

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration

between

BOROUGH OF SHREWSBURY

Re: Docket No.
IA-98-98

"Borough"

-and-

SHREWSBURY BOROUGH POLICEMEN'S
BENEVOLENT ASSOCIATION LOCAL NO. 308

"Association"

APPEARANCES

For the Borough

MURRAY, MURRAY & CORRIGAN
Robert E. Murray, Esq., of Counsel
Cheryl U. Brown, Esq., of Counsel

For the Association

KLATSKY & KLATSKY
David J. DeFillippo, Esq., of Counsel

BEFORE: Martin F. Scheinman, Esq., Interest Arbitrator

BACKGROUND

The parties are signatories to a Collective Bargaining Agreement which expired on December 31, 1997. Sometime prior thereto, they entered into negotiations for a successor agreement. Those negotiations proved unsuccessful, whereupon the Association demanded interest arbitration. Pursuant to the rules and regulations of the State of New Jersey Public Employment Relations Commission, I was designated to hear and adjudicate this dispute.

Initially, I met with the parties at their request in an attempt to mediate a settlement of this dispute. Certain unresolved issues were narrowed during mediation. However, the parties were unable to resolve all of their outstanding issues. Thereafter, formal interest arbitration commenced.

Hearings were held before me on June 25, 1999 and July 7, 1999. At those hearings the parties were afforded full opportunity to present evidence and argument in support of their respective positions. They did so. Each side introduced extensive evidence relevant to the statutory criteria. This included budgetary and financial information. The parties submitted articles, charts, graphs and data dealing with all of the statutory criteria. They also agreed to waive the statutory time limits for the issuance of an Opinion and Award.

After the hearings had concluded, the parties submitted additional exhibits concerning the statutory criteria. Upon my receipt of same, the hearing was declared closed.

Thereafter, the parties submitted post-hearing briefs in

support of their respective positions. Upon my receipt of same, the record was declared closed.

POSITIONS OF THE PARTIES

The Association has proposed a four (4) year Agreement with a term of January 1, 1998 through December 31, 2001.

The Association also has proposed, exclusive of increments, across the board wage increases of five percent (5%) effective January 1, 1998, five percent (5%) effective January 1, 1999, five percent (5%) effective January 1, 2000, and five percent (5%) effective January 1, 2001.

The Association maintains that its salary proposal is the most reasonable. It contends that this conclusion is compelled by a consideration of all of the relevant statutory criteria specified in N.J.S.A. 34:13a-16(g).

With regard to the first statutory criterion, the interests and welfare of the public, the Association maintains that there is no better indicator of the public's true beliefs about its interests and welfare than its vote on the local school tax levies. It asserts that in April 1999, over seventy five percent (75%) of the Borough's taxpayers approved the three and one-half million dollar (\$3,500,000) budget for the Borough's grammar schools. (Association Exhibit G-2) The Association further asserts that the 1999 school budget for the Red Bank Regional High School, which the Borough's high school students attend, was approved by over sixty three percent (63%) of the voting taxpayers. (Association Exhibit G-1) It contends that these two tax levies comprise fifty one and eight tenths percent (51.8%) of the Borough's total 1999 tax rate. (Association Exhibit No. 51) Thus, the Association argues that

"through its affirmative vote for both the local and regional school tax levies in 1999, [the Borough's public] has proclaimed its interest and welfare are in good health with the tax rate in 1999." (Association Brief at pg. 5)

The Association maintains that in 1996, the Borough's crime rate per 1,000 of population was 42.5, which was the sixteenth highest crime rate in Monmouth County. (Association Exhibit Z-6) Notwithstanding this "relatively high crime rate," it contends that the Borough's crime solve rate was the best in Monmouth County. (Association Exhibit Z-6) The Association argues that "[d]espite the extremely high level of competency, professionalism and effectiveness of Shrewsbury police officers, they have been historically among the lowest paid law enforcement officers in Monmouth County." (Association Brief at pg. 51)

The Association recognizes that the interests and welfare of the public criterion also requires Interest Arbitrators to assess the limitations imposed on the Borough by New Jersey's CAP Law. For the following reasons, the Association argues that it has established that the wage increases it has proposed will not adversely affect the Borough's CAP and, therefore, that the Borough has the lawful authority to fund the Association's economic proposals. It further asserts that the Borough failed to present any expert testimony or financial data to dispute this contention.

The Association contends that in 1997, 1998 and 1999, the New Jersey CAP Law permitted municipalities to increase their budgets by up to five percent (5%). It maintains that in 1997, the Borough

increased its CAP by only two and one-half percent (2-1/2%), that in 1998, the Borough increased its CAP by only two and one-half percent (2-1/2%), and that in 1999, the Borough increased its CAP by only one and one-half percent (1-1/2%). (Association Exhibit Nos. 3, 20 and 37) Thus, the Association insists that the Borough has consistently adopted CAPS well below the five percent (5%) statutory maximum.

The Association also argues that if the Borough had opted to increase its budget in 1997, 1998 and 1999, by the full five percent (5%) permitted by New Jersey's CAP law, then the Borough could have increased its budget by an additional \$82,089 in 1997, by an additional \$89,608 in 1998, and by an additional \$127,815 in 1999. (Association Exhibit Nos. 3, 20 and 37)

The Association further maintains that even after adopting CAP increases of less than one-half (1/2) of what was permitted by statute in 1997, 1998 and 1999, the Borough underutilized the CAP increase it had adopted in each of those years. It contends that in 1997 the Borough did not appropriate \$157,631 of the operating appropriations allowed by the CAP it had adopted that year, that in 1998 the Borough did not appropriate \$201,913 of the operating appropriations allowed by the CAP it had adopted that year, and that in 1999 the Borough did not appropriate \$139,729 of the operating appropriations allowed by the CAP it had adopted that year. (Association Exhibit Nos. 1, 3, 18, 20 and 37)

Based upon this analysis, the Association argues that if the unused portion of the statutorily permitted five percent (5%) CAP

in 1999, is combined with the underutilized portion of the one and one-half percent (1-1/2%) CAP actually adopted by the Borough in 1999, then the Borough's unused CAP authority in 1999 actually equaled \$267,544 (\$127,815 + 139,729). (Association Exhibit No. 37)

For these reasons, the Association insists that there is no CAP problem in Shrewsbury. Accordingly, the Association argues that all aspects of the interests and welfare of the public criterion support awarding the Association's wage proposals.

The Association maintains that the evidence concerning the criterion regarding a comparison of the wages of other employees performing the same or similar services in public employment in comparable jurisdictions also supports awarding its wage proposals. It points out that Shrewsbury is located in Monmouth County and that the Association has relied upon comparisons to police officers in every Monmouth County community where data was available. The Association contends that the comparables it relied upon were not selected because they were rich communities with high salaries and benefits. To the contrary, it asserts that the Association's comparisons included Asbury Park, Keansburg and Highlands, which are three (3) of the poorest communities in Monmouth County. Thus, the Association argues that its comparisons "included the good the bad and the ugly to provide the Arbitrator with a full and complete comparison of Shrewsbury police officers with all of their Monmouth County brethren." (Association Brief at pg. 62)

The Association maintains that the record demonstrates that the average percentage wage increase for police officers employed

by Monmouth County's forty two (42) municipalities was 4.78% in 1996, 4.19% in 1997, 4.29% in 1998, and 4.17% in 1999. (Association Exhibits J-1 through J-4)

Based upon this data, the Association maintains that the Borough's 1998 salary proposal of three percent (3%) is 1.29% less than the average County wage increase for police officers in 1998. (Association Exhibits J-1 through J-4) In addition, it contends that the record shows that the Borough's 1998 salary proposal of three percent (3%), if awarded, would constitute the lowest 1998 percentage wage increase for police officers in all of Monmouth County. (Association Exhibits J-1 through J-4)

The Association further maintains that the Borough's 1999 wage proposal of two and one-half percent (2-1/2%) also is well below the average County wage increase for police officers in 1999. (Association Exhibits J-1 through J-4) Moreover, it asserts that the record shows that the Borough's 1999 salary proposal of two and one-half percent (2-1/2%), if awarded, would constitute the lowest 1999 percentage wage increase for police officers in all of Monmouth County. (Association Exhibits J-1 through J-4)

The Association also contends that the record shows that since 1993, the Borough's Police Officers have consistently ranked among the worst paid police officers in Monmouth County.

The Association asserts that in 1993, the \$44,210 base salary for a Borough Police Officer with eleven (11) years of experience, ranked thirty first (31) out of forty one (41) Monmouth County communities. (Association Exhibit K-1) It further asserts that

this base salary was \$1,307 below the average salary for comparable police officers in Monmouth County in 1993. (Association Exhibit K-1)

The Association asserts that in 1994, the \$46,420 base salary for a Borough Police Officer with eleven (11) years of experience, ranked thirty second (32) out of forty two (42) Monmouth County communities. (Association Exhibit K-2) It further asserts that this base salary was \$1,417 below the average salary for comparable police officers in Monmouth County in 1994. (Association Exhibit K-2)

The Association asserts that in 1995, the \$48,277 base salary for a Borough Police Officer with eleven (11) years of experience, ranked thirty fourth (34) out of forty one (41) Monmouth County communities. (Association Exhibit K-3) It further asserts that this base salary was \$2,061 below the average salary for comparable police officers in Monmouth County in 1995. (Association Exhibit K-3)

The Association asserts that in 1996, the \$50,207 base salary for a Borough Police Officer with eleven (11) years of experience, ranked thirty first (31) out of thirty eight (38) Monmouth County communities. (Association Exhibit K-4) It further asserts that this base salary was \$2,676 below the average salary for comparable police officers in Monmouth County in 1996. (Association Exhibit K-4)

The Association asserts that in 1997, the \$52,216 base salary for a Borough Police Officer with eleven (11) years of experience,

ranked thirty first (31) out of thirty five (35) Monmouth County communities. (Association Exhibit K-5) It further asserts that this base salary was \$3,240 below the average salary for comparable police officers in Monmouth County in 1997. (Association Exhibit K-5) The Association relies upon the following data in support of that assertion.

