotiations with other units were conducted during a deep financial crisis. It relies upon the testimony of Dr. Nancy Winterbauer, the Vice President for University Budgeting and Bruce Fehn, Senior Vice President of Finance and Administration as well as over four dozen financial exhibits. The University emphasizes that the Unions' financial expert included references to its restricted revenues that cannot be used to fund the FOP's proposals and that when the University's financial position is assessed on the whole, its position has steadily declined, resulting in over-reliance on tuition increases. In particular, it notes Dr. Nancy Winterbauer's observation that at time of hearing, the University had already spent its unrestricted operational budget and that funds would have to be taken from elsewhere with negative impact. The University points out that 70% of its unrestricted funds go to employee salaries and for this reason, the FOP negotiations should not stand in isolation to the other financial responsibilities it must meet to fund all other collective negotiations agreements. It also submits that its merger with UMDNJ will have substantial negative financial impacts on the University due to the fact that funding for the merger is far less than the costs of achieving the merger. In its post-hearing submission, Rutgers provides detailed rebuttals to Mr. Petrucelli's report.

The University also contends that substantial weight must be given to internal comparability. It submits that there is overwhelming evidence that its proposal to the FOP is not only reasonable and supported by the statutory criteria but also consistent with the terms of contracts it has negotiated with its other units. It stresses that internal comparability is especially important during this agreement to demonstrate that during the financial crisis all employees have been treated fairly and consistently and to do otherwise would undermine harmony and stability in its labor relations. In respect to internal comparables, it points to the testimony of its Assistant Vice President of Human Resources, Harry Agnostak, who detailed the terms of all of the University's other agreements. The University submits that its offer is also reasonable when compared with increases given to municipal police units statewide and especially to those negotiated after the onset of the great recession. It points out that a top step police officer on July 1, 2013 will be paid \$81,023, a top step Senior Police Officer \$85,076, a top step Sergeant \$88,996, a top step Senior Sergeant \$97,186 and a Lieutenant \$103,260. It submits that officers receive generous benefits in addition to salary. The University contends that when external comparables are viewed statewide, these salaries are reasonably consistent. It also asserts that its terms are more favorable than those achieved in the most recent UMDNJ contract that Rutgers must assume due to the merger with UMDNJ.



In rendering a reasonable determination of the salary issue I find that the interests and welfare of the public criterion N.J.S.A. 34:13A-16g(1) must be given the most weight. While this criterion stands in separation to the others it implicitly embraces the other factors and recognizes their interrelationships. The interest and welfare of the public is implicated when considering the financial impact of an award on the University, the weight to be given to internal and external comparisons and the continuity and stability of employment for the University's police officers. The remaining criteria are relevant but entitled to less weight.

I have examined all of the evidence and arguments as to internal comparability. Internal comparability or internal patterns of settlement are relevant, although not exclusive considerations when evaluating the merits of impasse issues. The relevance of this subsection of the statutory criteria, N.J.S.A. 34:13A-16(g)(2)(c), and the rationale for examining this subsection is well established. It has been a criterion advanced in past arbitrations by both employers and unions when either party seeks to give meaning to internal comparability or a pattern of settlement. An important case on this criterion is In the Matter of Somerset County Sheriff's Office v. Somerset County Sheriff's FOP Lodge #39, Docket No. A-1899-06T3, 34 NJPER 8 (App. Div. 2008). In that case, the County objected to the arbitrator's application of § 34:13A-16(g)(2)(c) but its objections were not sustained. PERC has consistently observed that this subsection requires an interest arbitrator to "consider evidence of settlements between the employer and other of its negotiations units, as well as evidence that

those settlements constitute a pattern.” In Somerset, internal settlements between the County and other law enforcement units were given significant weight by the arbitrator whose award was affirmed by PERC on appeal. Its decision was then appealed to the Appellate Division. There, the court rejected the public employer’s contention that the arbitrator erred in his application of this factor to the facts of that case and the weight the arbitrator accorded to that factor.