Monmouth County Top Ptlim. Salary - 1997
Base Salary Only - Year 11

1	Wall	61,863
2	Howell	61,568
3	Middletown	60,826
4	Freehold Twp.	60,800
5	Brielle	60,752
6	Eatontown	60,640
7	Rumson	59,021
8	Neptune Twp.	58,947
9	Belmar	58,514
10	Ocean	56,581
11	Spring Lake	56,107
12	Sea Grit	55,724
13	Tinton Falls	55,564
14	Oceanport	55,383
15	Manasquan	55,288
16	Highlands	55,267
17	Marlboro	54,795
18	Freehold Bor	54,758
19	Red Bank	54,439
20	Monmouth Beach	54,337
21	Little Silver	54,137
22	Asbury Park	54,020
23	Fair Haven	53,975

24	Union Beach	53,924
25	Hazlet	53,769
26	Neptune City	53,741
27	Atlantic Highlands	53,033
28	Holmdel	52,968
29	Keansburg	52,654
30	Keyport	52,307
31	Shrewsbury	52,216
32	Long Branch	51,759
33	Aberdeen	51,707
34	Allenhurst	48,515
35	Colts Neck	<u>47,826</u>
	1997 Monmouth County Average:	55,456

(Association Exhibit K-5)

The Association contends that if the Borough's proposed wage increase of three percent (3%) in 1998 is awarded, then the Borough's Police Officers will fall further behind their counterparts in Monmouth County. It asserts that if a three percent (3%) wage increase is awarded in 1998, then the base salary of an eleven (11) year Borough Police Officer will increase to \$53,782, and will fall below the salary of comparable police officers in all but two (2) Monmouth County communities. (Association Exhibit K-6) The Association further asserts that the 1998 salary of an eleven (11) year Borough Police Officer will be \$4,303 below the County average for comparable officers. (Association Exhibit K-6)

The Association maintains that if the five percent (5%) wage increase it has proposed for 1998 is awarded, the base salary of an eleven (11) year Borough Police Officer will increase to \$54,827 and exceed the salary of comparable police officers in only five

¹ The Association submitted similar data for 1993, 1994, 1995, and 1996. (Association Exhibits K-1 through K-4)

(5) Monmouth County communities. (Association Exhibit K-6) It also contends that the base salary of an eleven (11) year Borough Police Officer will still be \$3,258 below the County average for comparable officers. (Association Exhibit K-6)

The Association relies upon the following data in support of that assertion.

Monmouth County Top Ptln. Salary - 1998
Base Salary Only - Year 11

1	Wall	64,887
2	Howell	63,824
3	Brielle	63,638
4	Eatontown	63,611
5	Middletown	63,563
6	Freehold Twp.	63,550
7	Rumson	61,529
8	Neptune Twp.	61,305
9	Belmar	60,855
10	Sea Gir	57,953
11	Manasquan	57,638
12	Highlands	57,478
13	Marlboro	57,343
14	Freehold Boro	57,222
15	Monmouth Bach	56,782
16	Red Bank	56,617
17	Little Silver	56,573
18	Hazlet	56,323
19	Fair Haven	56,136
20	Union Beach	56,081

21	Neptune City	55,907
22	Atlantic Highlands	55,286
23	Holmdel	55,087
24	Shrewsbury (Assuming a 5.0% raise)	54,827
25	Keansburg	54,760
26	Keyport	54,531
27	Long Branch	54,114
28	Aberdeen	53,775
29	Colts Neck	<u>50,026</u>
	1998 Mon. Cty Average w/o Shrewsbury	<u>58,085</u>
	<u>1998 Mon. Cty Average (Assuming Shrewsbury 5.0% raise)</u>	<u>57,973</u>

(Association Exhibit K-6)

The Association contends that if the Borough's proposed wage increase of two and one-half percent (2-1/2%) in 1999 is awarded, then the base salary of an eleven (11) year Borough Police Officer will increase to \$55,126, and constitute the second lowest salary for comparable officers in Monmouth County. (Association Exhibit K-7) It also asserts that the 1999 salary of an eleven (11) year Borough Police Officer will be \$5,469 below the \$60,595 County average for comparable officers. (Association Exhibit K-7)

The Association maintains that if the five percent (5%) wage increase it has proposed for 1999 is awarded, the base salary of an eleven (11) year Borough Police Officer will increase to \$57,568 and constitute the eighteenth (18) lowest salary for comparable officers out of twenty two (22) Monmouth County communities. (Association Exhibit K-7) It also contends that the base salary of an eleven (11) year Borough Police Officer will still be \$3,027 below the County average for comparable officers. (Association Exhibit K-7)

The Association relies upon the following data in support of that assertion.

Monmouth County Top Ptlim. Salary - 1999
Base Salary Only - Year 11

1	Wall	67,106
2	Freehold Twp.	66,425
3	Middletown	66,106
4	Howell	66,058
5	Eatontown	65,996
6	Rumson	64,144
7	Belmar	62,985
8	Sea Girt	60,272
9	Manasquan	60,087
10	Freehold Boro	59,797
11	Highlands	59,777
12	Hazlet	58,998
13	Little Silver	58,977
14	Red Bank	58,881
15	Union Beach	58,605
16	Fair Haven	58,381
17	Holmdel	57,704
18	Shrewsbury (Assuming a 5.0% raise)	57,568
19	Keyport	56,984
20	Keansburg	56,950
21	Aberdeen	55,926
22	Colts Neck	<u>52,326</u>
1999 Mon. Cty. Average w/o Shrewsbury		<u>60,595</u>
1999 Mon. Cty. Average (Assuming Shrewsbury 5.0% raise)		<u>60,457</u>

(Association Exhibit K-7)

The Association maintains that this "grim picture does not get any brighter" when longevity payments are taken into account. For example, it contends that when longevity payments are added to base salary, a Shrewsbury Police Officer with eleven years of experience in 1997, ranked twenty eighth (28) when compared to his counterparts in thirty five (35) Monmouth County communities. It also contends that the 1997 salary of \$54,827, including longevity

payments, paid to a Shrewsbury Police Officer with eleven (11) years of experience, was \$2,563 less than the average of \$57,380 paid to comparable police officers in Monmouth County in 1997. The Association relies upon the following data in support of those assertions.

Monmouth County Top Ptln. Salary - 1997
Base Salary & Longevity - Year 11

1	Wall	65,575
2	Brielle	64,360
3	Middleton	63,867
4	Eatontown	63,066
5	Howell	62,818
6	Freehold Twp.	62,600
7	Belmar	60,855
8	Rumson	60,646
9	Neptune Twp.	60,547
10	Spring Lake	59,473
11	Tinton Falls	58,898
12	Highlands	58,767
13	Manasquan	58,052
14	Ocean	58,001
15	Marlboro	57,535
16	Sea Girt	57,117
17	Little Silver	56,302
18	Oceanport	56,283
19	Freehold Boro	56,258
20	Union Beach	56,081
21	Red Bank	56,072
22	Keansburg	55,813
23	Fair Haven	55,710
24	Monmouth Beach	55,424
25	Hazlet	55,113
26	Holmdel	54,968
27	Neptune City	54,941
28	Shrewsbury	54,827
29	Asbury Park	54,741
30	Keyport	54,661
31	Atlantic Highlands	54,194
32	Aberdeen	52,707
33	Long Branch	52,359
34	Allenhurst	50,941
35	Colts Neck	<u>48,726</u>
	1997 Monmouth County Average	<u>57,380</u>

(Association Exhibit L-5)²

The Association asserts that even if its proposed wage

² The Association submitted similar data for 1993, 1994, 1995, and 1996. (Association Exhibits L-1 through L-4)

increases of five percent (5%) in 1998 and five percent (5%) in 1999 are awarded, the compensation paid to a Borough Police Officer with eleven (11) years of experience, including longevity, will continue to be among the worst in Monmouth County. It relies upon the following data concerning 1998 and 1999 in support of those assertions.

**Monmouth County Top Ptlm. Salary - 1998
Base Salary & Longevity - Year 11**

1	Wall	68,780
2	Brielle	67,246
3	Middletown	66,741
4	Eatontown	66,155
5	Freehold Twp.	65,550
6	Howell	65,374
7	Belmar	63,289
8	Rumson	63,279
9	Neptune Twp.	62,905
10	Highlands	60,978
11	Manasquan	60,520
12	Marlboro	60,210
13	Sea Girt	59,402
14	Freehold Boro	59,072
15	Union Beach	58,885
16	Red Bank	58,882
17	Little Silver	58,836
18	Keansburg	58,046
19	Fair Haven	58,021
20	Monmouth Beach	57,918
21	Hazlet	57,731
22	Shrewsbury (Assuming 5.0% raise	57,568
23	Keyport	57,258
24	Neptune City	57,107
25	Holmdel	57,087
26	Atlantic Highlands	56,447
27	Aberdeen	54,775
28	Long Branch	54,714
29	Colts Neck	<u>51,126</u>
	1998 Mon. Cty. Average w/o Shrewsbury	<u>60,226</u>
	1998 Mon. Cty. Average (Assuming Shrewsbury 5.0% raise)	<u>60,135</u>

(Association Exhibit L-6)

Monmouth County Top Ptlm. Salary - 1999
Base Salary & Longevity - Year 11

1	Wall	71,132
2	Middletown	69,411
3	Freehold Twp.	68,425
4	Eatontown	68,005
5	Howell	67,908
6	Rumson	66,109
7	Belmar	65,504
8	Highlands	63,277
9	Manasquan	63,091
10	Freehold Boro	61,897
11	Sea Girt	61,779
12	Union Beach	61,535
13	Little Silver	61,336
14	Red Bank	61,236
15	Hazlet	60,768
16	Holmdel	60,454
17	Shrewsbury (Assuming 5.0% raise	60,446
18	Fair Haven	60,391
19	Keansburg	60,367
20	Keyport	59,833
21	Aberdeen	56,926
22	Colts Neck	<u>53,626</u>
	1999 Mon. Cty. Average w/o Shrewsbury:	<u>62,996</u>
	1999 Mon. Cty. Average (Assuming Shrewsbury 5.0% Raise):62,880	

(Association Exhibit L-7)

The Association points out that the situation will be even worse if the Borough's salary proposals for 1998 and 1999 are awarded.

The Association maintains that for Borough Police Officers with twenty one (21) years of service, "the comparison of their base salary as well as their total compensation with their Monmouth County colleagues is equally as bleak." (Association Brief at pg.

33) It asserts that in terms of base salary, Shrewsbury Police Officers with twenty one (21) years on the job, ranked thirty first (31) in 1993 when compared to the base salaries paid to their counterparts in forty one (41) Monmouth County communities; ranked thirty second (32) in 1994 when compared to the base salaries paid to their counterparts in forty two (42) Monmouth County communities; ranked thirty fourth (34) in 1995 when compared to the base salaries paid to their counterparts in forty one (41) Monmouth County communities; ranked thirty second (32) in 1996 when compared to the base salaries paid to their counterparts in thirty eight (38) Monmouth County communities; and ranked thirty first (31) in 1997 when compared to the base salaries paid to their counterparts in thirty five (35) Monmouth County communities. (Association Exhibits S-1 through S-5)

The Association contends that the twenty one (21) year Borough Police Officer will remain one of the lowest paid police officers in Monmouth County even if its five percent (5%) wage increase proposal is awarded in 1998 and 1999. It asserts that the 1998 base salary of \$54,827 would rank twenty fourth (24) out of twenty nine (29) Monmouth County communities and \$3,358 below the \$58,085 Monmouth County average. (Association Exhibit S-6) The Association further asserts that the 1999 base salary of \$57,568 would be the fifth lowest in Monmouth County and \$3,027 below the \$60,595 Monmouth County average. (Association Exhibit S-7) It points out that these gross disparities in wages will be further aggravated if the Borough's meager salary proposals are awarded.

The Association maintains that "[w]hen the 7% longevity compensation for the 21 year Shrewsbury police officer is included in the analysis, the Shrewsbury 21 year police officer still ranks among the worst paid in Monmouth County." (Association Brief at pg. 34) It asserts that in terms of base salary and longevity payments, Shrewsbury Police Officers with twenty one (21) years on the job, ranked twenty seventh (27) in 1993 when compared to the compensation salaries paid to their counterparts in forty one (41) Monmouth County communities; ranked twenty ninth (29) in 1994 when compared to the compensation paid to their counterparts in forty two (42) Monmouth County communities; ranked thirty first (31) in 1995 when compared to the compensation paid to their counterparts in forty one (41) Monmouth County communities; ranked twenty ninth (29) in 1996 when co

The Association maintains that "[w]hen the 7% longevity compensation for the 21 year Shrewsbury police officer is included in the analysis, the Shrewsbury 21 year police officer still ranks among the worst paid in Monmouth County." (Association Brief at pg. 34) It asserts that in terms of base salary and longevity payments, Shrewsbury Police Officers with twenty one (21) years on the job, ranked twenty seventh (27) in 1993 when compared to the compensation salaries paid to their counterparts in forty one (41) Monmouth County communities; ranked twenty ninth (29) in 1994 when compared to the compensation paid to their counterparts in forty two (42) Monmouth County communities; ranked thirty first (31) in 1995 when compared to the compensation paid to their counterparts in forty one (41) Monmouth County communities; ranked twenty ninth (29) in 1996 when compared to the compensation paid to their counterparts in thirty eight (38) Monmouth County communities; and ranked twenty eight (28) in 1997 when compared to the compensation paid to their counterparts in thirty five (35) Monmouth County communities. (Association Exhibits T-1 through T-5)

The Association contends that the twenty one (21) year Borough Police Officer will remain one of the lowest paid police officers in Monmouth County in terms of base salary and longevity combined, even if its five percent (5%) wage increase proposal is awarded in 1998 and 1999. It asserts that the 1998 compensation of \$58,665 would rank twenty third (23) out of twenty nine (29) Monmouth County communities and \$3,076 below the \$61,741 Monmouth County average. (Association Exhibit T-6) The Association further asserts

that the 1999 base salary and longevity of \$61,598 would rank sixteenth (16) out of twenty two (22) Monmouth County communities and \$2,734 below the \$64,332 Monmouth County average. (Association Exhibit T-7) It again points out that these comparisons would be even "grimmer" if the Borough's meager salary proposals were awarded.

For all of these reasons, the Association argues that comparisons to police officers in comparable communities supports awarding the Association's wage proposals.

With regard to comparisons with employees in the public sector other than police officers, the Association maintains that comparisons to Borough school teachers are particularly relevant. It points out that the wages of the Borough's school teachers are part of a school tax levy which is voted on by Borough taxpayers. Thus, the Association argues that the Borough's taxpayers could vote down the school tax levy if they wanted the Borough's teachers to earn less. However, it again notes that Borough's taxpayers have overwhelmingly approved the school tax levy for its own schools as well as the regional high school.

The Association asserts that Borough school teachers work fewer days and fewer hours than Borough Police Officers. It further asserts that Borough school teachers have better working conditions than Borough Police Officers, e.g., Borough school teachers do not work summers or holidays, they do not work weekends and evenings, and they have unlimited sick leave. The Association maintains that notwithstanding the fact that Borough school

teachers work thirty percent (30%) less than Borough Police Officers, experienced Borough school teachers earn more than experienced Borough Police Officers. (Association Exhibits G-28 and A-44) It also contends that Borough school teachers have "huge monetary educational incentives" when compared to Borough Police Officers.

For all of these reasons, the Association insists that "the Shrewsbury teacher earns more, works less and has nights and weekends off yet makes more money and has better fringe benefits than Shrewsbury police officers." (Association Brief at pg. 25)

With regard to comparisons to the private sector, the Association points out that it is undisputed that the United States economy is booming and has been booming for several years. (Association Exhibits C-1 through C-52) It asserts that unemployment is at a twenty eight (28) year low, that the minimum wage has significantly increased, and that jobs are being created at a record pace in the private sector. (Association Exhibits C, D and E)

The Association also maintains that the record shows that Monmouth County is booming. (Association Exhibits E-1 through E-31) For example, the Association asserts that Monmouth County has a high median income which surpasses both the national and state average. (Association Exhibits E-30 and E-31) It further asserts that Monmouth County gains jobs at a better rate than the nation or state average and has low unemployment. (Association Exhibits E-1, E-4, E-21, E-23, E-27 and E-28)

The Association argues that the Borough's Police Officers should share in this economic boom and "must be able to economically compete with the affluent citizens which they protect." (Association Brief at pg. 49)

For these reasons, the Association argues that when all of the relevant comparisons are made, its wage proposal is clearly the more reasonable and ought to be awarded.

With regard to the required analysis of the "lawful authority of the employer", the Association maintains that it generally focuses upon whether a party's economic proposals will create CAP difficulties for the employer. For the reasons discussed above, the Association insists that there is no CAP problem in Shrewsbury.

The Association points out that there are only fourteen (14) law enforcement employees in the bargaining unit it represents. Thus, it contends that the total cost difference between the Association's wage proposal and the Borough's wage proposal is actually quite small: \$12,597 in 1998 and \$30,913 in 1999. (Association Exhibits CC-1, CC-2, CC-5, and CC-6) The Association also asserts that "the average annual 1998-2001 total cost difference between the PBA's salary proposal and the Borough's salary proposal is only \$46,191." (Association Brief at pg. 64)

Thus, based upon these figures as well as the CAP analysis explained above, the Association insists that the Borough has the lawful authority to pay for the Association's economic proposals.

As to the criterion regarding the financial impact on the governing unit, its residents and taxpayers, the Association

maintains that its economic proposals, if awarded, will not have an adverse impact on Shrewsbury or its residents and taxpayers. It asserts that from 1994 through 1998, the Borough increased the amount of its "surplus balance remaining after deducting appropriations into general revenues as of January 1 of [the] succeeding year" from \$62,5893 in 1994 to \$164,629 in 1998. (Association Exhibit No. 49 and Borough 1996 through 1998 Audited Financial Statement Exhibits) Thus, the Association argues that the Borough has nearly tripled its surplus balance in just four (4) years.