The comparables or alleged pattern here is not between public safety units but between the police units and non-law enforcement units as well as non-unionized or non-aligned employees. PERC has held that settlement patterns must be considered even when it includes non-public safety units. One lead example was in the matter of the County of Union v. Union County Corrections Officers, PBA Local 999, PERC No. 2003-33. In that case, the County offered a proposal on health benefits that had been accepted by six other bargaining units, including three non-law enforcement units as well as three law enforcement units. After the County’s proposal on health benefits had been rejected, the County appealed the award. The appeal resulted in a remand of the award back to the arbitrator. PERC stated:

N.J.S.A. 34:13A-16g(2)(c) requires arbitrators to compare the wages, salaries, hours and conditions of employment of the employees in the proceeding with those of employees performing similar services in the same jurisdiction and with “other employees generally” in the same jurisdiction. Thus, this subfactor requires the arbitrator to consider evidence of settlements between the employer and other of its negotiations units, as well as evidence

that those settlements constitute a pattern. See N.J.A.C. 19:16-5.14(c)(5) (identifying a “pattern of salary and benefit changes” as a consideration in comparing employees within the same jurisdiction).

After the interest arbitrator issued a second award, Union County filed another appeal and this issue was revisited by PERC. PERC found that the arbitrator once again rejected the County's proposal without properly addressing internal comparability. Although PERC expressed no opinion on the merits of the County's proposal and emphasized that it made no finding on whether a pattern existed or, if so, whether the alleged pattern must be followed, PERC once again ordered a remand of the impasse to a different arbitrator. It explained:

[T]he arbitrator did not make explicit findings as to whether or not there was a settlement pattern with respect to health benefits and salary – or either of those items. Nor did he make findings as to whether the settlements differed from the offer to this unit or analyze the significance of any differences. These are critical omissions because, as we explained in Union Cty., the existence – or not – of a pattern is an element that should be considered in determining the weight to be given internal settlements and in assessing the effect of an award on the continuity and stability of employment. 28 NJPER at 461. Further, Union Cty. stated that the Reform Act requires the arbitrator to explain the reasons for adhering or not adhering to any proven settlement pattern. Without specific findings as to the existence, nature or scope of an alleged settlement pattern, we cannot evaluate whether the arbitrator fulfilled that function.

N.J.S.A. 34:13A-16g(2)(c) requires arbitrators to compare the wages, salaries, hours and conditions of employment of the employees in the proceeding with those of employees performing similar services in the same jurisdiction and with “other employees generally” in the same jurisdiction. Thus, this subfactor requires the arbitrator to consider evidence of settlements between the employer and other of its negotiations units, as well as evidence that those settlements constitute a pattern. See N.J.A.C. 19:16-5.14(c)(5) (identifying a “pattern of salary and benefit changes” as a consideration in comparing employees within the same jurisdiction).

Pattern is an important labor relations concept that is relied upon by both labor and management.

In addition, a settlement pattern is encompassed in N.J.S.A. 34:13A-16g(8), as a factor bearing on the continuity and stability of employment and as one of the items traditionally considered in determining wages. In that vein, interest arbitrators have traditionally recognized that deviation from a settlement pattern can affect the continuity and stability of employment by discouraging future settlements and undermining employee morale in other units. Compare Fox v. Morris Cty., 266 N.J. Super. 501, 519 (App. Div. 1993), certif. denied, 137 N.J. 311 (1994) (in applying N.J.S.A. 34:13A-16g(8), arbitrator should have considered the effect of an award on employees in other units); see also Anderson, Krause and Denaco, Public Sector Interest Arbitration and Fact Finding: Standards and Procedures, 48.05[6], contained in Bornstein and Gosline Ed., Labor and Employment Arbitration (Matthew Bender 1999) (citing arbitrators' statement that their award, which took pattern into account, would prevent disruption of future employer-wide negotiations and also commenting that arbitrators are generally hesitant to award increases that would disturb a pre-arbitration settlement pattern absent a showing that a break in the pattern is required to address a specific problem).

As previously indicated, this case requires that substantial weight be given to the interests and welfare of the public including the financial impact of the award, internal and external comparisons and the continuity and stability of employment of unit members. When viewed independently and collectively, they weigh against awarding the FOP's proposals for both units. Rutgers calculates the FOP-P salary proposal (including bonuses) at \$3,977,982 beyond its own proposal or 44% or 8.8% per year over the term of the contract. The additional costs of these proposals are not compatible with the University's demonstrated need during this contract term to address the cumulative shortfall in state appropriations reductions, its past inability to fully fund salary increases and the demands imposed on the University to meet all of its operational demands from

its unrestricted budget funds. Mr. Petrucelli's report accurately reflects that Rutgers' overall funding sources could provide the necessary funds to pay for the proposals but this does not take into consideration the fact that the University has eleven other bargaining units and several thousands of aligned and non-aligned employees whose terms over the contract years were set within the University's need to consider the total impact of salary increases for all of its employees within terms that were reasonably consistent.