According to the Association, the surplus figures it is relying on represent the amount of the surplus balance from the proceeding year left over after the surplus balance is used as a general revenue source. As an example, it explains that "[t]he ending surplus balance as of December 31, 1998 was \$639,629, which is also the same beginning balance for January 1, 1999. Shrewsbury used (i.e. appropriated) \$475,000 of its surplus as a general revenue source in 1999. Therefore, the surplus balance on January 1, 1999, after the \$475,000 was appropriated as a general revenue source, was a remaining balance of surplus in the amount of \$164,629." (Association Brief at pgs. 11-12)

The Association further maintains that from 1995 through 1998, the Borough regenerated an annual surplus from various sources which averaged over five hundred and seventy thousand dollars (\$570,000) per year. It asserts that the regenerated surplus was \$667,765 in 1995, \$551,210 in 1996, \$449,232 in 1997, and \$639,629

in 1998. (Borough 1996 through 1998 Audited Financial Statement Exhibits) The Association further asserts that these surpluses were all cash.

The Association claims that one (1) method used by the Borough to regenerate a surplus each year is to underestimate the percentage of taxes it will collect. It asserts that in 1997 and 1998, the Borough underestimated its tax collections by an average of 1.65% per year. (Association Exhibit Nos. 1, 18, 32 and 49) The Association further asserts that as a result of these underestimates in tax collection rates, the Borough collected an average of \$182,133 more in taxes than it had anticipated in 1997 and 1998.

With regard to tax rates, the Association contends that the Borough's municipal tax rate was .722 in 1997, .767 in 1998, and .795 in 1999. (Association Exhibit Nos. 33 and 51) Thus, it asserts that there has been an increase of just .073 cents in the Borough's municipal tax rate from 1997 through 1999. Therefore, the Association argues that the Borough's municipal tax rate has remained stable for several years.

The Association further maintains that the Borough's assessed valuation for real property increased from \$401,070,557 in 1994, to \$413,108,727 in 1998. Thus, it asserts that from 1994 through 1998, the assessed valuations for real property in the Borough increased by \$12,038,170, for an average annual increase of \$2,407,634. However, the Association points out that the Borough's assessed valuation for real property increased by almost six

million dollars (\$6,000,000) between 1997 and 1998. Thus, it argues that "the increase in assessed valuations between 1998 and 1999 may greatly exceed the 1994-1998 annual average of \$2.5 million." (Association Brief at pg. 18)

The Association also insists that the Borough "is a growing, vibrant and healthy Monmouth County municipality." (Association Brief at pg. 50) It asserts that in 1996, the Borough's median household income of \$76,200 was the sixth highest median household income out of fifty three (53) Monmouth County municipalities. (Association Exhibits Z-6 and Z-8) It also asserts that the Borough's two and six tenths percent (2.6%) unemployment rate was well below the County's five and eight tenths percent (5.8%) unemployment rate. (Association Exhibit Z-6)

The Association also maintains that the record shows that the Borough has recently appropriated more than one million dollars (\$1,000,000) for the construction of a new municipal complex, established a newly created position of Business Manager, and approved the acquisition of more than one million dollars (\$1,000,000) in expensive equipment such as a fire pumper and an ambulance. (Association Exhibits X-1 and X-2) It contends that the Borough would not have committed to these large expenditures if it did not have the means to pay for them. Thus, the Association insists that these financial commitments corroborate its contention that the Borough is in "exceptional financial shape and has more than sufficient means ... to satisfy the [Association's] economic proposals." (Association Brief at pg. 52)

For all of these reasons, the Association argues that this criterion also supports awarding its wage proposals.

As to the criterion regarding the continuity and stability of employment, the Association maintains that "[i]t is obvious and logical that Shrewsbury will in the future have significant difficulties keeping junior officers who receive one of the worst base salaries and total compensation (i.e., base salary plus longevity) in Monmouth County." (Association Brief at pg. 37) It asserts that if the total compensation paid to Borough Police Officers is allowed to continue to decline, then junior officers, after a few years of Borough employment, will transfer to other municipalities with superior compensation packages. The Association contends that the record shows that the Borough has already lost two (2) Officers in recent years to other law enforcement agencies. It insists that the Association's proposals, if awarded, will have a greater impact in promoting the continuity and stability of employment within the Borough's Police Department.

The Association also maintains that this criterion is linked to the statutory criterion concerning the interests and welfare of the public. It asserts that senior Police Officers are extremely valuable to the community for a variety of reasons, including, but not limited to, the following:

1. **The more senior knows the people in the Township;**
2. **The senior police officer knows the trouble spots in the Township;**
3. **The senior police officer knows the streets and geographic layout of the Township;**
4. **The senior officer takes less time to do a task than a junior officer which makes the police department as a whole more efficient;**
5. **A senior officer can detect crime patterns in the Township which occur over the course of several years, not just over the course of weeks and months; and**

6. **A senior police officer can help train the junior police officer in all of the above.**

(Association Brief at pg. 38)

Thus, the Association argues that the continuity and stability of employment criterion is just as important as the other statutory criteria and clearly supports awarding the Association's proposals.

Currently, Borough Police Officers are paid time and one-half for four (4) holidays and straight time for ten (10) holidays. The Association has proposed that the Borough's Police Officers be paid time and one-half for all fourteen (14) holidays. It asserts that the Borough's Officers are among the worst paid police officers in Monmouth County. The Association contends that the continuity and stability of employment will be advanced by awarding its holiday proposal. Therefore, it argues that the Association's holiday proposal ought to be awarded.

The Association has proposed adding the following passage to the end of Paragraph B of Article XVIII of the Agreement:

Additionally, the Borough shall provide indemnification to a member in the event of any adverse judgment. Pursuant to N.J.S.A 59:10-4, the Borough shall also indemnify a member for exemplary or punitive damages resulting from the employee civil violation of State or Federal law if, in the opinion of the governing body, the acts committed by the member upon which damages are based did not constitute actual fraud, actual malice, willfulness, or an intention wrong (Exhibit B-1)

(Association Brief at pgs. 39-40)

It asserts that this clause confirms with the relevant statutes and case law. The Association further asserts that it will not result in any increase in costs or other financial liabilities to the Borough. It also points out that the Borough has not submitted and

evidence in opposition to this proposal. For all of these reasons, the Association argues that its false arrest and liability insurance proposal is reasonable and ought to be awarded.

Currently, the parties' grievance procedure culminates in advisory arbitration. The Association has proposed amending the Agreement so that its grievance procedure culminates in binding arbitration. It asserts that grievance arbitration is looked upon favorably by New Jersey courts as an efficient and cost-effective way to resolve labor disputes. The Association further asserts that a grievance procedure that culminates in advisory arbitration will lead to more protracted and costly litigation. Thus, it insists that binding arbitration would advance the interests of both the Borough and the Association. Therefore, the Association argues that its binding arbitration proposal is reasonable and ought to be awarded.

Currently, Borough Police Officers are permitted to perform outside employment for independent contractors who must pay the Borough the Officer's hourly rate as well as an administrative fee. Article XXIII, Paragraph A(14) of the Agreement provides that when an Officer engages in such outside employment, "he or she shall, for purposes of his or her police pension, be entitled to all benefits that an off-duty police officer is normally entitled to." (Association Exhibit A at pg. 35)

The Association maintains that this is a typographical error and that the phrase "off-duty police officer" should be changed to "on-duty police officer." It asserts that the 1993-1994 Agreement

used the phrase "on-duty police officer." (Association Exhibit A at pg. 83) The Association further asserts that the Borough has not submitted any evidence challenging the Association's claim that the reference to "off-duty police officer" was a typographical error. Thus, it argues that the Association's outside employment proposal is reasonable and ought to be awarded.

Currently, the Borough's Chief of Police is required to post the work schedule for all Officers for a given calendar year by January 15th of that calendar year. (Association Exhibit A at pg. 12) In addition, vacation lists are posted by January 15 and approved by the Chief of Police by March 31 of each calendar year. (Association Exhibit A at pg. 12)

The Association has proposed amending Article VIII, Section A (a), of the Agreement, so that the work schedule and vacation list for a calendar year is posted by December 15 of the preceding calendar year and so that vacation requests are approved by February 15 of the calendar year. It asserts that this proposal, if awarded, would better able Borough Police Officers to plan their vacations and other leave days. The Association further asserts that this proposal, if awarded, would not adversely affect the Borough in any manner whatsoever. Therefore, it argues that the Association's work and vacation schedule proposal is reasonable and ought to be awarded.

Article VIII, Section B (3), of the Agreement, currently requires Borough Officers to request payment for accumulated compensatory time in the same calendar year that the time was

accumulated. (Association Exhibit A at pg. 12) The Association has proposed amending the relevant clause by adding the following provision: "except for time earned after the last vouchered of the year/request for which must be submitted by January 15 of the succeeding year." It asserts that this proposal, if awarded, will facilitate the receipt of payment for compensatory time by Officers who work overtime during the last half of December in any calendar year. The Association further asserts that this proposal, if awarded, would not adversely affect the Borough in any manner. Therefore, it argues that the Association's payment for compensatory time proposal is reasonable and ought to be awarded.

For a number of reasons, the Association opposes the Borough's proposal to require newly hired Police Officers to pay a portion of their hospitalization insurance.

The Association maintains that the Borough has failed to specify the portion of the cost of hospitalization insurance it wants new hires to pay. Thus, it argues that the Borough's new hire hospitalization insurance proposal is too vague to be awarded.

The Association also contends that there is no evidence in the record supporting the Borough's new hire hospitalization insurance proposal. For example, it asserts that there is no evidence that other Borough employees have been required to pay a portion of their health insurance. The Association further asserts that only three (3) of twenty nine (29) Monmouth County municipalities require police officers to pay for a portion of their health insurance coverage. (Association Exhibit P-1)

For all of these reasons, the Association argues that the Borough's new hire hospitalization insurance proposal is unreasonable and should not be awarded.

Currently, Borough Police Officers are permitted to accumulate up to one hundred and eighty (180) unused sick days. (Association Exhibit A at pg. 9) Upon retirement, they are entitled to be paid for up to one hundred and ten (110) unused sick days. (Association Exhibit A at pg. 9)

The Association opposes the Borough's proposal to reduce this benefit to a payment for up to ninety (90) days of unused sick leave, and to restrict this benefit to Officers who retire with twenty five (25) years or more of service. It asserts that the Borough has failed to provide a basis for reducing this important retirement benefit. Thus, the Association argues that the Borough's terminal leave proposal is unreasonable and ought not to be awarded.

In all, the Association submits that its final offer comports more closely than the Borough's with all of the relevant statutory criteria set forth in N.J.S.A. 34:13A-16 (g). It asks that its final offer be awarded.

The Borough, on the other hand, maintains that its final offer is the more reasonable one. Unlike the Association, the Borough has proposed a five (5) year Agreement with a term of January 1, 1998 through December 31, 2002.

The Borough has proposed across the board wage increases of three percent (3%) effective January 1, 1998, two and one-half

percent (2-1/2%) effective January 1, 1999, two and one-half percent (2-1/2%) effective January 1, 2000, two and one-half percent (2-1/2%) effective January 1, 2001, and two and one-half percent (2-1/2%) effective January 1, 2002. It also has proposed that two (2) wage steps be added to the parties' salary system over the life of the contract.

The Borough maintains that its salary proposals are the most reasonable. It contends that this conclusion is compelled by a consideration of all of the relevant statutory criteria specified in N.J.S.A. 34:13A-16(g). The Borough insists that the wage and fringe benefit package it is proposing allows it to be competitive with comparable communities while staying within its ability to pay under the law.

For a number of reasons, the Borough maintains that the first statutory criterion, which concerns the interests and welfare of the public, clearly supports its wage and other economic proposals. It asserts that its proposals, if awarded, will not impose any significant cost on the Borough's taxpayers, who are already facing a tax increase next year. The Borough further asserts that it is in significant financial trouble and does not have the unreserved funds to pay for the Association's economic proposals. Thus, it argues that if the Association's proposals are awarded, the Borough will either have to increase taxes or cut some other important public service. The Borough insists that the interests and welfare of the public favors neither outcome.

The Borough acknowledges that the public benefits from a

quality police force supported by competitive wages and benefits. However, it also contends that the Association has presented no evidence that its wage proposals are required to retain or recruit Police Officers. To the contrary, the Borough asserts that the record shows that the its Police Department has no problem recruiting large numbers of highly qualified applicants for an extremely limited number of openings.

Thus, the Borough insists that its offer, if awarded, will benefit the public financially while maintaining the competitive standing of its Police Officers with regard to compensation. Therefore, it argues that this criterion supports awarding the Borough's wage proposals.

The Borough maintains that the evidence concerning the criterion regarding a comparison of the wages of other employees performing the same or similar services in public employment in general and in comparable jurisdictions also supports awarding its wage proposal. It compares the Borough's Police Officers to police officers and firefighters in various New Jersey communities such as West New York and Atlantic City. The Borough also compares its Police Officers to police officers in neighboring urban areas such as Newark, New Jersey, Trenton, New Jersey, Philadelphia, PA, and New York City.

The Borough contends that West New York police officers were awarded no wage increase in 1994 and 1995, and only a three and three quarters percent (3-3/4%) wage increase in 1996 and 1997. In addition, it asserts that those police officers gave back vacation

days in return for their modest wage increases. (Borough Exhibit Section B, Part I at Exhibit H) The Borough further asserts that West New York firefighters agreed to a contract in 1995 which contained a wage freeze for one (1) year as well as a lower starting salary and added steps to their salary scale. (Borough Exhibit Section B, Part I at Exhibit J)

The Borough maintains that firefighters in Atlantic City also were awarded a wage freeze in 1996 and 1997. (Borough Exhibit Section B, Part I at Exhibit C) It asserts that the wage increases of less than four percent (4%) in other years of the contract were awarded in exchange for increases in the prescription co-pay paid by the firefighters.

The Borough contends that numerous other New Jersey police officers and firefighters have agreed to multiple-year wage freezes and other major givebacks. It maintains that in 1997, ten percent (10%) of all contracts negotiated called for a wage freeze. However, the Borough points out that its Police Officers have not had a wage freeze in recent memory. Rather, it claims that the Borough's Police Officers have received wage increases which "dwarfed" the moderate increases in the cost of living.

The Borough points out that in 1994, the maximum salary paid to a Shrewsbury Police Officer was \$46,420. It asserts that this compared favorably to the maximum salary paid to police officers in 1994 in Newark, New Jersey (\$45,144), Elizabeth, New Jersey (\$44,135), Camden, New Jersey (\$43,928), Trenton, New Jersey (\$42,711), and Philadelphia, PA (\$33,382). (Borough Exhibit Section

A, Part IV at Exhibit A) The Borough also asserts that the \$52,216 maximum base salary paid to Shrewsbury police officers in 1997, surpassed the \$44,901 maximum base salary paid to New York City police officers in 1997. (Borough Exhibit Section A, Part IV at Exhibit G)

The Borough asserts that in 1997, its Police Sergeants earned \$56,964, which was more than Sergeants earned in numerous Monmouth County communities. It submits the following data in support of that assertion:

**MAXIMUM SALARIES, SERGEANTS MONMOUTH COUNTY
(1997)**

Eatontown	\$66,757
Rumson	\$62,005
Sea Girt	\$61,658
Belmar	\$60,202
Spring Lake	\$59,696
Manasquan	\$59,191
Shrewsbury	\$56,964
Monmouth Beach	\$56,806
South Belmar	\$58,507
Keansburg	\$57,968
Atlantic Highlands	\$57,698
Neptune City	\$57,184
Little Silver	\$56,392
Deal	\$56,272
Bradley Beach	\$56,026
Spring Lake Hts.	\$55,403

(Borough Exhibit Section A, Part I at Exhibit G)

The Borough also asserts that in 1997, its Police Lieutenants earned \$59,886, which was more than their counterparts earned in Bradley Beach, Little Silver and Spring Lake Heights. It submits the following data in support of that assertion:

**MAXIMUM SALARIES, LIEUTENANTS
MONMOUTH COUNTY
(1997)**

Sea Girt	\$66,300
Belmar	\$64,417
Rumson	\$63,772
Manasquan	\$62,543
Keansburg	\$62,111
Avon-by-the-Sea	\$60,691
Neptune	\$60,597
Monmouth Beach	\$60,999
Shrewsbury	\$59,886
Spring Lake Hts.	\$59,582
Little Silver	\$58,729
Bradley Beach	\$58,608

(Borough Exhibit Section A, Part I at Exhibit K)

The Borough maintains that the Association's evidence concerning comparability contains no information regarding the prior base salaries received by the officers in question. It also contends that the Association's comparability evidence is devoid of information regarding benefits, give backs, or the financial condition of the communities in question. For these reasons, it argues that the Association's comparability evidence is "of limited use for comparison purposes." (Borough Brief at pg. 33)

Regarding comparisons with public employees in general, the Borough maintains that numerous State of New Jersey employees had their wages frozen in 1996 and 1997. (Borough Exhibit Section B, Part I at Exhibit F) It also contends that municipal employees in Atlantic City agreed to a wage freeze in 1995 and 1996, and lump sum payments in lieu of percentage wage increases in 1997,

1998, and 1999. (Borough Exhibit Section B, Part III at Exhibit F)

Regarding comparisons to employees in the private sector, the Borough maintains that the record shows that in 1996, Borough Police Officers earned more than the average wage earned by many professionals in New Jersey, such as teachers and FBI Agents. (Borough Exhibit Section A, Part I at Exhibit A)

For these reasons, the Borough argues that when all of the relevant comparisons are made, its wage proposal is clearly the more reasonable and ought to be awarded.

As to the criterion regarding overall compensation, the Borough points out that its Police Officers currently receive excellent benefits, including fifteen (15) days of sick leave per year; longevity payments of up to eight percent (8%) of base salary; four (4) personal days; fourteen (14) holidays, four (4) of which are paid at time and one-half; up to thirty (30) vacation days per year; and a clothing and personal appearance allowance of eight hundred dollars (\$800) per year. (Borough Exhibit Section A, Part I at Exhibits R through W) Thus, it argues that the compensation and benefits paid to Shrewsbury Police Officers are very competitive with the compensation and benefits paid to police officers in other Monmouth County communities.

The Borough further maintains that its Police Officers receive benefits which are superior to those received by their counterparts in other major cities. It asserts that Borough

Police Officers receive more personal days than their counterparts in Atlantic City and New York City, and a higher clothing allowance than their counterparts in Elizabeth, Camden and Philadelphia. (Borough Exhibit Section A, Part IV at Exhibits E, G and F)

The Borough also maintains that its Police Officers receive benefits which are not provided to many private sector employees. For example, it asserts that only fifty percent (50%) of private sector workers receive paid sick leave, only eighty percent (80%) of private sector workers receive paid vacation, only eighty percent (80%) of private sector workers receive paid holidays, and only forty six percent (46%) of private sector workers participate in a retirement plan.