The evidence on internal comparables weighs against awarding the FOP salary proposals. While there are minor units without salary steps that negotiated settlements with differing terms, the overall circumstances that surround the contract years at issue compel the greatest weight to be given to the two units (maintained blue collar and administrative/clerical) represented by AFSCME. Their units cover 1,300 and 800 employees respectively. They, as does the FOP units, have the more traditional type of salary schedule and structure. The considerations here are not whether the FOP is legally bound to be tied to this interrelationship, but whether Rutgers' proposals, in the main, are consistent with the statutory criteria, including the weight to be given to these internal comparisons. In the AFSCME agreements there was no "new money" in 2010 and 2011 and increments earned but not paid in those years were deferred to 2012 and 2013. Here, Rutgers' proposals are not only consistent with these internal comparables but, when step increases and across the board increases are combined, the increases exceed the cost of living data and do not lessen the

overall compensation and benefits received due to the absence of concessionary demands. In making these observations, I am mindful of PERC's reference in Union County recognizing the possibility that a break in a pattern may be required to address a specific problem. The AFSCME agreements also include lump sum payments that the University has not proposed to include for the FOP units. This issue will be addressed as part of this analysis.

I have examined all of the labor agreements in order to assess the weight to be given to the FOP's arguments that they may contain more attractive terms that diminish the weight to be given to the AFSCME settlements. These arguments are not persuasive due to the major differences in the salary structures of those agreements. For example, the unit with the most employees (2,200) URA-AFT, AFL-CIO (Administrators) is without an incremental structure and the percentage increases negotiated included the spending of a portion of the increases for merit based pay. Units that had agreements for 2007-2011 agreed to forego increases in 2010 and 2011 and defer them to the next fiscal years.

The University proposes no increases to either FOP unit in FY 2010 and FY 2011. Step increases that normally would be paid in those years would not be eliminated and would be implemented on a deferred basis resulting in double step increases for eligible employees in FY 2013 and FY 2014. All unit employees would receive two (2) 1.75% across the board increases in six month

intervals in FY 2012, another 1.75% across the board increase in FY 2013 and a fourth 1.75% across the board increase in FY 2014. The minimum increase over the five years is 7.2% for those at top step compounded while increasing to as high as 66% for an officer who receives a step increase in each year and the across the board increases. The step increases are substantial and when combined with across the board increases, the annual average increase over the term of the contract is 6.6%. When the step increases are broken down by year, they calculate to 3.90% for the delayed FY 2010 increment, 3.59% for the delayed FY 2011 increment, 6.14% for the regular FY 2012 increment, 5.06% for the regular FY 2013 increment and 4.12% for the regular FY 2014 increment. When weighed against wage increases for law enforcement employees for contracts negotiated statewide during and immediately after the financial crisis, the increases fall within the range of the external comparables.

One element of the AFSCME settlement package not offered to the FOP units is the lump sum payments that were included in the Local 888 and Local 1761 units as part of the overall settlement for those employees who met eligibility standards. Lump sums (non-base) were provided to all unit employees in the amount of \$1,000 on March 2, 2012 and an additional \$750 on December 7, 2012. An additional \$500 lump sum was included on July 1, 2014 but this latter payment was limited to employees who were at the top of the salary scale on June 30, 2014.

I award these lump sum payments to employees in the FOP-P units under similar eligibility standards that were applicable to employees in the AFSCME units. The University argues that the FOP should not be offered or awarded these payments because the AFSCME incremental payments were comparatively less costly. I do not find merit in this argument. Whatever differences that may exist between the salary levels and step amounts between these units are outweighed by the need to provide similarity in the terms and structure of the settlements as part of the internal settlement pattern. Due to the eligibility criteria, the precise costs of the payments cannot be determined. However, a reasonable estimate for these one time non-base payments for both FOP units is \$60,000 in FY 2012, \$40,000 in FY 2013 and \$20,000 in FY 2014.

I next turn to the remaining FOP proposals. The \$5,000 lump sum payment sought by the FOP units appears to be aimed at giving unit members monetary consideration for not receiving increases during the early years of the Agreement that would have affected terms such as overtime payments. The payments are not part of any other settlement made by the University with any of its other units. The additional costs of this proposal cannot be justified during this contract term. I do not award the proposals for \$5,000 lump sum payments to be made for either unit.

The remaining issues are the FOP-S proposals for the establishment of new salary guides for the ranks of Sergeant and Lieutenant. The FOP's rationale



for the awarding of these schedules, in simple terms, is to provide clear separation between salaries for rank and file officers and their supervisors in a manner that guarantees that a superior officer would never be paid less than an officer he or she supervises. While this type of proposal can be pursued on its merits in future negotiations, I decline to award the proposal for new salary guides as part of this award for two main reasons. First, the proposal contains substantial costs that cannot be justified beyond the costs that have been awarded, even when considering the transitional formula to ease these costs that was proposed by the FOP. Second, the new salary guide would increase a top step Lieutenant salary by an additional 15% beyond the percentages that have been awarded. Third, the record testimony of Mr. Agnostak clearly indicates that when an officer receives a promotion, he or she will always receive a salary increase from their current salary due to their placement on the appropriate step of the salary guide that they are promoted to and that no one who is promoted would ever receive a decreased salary. (See Tr. 284-285). While this fact does not guarantee that there are times when a supervisor may receive a lesser salary than an officer that is supervised, this circumstance may appropriately be addressed in future negotiations when the financial impact criterion is accorded less weight than it must be under the facts of this case. Based upon this conclusion, I need not address the FOP-S proposal for a transitional salary guide which was proposed on the condition that the new salary guides would be awarded.

Accordingly, I respectfully enter the terms of this Award.

### AWARD

1. There shall be a five (5) year agreement effective July 1, 2009 through June 30, 2014.
2. All proposals by Rutgers and FOP-P and FOP-S not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this Award.
3. **Stipulations**

#### Collective Negotiations Agreement between FOP-P, Local 62 and Rutgers

1. Article 7 - Grievances: In steps 2 and 3 of the procedure, modify the filing, meeting and response timeframes from five (5) working days to fifteen (15) working days in each and every instance where said timeframe appears.
2. Article 13 - Sick Leave: In paragraph 1, the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.
3. Article 13 - Sick Leave: The parties agree to incorporate the following new language, with the understanding that the language refers to the compassionate leave program that is currently in existence at the University:

"Employees covered by this agreement shall be permitted to participate in Rutgers compassionate leave program, a donated leave bank for catastrophic illnesses, pursuant to the terms and conditions set forth in the university human resources compassionate leave program, as may be amended unilaterally from time to time by the university. The university shall provide the FOP-P with an annual statement of donation and usage transactions related to the donated leave bank. The statement will include the following university-wide data: number of people donating accrued time; number of days donated; number of people requesting leave; number of requests granted. Determinations regarding the granting or denial of

compassionate leave shall be at the sole discretion of the Associate Vice President for Human Resources."

4. Article 17 - Bereavement Leave: the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.

**Collective Negotiations Agreement between  
FOP-S, Local 164 and Rutgers**

1. Article 13 - Funeral Leave: the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.
2. Article 14 - Sick Leave: In paragraph 1, the parties agree to add "sole domestic partner and partner in a civil union," to the list of immediate family members.
3. Article 14 - Sick Leave: The parties agree to incorporate the following new language, with the understanding that the language refers to the compassionate leave program that is currently in existence at the University:

"Employees covered by this agreement shall be permitted to participate in Rutgers compassionate leave program, a donated leave bank for catastrophic illnesses, pursuant to the terms and conditions set forth in the university human resources compassionate leave program, as may be amended unilaterally from time to time by the university. The university shall provide the FOP-P with an annual statement of donation and usage transactions related to the donated leave bank. The statement will include the following university-wide data: number of people donating accrued time; number of days donated; number of people requesting leave; number of requests granted. Determinations regarding the granting or denial of compassionate leave shall be at the sole discretion of the Associate Vice President for Human Resources."

4. **Article 7 – Grievance Procedure FOP-P**

Pursuant to stipulation Article 7 – Grievance Procedure shall be modified in accordance with the FOP-P proposal.

5. **Article 28 – Uniform Allowance FOP-P and Article 31 – Miscellaneous (Uniforms) FOP-S**

I award an increase in the annual uniform maintenance allowance in the FOP-P unit from \$860 to \$900 effective July 1, 2012 and an increase in the annual uniform maintenance allowance in the FOP-S unit from \$865 to \$900 effective July 1, 2012.