Thus, the Borough insists that the record "demonstrates that Shrewsbury police officers are at the forefront, not only in their own profession, but in employment in general with respect to their salaries and conditions of employment." (Borough Brief at pg. 26) It argues that there is no little evidence in the record that the overall compensation paid to the Borough's Police Officers requires augmentation.

For these reasons, the Borough argues that the record evidence concerning this criterion also supports awarding its wage proposal.

As to the criterion concerning the Borough's lawful authority to pay for the proposals, the Borough, like the Association, focuses on New Jersey's CAP Law. It points out that

the law contains the following policy statement:

It is hereby declared the policy of the Legislature that the spiraling cost of local government must be controlled to protect the homeowners of the State and enable them to maintain their homesteads.

At the same time the Legislature recognizes that local government cannot be constrained to the point that it is impossible to provide necessary services to its residents.

N.J.S.A. 40A:4-45.1.

The Borough asserts that since 1991, the CAP Law has limited municipalities to increasing their final appropriations in each tax year by no more than five percent (5%). It further asserts that in May 1998, the Legislature amended the CAP Law to remove some "exceptions to the law, thereby further removing budget flexibility from New Jersey's municipalities." (Borough Brief at pg. 40)

The Borough insists that the Association's wage proposal, if awarded, will do nothing to stem the spiraling cost of local government and property taxes within Shrewsbury. It asserts that during the past four (4) years the Borough's tax rate increased from 2.210 to 2.647. (Borough Exhibit Section A, Part IV at Exhibit K) Thus, the Borough argues that only by awarding its wage proposal will this rising tax rate be reduced.

The Borough also maintains that the Association is requesting wage increases far in excess of five percent (5%) in each year of the Agreement. It contends that the "law requires and current arbitration practice reveals that Interest Arbitrators must include the cost of the increment payments in

the calculation of the Final Salary Award." (Borough Brief at pg. 16) The Borough insists that when the incremental increases Officers will receive during the life of the Agreement are added to the five percent (5%) across-the-board wage increases requested by the Association, then it is clear that the Association is demanding an eleven and two-tenths percent (11.2%) wage increase for the bargaining unit in 1998, a ten and six-tenths percent (10.6%) wage increase for the unit in 1999, a nineteen and nine-tenths percent (19.9%) wage increase for the unit in 2000, a ten and six-tenths percent (10.6%) wage increase for the unit in 2001, and a five and nine-tenths percent (5.9%) wage increase for the unit in 2002.³ (Association Exhibits CC-1 and CC-3)

For all of these reasons, it argues that this criterion also supports awarding the Borough's wage proposal.

As to the criterion regarding the financial impact on the governing unit, its residents and taxpayers, the Borough maintains that it is in poor financial condition and can ill afford large across-the-board wage increases or benefit improvements. It points out that the Borough's unreserved fund balance going into 1999 was only \$164,629. The Borough also points out that its adjusted fund balance, which includes deferred school taxes, was a negative \$1,310,371 in 1999. It

³ The Borough acknowledges that "[a] portion of these increases are reflective of new officers first joining the Department at the conclusion of 1997 and 1998." (Borough Brief at pg. 17)

asserts that for the same period, Little Silver had a positive adjusted fund balance of \$2,290,363 and Rumson had a positive adjusted fund balance of \$3,847,058. (Borough Exhibit Section A, Part IV at Exhibit K) Thus, the Borough argues that it is evident from these figures why communities like Little Silver and Rumson can afford large across-the-board wage increases for their police, while the Borough cannot.

The Borough further maintains that the budget for its Police Department is a large portion of its total budget. It asserts that the police budget for the Borough is approximately twenty four percent (24%) of its total budget, whereas the police budget for Little Silver is approximately nineteen and one-half percent (19-1/2) of its total budget and the police budget of Rumson is approximately fourteen and one-half percent (14-1/2) of its total budget. Thus, the Borough again argues that figures like these demonstrate why communities like Little Silver and Rumson can afford large across-the-board wage increases for their police, while the Borough cannot.

The Borough asserts that its general tax rate per \$100 is already one of the highest in Monmouth County. It submits the following data in support of that assertion:

**GENERAL TAX RATE PER \$100
MONMOUTH COUNTY
(1994)**

Atlantic Highlands	3.933
Shrewsbury	3.789
Manasquan	3.225
Brielle	3.124

Little Silver	3.109
Neptune City	3.050
Tinton Falls	3.045
Avon-by-the-Sea	2.981
Freehold	2.889
Bradley Beach	2.792
Ocean	2.763
Manalapan	2.734
Spring Lake Heights	2.730
Sea Grit	2.647
Belmar	2.411
Neptune City	2.380
Keansburg	2.355
Spring Lake	2.353
Monmouth Beach	2.328
Wall	2.317
Rumson	2.310

(Borough Exhibit Section A, Part II at Exhibit E)

The Borough further asserts that its tax levy per capita also is one of the highest in Monmouth County. It submits the following data in support of that assertion:

**TAX LEVY PER CAPITA
MONMOUTH COUNTY
(1994)**

Deal	\$4,318.65
Rumson	\$2,938.09
Sea Girt	\$2,956.40
Shrewsbury	\$2,806.37
Spring Lake	\$2,719.43
Little Silver	\$2,256.53
Monmouth Beach	\$2,135.88
Brielle	\$2,064.20
Manasquan	\$2,043.40
Avon-by-the-Sea	\$1,921.55
Bradley Beach	\$1,787.20
Atlantic Highlands	\$1,726.01
Wall	\$1,730.83
Ocean	\$1,644.92
Belmar	\$1,642.15

South Belmar	\$1,617.99
Tinton Falls	\$1,598.96
Manalapan	\$1,520.15
Freehold	\$1,496.20
Spring Lake Heights	\$1,371.12
Neptune Township	\$1,215.76

(Borough Exhibit Section A, Part I at Exhibit Z)

For these reasons as well, the Borough insists that its residents and taxpayers can ill afford the tax increases which would result if the Association's economic proposals were awarded.

The Borough acknowledges that the Association submitted numerous news articles which stated that the New Jersey and Monmouth County economies were booming. However, it argues that these articles do not demonstrate that the Borough can pay for the wage increases and benefit improvements proposed by the Association without increasing the tax burden on its residents and taxpayers. Rather, the Borough insists that the analysis provided by Eugene Farrell of the CPA firm Hutchins, Laezza, Farrell & Allison, demonstrates that the Borough cannot pay for the Association's proposals without increasing taxes or cutting services.

For all of these reasons, the Borough insists that this criterion also supports the awarding of its wage proposals.

As to the criterion concerning the cost of living, the Borough maintains that the cost of living is stable and that increases in the cost of living have been at historic lows. It asserts that the record shows that the Consumer Price Index

increased by only one and six-tenths percent (1.6%) in 1998, and by only one and seven-tenths percent (1.7%) in 1997. Thus, it argues that the Borough has proposed wage increases which are substantially higher than recent increases in the cost of living. Therefore, the Borough insists that this criterion also supports the awarding of its wage proposal.

As to the criterion concerning the continuity and stability of employment, the Borough maintains that the evidence demonstrates that the overall compensation paid to the Borough's Police Officers, including salary and benefits, "has been an inducement to remain in the long-term employ of the Borough of Shrewsbury Police Department." (Borough Brief at pg. 42) It asserts that the salary and benefits paid to the Borough's Police Officers are either comparable or superior to the salary and benefits paid to their counterparts in Monmouth County. The Borough further asserts that the benefits provided to its Police Officers are superior to the benefits received by employees in the private sector. It also contends that the Borough's "police officers enjoy particularly stable and continuous employment. They simply are not plagued with the obstacles and uncertainties that other employees face." (Borough Brief at pg. 45) For all of these reasons, the Borough argues that this criterion also supports awarding its wage proposal.

Currently, Borough Police Officers receive fourteen (14) paid holidays per year, four (4) of which are paid at time and one-half. The Borough has proposed that the number of paid

holidays be reduced to thirteen (13) and that all of them be paid at straight time rates.

The Borough asserts that its holiday proposal is supported by evidence concerning comparability. It submits the following data in support of that assertion.

**HOLIDAYS
MONMOUTH COUNTY**

Keansburg	16
Little Silver	15
Shrewsbury	14
Rumson	14
Wall	14
Freehold	14
Neptune Township	14
South Belmar	14
Manasquan	14
Manalapan	14
Belmar	13
Avon-by-the-Sea	13
Atlantic Highlands	13
Brielle	13
Neptune City	13
Bradley Beach	13
Tinton Falls	12
Sea Grit	12
Monmouth Beach	12
Ocean	12
Spring Lake	12

(Borough Exhibit Section A, Part I at Exhibit V)

The Borough further asserts that its holiday proposal is supported by evidence concerning the financial impact on the governing unit, its residents and taxpayers. For these reasons, it argues that the Borough's holiday proposal is reasonable and ought to be awarded. For those same reasons, the Borough insists

that the Association's proposal to increase the compensation paid to Officers for holidays is totally unreasonable and should be rejected.

The Borough has proposed to eliminate the current longevity benefit for newly hired Police Officers and replace it with the Borough's Personnel Policy which pays employees four hundred dollars (\$400) per year for each five (5) years of completed service. It asserts that the Borough's longevity proposal is supported by evidence concerning comparability. (Borough Exhibit Section A, Part I at Exhibit T) The Borough further asserts that its longevity proposal is supported by evidence concerning the financial impact on the governing unit, its residents and taxpayers. For these reasons, it argues that the Borough's longevity proposal is reasonable and ought to be awarded.