6. **Article 23 – On-Call FOP-S**

Effective July 1, 2013, the "on-call" payment for Lieutenants who are regularly scheduled to receive communications from the University Police Department shall be increased by \$175 per quarter.

7. **Article 13 – Sick Leave FOP-P and Article 14 – Sick Leave FOP-S**

The language "sole domestic partner and partner in a civil union" shall be added to the list of immediate family members.

Add a new section shall be added to Article 13 and Article 14 respectively stating the following:

Employees covered by this agreement shall be permitted to participate in Rutgers compassionate leave program, a donated leave bank for catastrophic illnesses, pursuant to the terms and conditions set forth in the university human resources compassionate leave program, as may be amended unilaterally from time to time by the university. The university shall provide the FOP-P with an annual statement of donation and usage transactions related to the donated leave bank. The statement will include the following university-wide data; number of people donating accrued time; number of days donated; number of people requesting leave; number of requests granted. Determinations regarding the granting or denial of compassionate leave shall be at the sole discretion of the Associate Vice President for Human Resources.

8. **Article 17 – Bereavement Leave FOP-P and Article 13 – Funeral Leave FOP-S**

Pursuant to stipulation, in both agreements, the language "sole domestic partner and partner in a civil union" shall be added to the list of immediate family members

9. **Salary – Article 18 FOP-S and Article 21 FOP-P**

The salary schedules for both the FOP-P and FOP-S units shall be modified as follows:

There shall be an across the board increase to each step of the salary schedules effective and retroactive to the effective dates of July 1, 2009 through July 1, 2013 as follows:

FY 2010	July 1, 2009	0%
FY 2011	July 1, 2010	0%
FY 2012	July 1, 2011	1.75%
FY 2012	February 1, 2012	1.75%
FY 2013	July 1, 2012	1.75%
FY 2014	July 1, 2013	1.75%

The modified salary schedules shall be as follows:

**FOP-P  
Police Officer Guide (Range 21)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Sr Step
7/1/2009	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2010	\$42,812	\$47,493	\$52,176	\$56,858	\$61,541	\$66,222	\$70,906	\$75,591
7/1/2011	\$43,561	\$48,324	\$53,089	\$57,853	\$62,618	\$67,381	\$72,147	\$76,914
2/1/2012	\$44,324	\$49,170	\$54,018	\$58,865	\$63,714	\$68,560	\$73,409	\$78,260
7/1/2012	\$45,099	\$50,030	\$54,963	\$59,896	\$64,829	\$69,760	\$74,694	\$79,629
7/1/2013	\$45,888	\$50,906	\$55,925	\$60,944	\$65,963	\$70,981	\$76,001	\$81,023

**FOP-P  
Senior Police Officer Salary Guide (Range 22)**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6:	'Step 7,	Sr Step
7/1/2009	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2010	\$62,018	\$65,121	\$66,978	\$69,453	\$71,933	\$74,413	\$76,715	\$79,372
7/1/2011	\$63,103	\$66,261	\$68,150	\$70,668	\$73,192	\$75,715	\$78,058	\$80,761
2/1/2012	\$64,208	\$67,420	\$69,343	\$71,905	\$74,473	\$77,040	\$79,424	\$82,174
7/1/2012	\$65,331	\$68,600	\$70,556	\$73,163	\$75,776	\$78,388	\$80,813	\$83,612
7/1/2013	\$66,475	\$69,801	\$71,791	\$74,444	\$77,102	\$79,760	\$82,228	\$85,076

**FOP-S  
Sergeant Salary Guide – Range 23**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Sr Step
7/1/2009	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2010	\$60,136	\$63,169	\$66,213	\$69,250	\$72,287	\$75,328	\$78,363	\$81,404	\$83,030
7/1/2011	\$61,188	\$64,274	\$67,372	\$70,462	\$73,552	\$76,646	\$79,734	\$82,829	\$84,483
2/1/2012	\$62,259	\$65,399	\$68,551	\$71,695	\$74,839	\$77,988	\$81,130	\$84,278	\$85,961
7/1/2012	\$63,349	\$66,544	\$69,750	\$72,950	\$76,149	\$79,352	\$82,549	\$85,753	\$87,466
7/1/2013	\$64,457	\$67,708	\$70,971	\$74,226	\$77,481	\$80,741	\$83,994	\$87,254	\$88,996