Currently, Borough Police Officers are permitted to accumulate up to one hundred and eighty (180) unused sick days. (Association Exhibit A at pg. 9) Upon retirement, they are entitled to be paid for up to one hundred and ten (110) unused sick days. (Association Exhibit A at pg. 9)

The Borough has proposed reducing this benefit to payment for up to ninety (90) days of unused sick leave upon retirement. It also has proposed restricting this benefit to Officers who retire with twenty five (25) years or more of service. The Borough asserts that the current cost of the sick leave its Officers have accumulated is \$493,888. Thus, it maintains that reducing this benefit will significantly reduce its cost to the

Borough and its taxpayers. The Borough further asserts that no such benefit exists in the private sector. (Borough Exhibit Section A, Part IV at Exhibit S and T) For all of these reasons, it argues that the Borough's terminal leave proposal is reasonable and ought to be adopted.

Currently, the Borough pays the full cost of major medical and dental benefits for its Police Officers. The Borough has proposed that newly hired Officers pay a portion of the cost of their medical benefits. It asserts that in the private sector, more often than not employees with health insurance must contribute to the cost of their medical benefits. (Borough Exhibit Section C at Exhibit J) The Borough further asserts that its health care costs increased by five and one-half percent (5-1/2%) in 1995, and by almost seven and one-half percent (7-1/2%) in 1998. (Borough Exhibit Section C at Exhibit M) It also points out that its health care proposal, if awarded, would not be a financial burden on current Police Officers. However, the Borough notes that it would decrease the burden on its taxpayers. For all of these reasons, it argues that the Borough's health insurance proposal is reasonable and ought to be adopted.

Currently, the Agreement's salary structure contains two (2) probationary steps and four (4) patrolmen steps. The Borough has proposed adding two (2) new salary steps for patrolmen.

According to the Borough, the average increase on the parties' salary structure was fourteen percent (14%). It maintains that "[t]he current percent salary increase from

Patrolman 3rd Class to Patrolman 2nd Class is 25%, while the percent salary increase from Probationary A to Patrolman 3rd is 15%." (Borough Brief at pg. 52) The Borough insists that these incremental steps are excessive. It also contends that recent settlements between communities and their police officers demonstrate the reasonableness of adding new steps to the parties' salary structure. For all of these reasons, the Borough argues that its salary step proposal is reasonable and ought to be awarded.

The Borough opposes the Association's proposal to add the language of N.J.S.A. 59:10-4 to the end of Article XVIII, paragraph B of the Agreement. It asserts that in New Jersey, municipal indemnification of police officers is governed by statute and is outside the scope of labor contracts. The Borough further asserts that pursuant to T & M Holmes, Inc. v. Pemberton Twp., 190 N.J. Super. 637 (1983), municipalities do not have the power to waive immunity from punitive damages. For all of these reasons, it argues that the Association's indemnification proposal is unreasonable and should not be awarded.

Currently, the parties' grievance procedure culminates in advisory arbitration. The Borough opposes the Association's proposal that the Agreement be amended so that its grievance procedure culminates in binding arbitration. It points out that the current language explicitly states that the parties may agree to binding arbitration. (Association Exhibit A at pg. 33) The Borough also contends that there is no evidence that the

Association has ever requested binding arbitration. For these reasons, it argues that the Association's binding arbitration proposal is unreasonable and should not be awarded.

Currently, the Borough's Chief of Police is required to post the work schedule for all Officers for a given calendar year by January 15th of that calendar year. (Association Exhibit A at pg. 12) In addition, vacation lists are posted by January 15 and approved by the Chief of Police by March 31 of each calendar year. (Association Exhibit A at pg. 12)

The Borough opposes the Association's proposal to amend Article VIII, Section A (a), of the Agreement, so that the work schedule and vacation list for a calendar year are posted by December 15 of the preceding calendar year and so that vacation requests are approved by February 15 of the calendar year. It asserts that there is no evidence to support the Association's contention that adopting this proposal would not impose a burden on the Borough. Thus, the Borough argues that these proposals should not be awarded.

Article VIII, Section B (3), of the Agreement, currently requires Borough Officers to request payment for accumulated compensatory time in the same calendar year that the time was accumulated. (Association Exhibit A at pg. 12) The Borough opposes any change in this aspect of the Agreement. It asserts that there is no evidence in the record that Officers who work overtime have not received payments for their work when payment has been requested. Thus, the Borough argues that this proposal

also should not be awarded.

In all, the Borough maintains that its final offer best comports with all of the relevant statutory criteria set forth in N.J.S.A. 34:13A-16(g). It asks that its final offer be awarded.

OPINION

Several introductory comments are appropriate here. In the absence of an agreement to the contrary by the parties, the procedure to be used in this matter is conventional interest arbitration. As Interest Arbitrator, I must adhere as follows to the statutory criteria set forth in N.J.S.A. 34:13A-16(g).

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

(1) The interests and the welfare of the public. Among the items the arbitrator 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) Comparisons of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing the same or similar services and with other employees generally:

- (a) In 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 sections 5 of P.L. 1995, c.425 (C.34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salaries, 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 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.).

(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 shall take into account, to the extent the evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

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

Accordingly, and with these principles in mind, I now turn to the facts of this dispute.

The Association has proposed a four (4) year Agreement with a term of January 1, 1998 through December 31, 2001. The Borough, on the other hand, has proposed a five (5) year Agreement with a term of January 1, 1998 through December 31, 2002. For the following reasons, I agree with the Borough's preference for a five (5) year Agreement.

A five (5) year Agreement makes good sense. First, an Award covering a five (5) year period will enable the parties involved in this proceeding to have a sufficient period of time to resume their relationship free from the interruptions of collective bargaining. Second, it is important to note that an Award of an Agreement of only four (4) years would require that negotiations between the parties for a successor Agreement begin before the end of next year. This would be unduly burdensome on both the Borough and the Association.

Third, since I have awarded certain changes in the wages and benefits received by Borough's police personnel, the parties must have a sufficient period of time to evaluate those changes before entering into collective negotiations during which the parties

may seek to alter some or all of those changes. Less than two (2) years, which is when a four (4) year Agreement would expire, is too short a period of time in which to evaluate the changes awarded herein.

Thus, I have formulated this Award based upon a contract term of five (5) years, covering the period January 1, 1998 through December 31, 2002.

I now turn to the remaining components of the parties' proposals. The Association has proposed, exclusive of increments, across-the-board wage increases of five percent (5%) effective January 1, 1998, five percent (5%) effective January 1, 1999, five percent (5%) effective January 1, 2000, and five percent (5%) effective January 1, 2001. Thus, the Association has proposed an average annual wage increase of five percent (5%).

The Borough, on the other hand, has proposed across-the-board wage increases of three percent (3%) effective January 1, 1998, two and one-half percent (2-1/2%) effective January 1, 1999, two and one-half percent (2-1/2%) effective January 1, 2000, two and one-half percent (2-1/2%) effective January 1, 2001, and two and one-half percent (2-1/2%) effective January 1, 2002. This amounts to a thirteen percent (13%) rate increase over five (5) years, or an average annual increase of two and six-tenths percent (2.6%).

I find both proposals to be unacceptable. Clearly, given the financial circumstances of the Borough, there can be no

justification for an average annual increase of five percent (5%). Under no circumstances can this level of increase be justified in light of the relevant statutory criteria.

On the other hand, the Borough's proposal of an average annual increase over five (5) years of two and six-tenths percent (2.6%) also is not justified. It would result in the Borough's Police Officers unnecessarily falling further behind their counterparts in neighboring comparable communities. As explained below, the financial circumstances of the Borough can be taken into account without requiring that the wages of the Borough's Police Officers fall further behind the wages paid to police officers in surrounding jurisdictions. Thus, the Borough's wage proposal cannot be justified when all of the relevant statutory criteria are taken into account.

Instead, I am persuaded that wage increases between the Association's five percent (5%) annual wage increase proposal and the Borough's two and six-tenths percent (2.6%) annual wage increase proposal are appropriate here.

In order to determine with specificity the appropriate economic package, it is necessary to analyze each of the statutory criteria in relation to the positions proffered by the parties.

As to the interests and welfare of the public, I agree with the Borough that its citizens are not benefited by salary increases which the Borough cannot afford and which result in reductions in other needed services or tax increases for the

Borough's residents. Therefore, logically, the Borough's proposal, which is lower than the Association's, is preferred when evaluating the economic interests and welfare of the public.

However, the public's interests and welfare are also served by a police force that is stable and whose morale is high. Thus, I am persuaded that a wage package which resulted in the salaries of the Borough's police personnel falling further behind the salaries paid to their counterparts in comparable Monmouth County jurisdictions, would not serve the interests and welfare of the citizens of the Borough. After all, the interests and welfare of the public criterion is not limited solely to the public's financial interests and welfare. By necessity, it also must involve the community's interests and welfare in having its police force continue to serve its essential needs and provide essential services.

As discussed below, the record demonstrates that in 1997, the Borough's Police Officers were paid salaries which ranked thirty first (31) out of thirty five (35) Monmouth County communities. (Association Exhibit K-5 and S-5) In addition, the record shows that if the Borough's proposed 1998 wage increase of three percent (3%) were awarded, the salary ranking of the Borough's Police Officers would fall even further. Under any reasonable view, such an outcome would invariably cause a decline in police morale. This does not serve the interests and welfare of the public. Moreover, it is not necessitated by the evidence concerning the statutory criteria submitted by the Borough. In

addition, as discussed below, the record shows that the Borough has the budget flexibility to pay for wage increases for its police personnel which will not undermine morale within the Borough's Police Department.