**FOP-S  
Senior Sergeant Salary Guide – Range 24**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Sr Step
7/1/2009	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2010	\$63,141	\$66,329	\$69,525	\$72,712	\$75,903	\$79,093	\$82,282	\$85,475	\$87,183
7/1/2011	\$64,246	\$67,490	\$70,742	\$73,984	\$77,231	\$80,477	\$83,722	\$86,971	\$88,709
2/1/2012	\$65,370	\$68,671	\$71,980	\$75,279	\$78,583	\$81,885	\$85,187	\$88,493	\$93,871*
7/1/2012	\$66,514	\$69,873	\$73,239	\$76,597	\$79,958	\$83,318	\$86,678	\$90,041	\$95,515
7/1/2013	\$67,678	\$71,095	\$74,521	\$77,937	\$81,357	\$84,777	\$88,195	\$91,617	\$97,186

\* Senior Step Sergeants received a 4% increase on 11/2011 due to a settlement grievance. The 1.75% increase in 2/1/2012 has been added to the new senior step Sergeant salary.

**FOP-S  
Lieutenant Salary Guide – Range 26**

Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
7/1/2009	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2010	\$69,962	\$73,426	\$76,894	\$80,422	\$83,948	\$87,399	\$90,921	\$94,364	\$96,337
7/1/2011	\$71,186	\$74,711	\$78,240	\$81,829	\$85,417	\$88,928	\$92,512	\$96,015	\$98,023
2/1/2012	\$72,432	\$76,018	\$79,609	\$83,261	\$86,912	\$90,485	\$94,131	\$97,696	\$99,738
7/1/2012	\$73,700	\$77,349	\$81,002	\$84,718	\$88,433	\$92,068	\$95,778	\$99,405	\$101,484
7/1/2013	\$74,989	\$78,702	\$82,420	\$86,201	\$89,980	\$93,679	\$97,454	\$101,145	\$103,260

**10. Salary Increments**

The FY 2010 increment shall be deferred and be paid in FY 2013 on the employee's quarterly anniversary date.

The FY 2011 increment shall be deferred and be paid in FY 2014 on the employee's quarterly anniversary date.

The regular salary increments for FY 2012 and FY 2013 shall be paid pursuant to existing contractual requirements.

11. **Lump Sum Payments FOP-P and FOP-S**

Unit employees shall receive non-base one time lump sum payments pursuant to the following amounts and eligibility requirements:

\$1,000 - An FOP-P and FOP-S employee must have been on the University's payroll in a law enforcement position on the date of June 30, 2012 and remain employed as of the date of payment unless the employee has retired on a normal or disability pension.

\$750 - An FOP-P and FOP-S employee must have been on the University's payroll in a law enforcement position on the date of June 30, 2013 and remain employed as of the date of payment unless the employee has retired on a normal or disability pension.

\$500 - An FOP-P and FOP-S employee must have been on the University's payroll in a law enforcement position and at the top step of the salary scale on June 30, 2014 and remain employed as of the date of payment unless the employee has retired on a normal or disability pension.

12. **Contract Clarification – Detectives FOP-P and FOP-S**

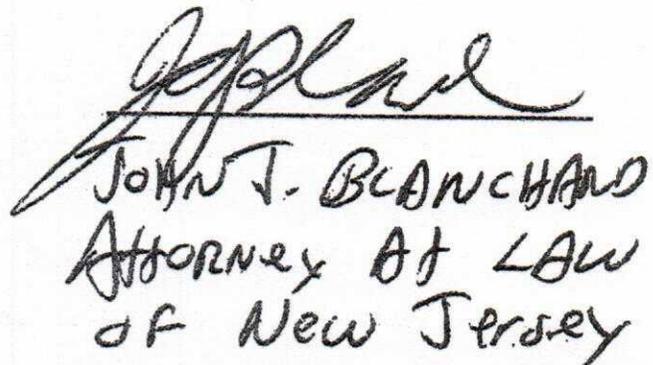
The Agreement shall delete all references to Detectives wherever appropriate.

Dated: October 13, 2016  
Sea Girt, New Jersey

  
James W. Mastriani

State of New Jersey        }  
County of Monmouth        } ss:

On this 13<sup>th</sup> day of October, 2016, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.

  
JOHN J. BLANCHARD  
Attorney At Law  
of New Jersey