Therefore, I find that the statutory criterion concerning the interest and welfare of the public favors awarding an increase between the increases proposed by the parties, but closer to the increases proposed by the Borough.

The second criterion requires a comparison of the wages, salaries, compensation, hours, and conditions of employment of Shrewsbury police personnel with those of other employees performing the same or similar services in the public sector in comparable jurisdictions, in public employment in general and in private employment in general.

Both parties have relied upon comparisons between Shrewsbury and other municipalities in Monmouth County. Some of those communities are more similar to Shrewsbury than others. Comparability, however, rather than identity of communities, is all that is required by that part of the statute calling for comparisons with "similar comparable jurisdictions." Differences in degrees of comparability can be taken into account when evaluating evidence drawn from jurisdictions with different degrees of comparability to the Borough.

The Borough also has relied upon comparisons with police officers working in urban communities, such as Newark, New Jersey and Trenton, New Jersey. Those urban jurisdictions are

dissimilar from Shrewsbury. The statute, however, clearly calls for comparisons between the employees involved in the arbitration and employees performing the same or similar services in public employment in general.

Thus, I find that the communities relied upon by both the Borough and the Association are appropriate communities for purposes of drawing the comparisons required by the statute.

The record demonstrates that in 1997, the base salary of \$52,216 paid to the Borough's Police Officers ranked thirty first (31) out of thirty five (35) Monmouth County communities. (Association Exhibit K-5 and S-5) Long Branch, Aberdeen, Allenhurst and Colts Neck were the Monmouth County communities which paid their police officers a base salary less than the salary earned by the Borough's Officers. (Association Exhibits K-5 and S-5) In addition, the base salary paid by the Borough to its Police Officers was \$3,240 below the average base salary paid to police officers in Monmouth County. (Association Exhibits K-5 and S-5)

This evidence clearly supports awarding the wage increased proposed by the Association. Even if the five percent (5%) wage increases proposed by the Association were awarded in 1998 and 1999, the Borough's Police Officers would still be paid a base salary less than the average base salary paid to officers in Monmouth County in 1998 and 1999. (Association Exhibits K-6 and K-7)

The statute, however, requires more than a comparison

between base salaries. It requires a comparison of "wages, salaries, hours and conditions of employment." Longevity payments and the other benefits received by police officers are all part of the salaries and conditions of employment which must be considered in any relevant comparison. Stated otherwise, compensation paid to two (2) groups of employees can be virtually equal even though one group of employees receives a higher percentage of compensation as base salary and the other group of employees receives a higher percentage of compensation as benefits.

Here, the record shows that the Borough's Police Officers are paid longevity benefits that are higher than the average longevity benefits paid to police officers in Monmouth County. (Association Exhibits Q-1 and R-1) Thus, it is not surprising that when longevity is factored into compensation, Shrewsbury Police Officers in 1997 ranked twenty eighth (28) out of thirty five (35) Monmouth County communities. (Association Exhibits L-5 and T-5)

The record also demonstrates that Borough Police Officers receive other benefits that are superior to the benefits received on average by their counterparts in Monmouth County. For example, Borough Police Officers receive more than the average number of paid holidays, paid sick days, and paid personal days provided to police officers in Monmouth County. (Association Exhibit M; Borough Exhibit Section A, Part I at Exhibits S and T)

Thus, the better than average benefits provided to the

Borough's Police Officers requires that the wage increases awarded to those Officers be less than they would have been had base salaries alone been considered.

In addition, the evidence submitted by the Borough concerning the salaries and benefits paid to police officers in urban communities and to employees in the private sector also requires awarding wage increases to the Borough's Police Officers less than the increases proposed by the Association.

The comparability evidence submitted by the parties, however, clearly supports awarding increases in excess of those proposed by the Borough. The record demonstrates that if the wage increases proposed by the Borough are awarded, then the base salaries paid to Borough Police officers in 1998 ($\$52,216 \times 1.03 = \$53,782$) would rank twenty seventh (27) out of twenty nine (29) Monmouth County communities, and the base salaries paid to Borough Police Officers in 1999 ($\$53,782 \times 1.025 = \$55,127$) would rank twenty first (21) out of twenty two (22) Monmouth County communities. (Association Exhibits K-5, K-6 and K-7)

Thus, if the Borough's 1998 and 1999 wage proposals were awarded, the Borough's police personnel, who are already paid below average salaries, would fall further behind their counterparts in Monmouth County. Indeed, they would become almost the lowest paid police officers in Monmouth County in terms of base salary. No increases in benefits which might justify such a drop in base salary ranking are being awarded herein. Therefore, the comparability evidence in the record

clearly requires that increases be awarded in excess of those proposed by the Borough.

On the other hand, five percent (5%) wage increases, as requested by the Association, are not needed to maintain the relative salary ranking of the Borough's Police Officers. An increase in base salary of four percent (4%) to \$54,304 in 1998⁴, and an increase in base salary of three and one-half percent (3-1/2%) to \$56,204 in 1999⁵, will result in the Borough's Police Officers maintaining their salary ranking in Monmouth County, ahead of the base salaries paid to officers in Long Branch, Aberdeen, Allenhurst and Colts Neck. (Association Exhibits K-5, K-6 and K-7)

Thus, when all of the relevant comparisons are made, I find that the record evidence concerning comparability supports awarding wage increases in between the increases proposed by the Borough and the Association, but closer to the increases proposed by the Association.

The next criterion deals with the overall compensation received by the Borough's police personnel. I agree with the Borough that the overall compensation received by its police personnel is very good and includes generous benefits in areas such as vacations, sick leave, holidays and longevity. However, the Association also is correct in pointing out that the base salaries received by the Borough's police personnel are less than

⁴ \$52,216 x 1.04 = \$54,304.

⁵ \$54,304 x 1.035 = \$56,204.

the average base salary paid to their counterparts throughout Monmouth County. Although there are certainly differences in the type and degree of compensation received by police officers in Monmouth County, when considered as an overall package, I find that the overall compensation received by the Borough's police personnel is only slightly less than the total compensation received by their counterparts in comparable jurisdictions.

Here, however, the record shows that the average percentage wage increase for police officers employed by Monmouth County's municipalities was 4.29% in 1998 and 4.17% in 1999. (Association Exhibits J-1 through J-4) Thus, notwithstanding the current comparability noted above, the overall compensation of the Borough's police personnel would not fare relatively well with the overall compensation received by other police officers in comparable jurisdictions, if I were to award the Borough's final wage proposal. Under those terms, the Borough's police personnel would fall further behind their counterparts in comparable jurisdictions. On the other hand, the economic package being sought by the Association is more generous than is necessary to maintain the relative standing of the Borough's police personnel in terms of overall compensation and benefits. Thus, I find that this criterion also demonstrates the appropriateness of awarding an economic package which falls somewhere between the economic packages being sought by the Borough and the Association.

As to the criterion concerning the stipulations of the parties, the Borough and the Association have agreed to waive the

statutory time limits for the issuance of this Opinion and Award. No other substantive stipulations were agreed to by the parties. Thus, this statutory criterion is not particularly relevant to resolving the parties' disputes.

As to the lawful authority of the employer, I note the existence of New Jersey's Cap Law and the resulting Cap rate set each year. I accept the Borough's position that New Jersey's Cap Law places constraints on the Borough's budget as well as on its lawful authority to pay for wage increases to its police personnel. However, there is no evidence that the Borough cannot lawfully pay for the wage increases proposed by the Association should they be awarded. However, for reasons noted elsewhere in this Opinion, I am awarding an economic package which will cost the Borough less than the economic package being sought by the Association. Based upon the record evidence, there can be no dispute that the Borough has the lawful authority to pay for the types of increases awarded herein.

The statutory criteria concerning the financial impact of the parties' proposals on the governing unit, its residents and taxpayers, essentially asks for an analysis of the Borough's ability to pay.

The Borough has made a compelling case that it is not flush with money. That is, too substantial of a wage increase will necessarily result in either the cost of that increase being shifted to the Borough's residential taxpayers or in a reduction in other important municipal services.

In addition, the evidence shows that the Borough's tax rate increased from 2.210 in 1994 to 2.647 in 1998. (Borough Exhibit Section A, Part IV at Exhibit K) That represents an increase of nineteen and eight-tenths percent (19.8%) over four (4) years or an average annual increase in the Borough's tax rate of almost five percent (5%).⁶ Thus, the Borough's tax rate has been growing at rates more than double the increase in the cost of living. Clearly, the Borough's residential tax payers can ill afford further tax increases.

Given the current economic climate in Shrewsbury, this statutory criterion requires that I not award the increases being sought by the Association. Instead, the wage increases awarded must be more modest. Otherwise, there will be an unnecessary burden upon the governing unit and its residents and taxpayers. For this reason, I conclude that while a weighing of all of the relevant statutory criteria entitles the Borough's police personnel to a substantial wage increase, the financial circumstances of the Borough necessitate moderating the cost of such an increase to the Borough. Thus, primarily because of the financial impact upon the governing unit and its residents and taxpayers, the salary increases awarded below are less than what would be justified if the other statutory criteria were emphasized.

As a result, I have determined that the 1998 wage increase shall be a four percent (4%) increase effective January 1, 1998,

⁶ 2.647 - 2.210 divided by 2.210 = 19.8%.

the 1999 wage increase shall be a three and one-half percent (3-1/2%) increase effective January 1, 1999, the 2000 wage increase shall be three and one-half percent (3-1/2%) increase effective January 1, 2000, the 2001 wage increase shall be three and one-half percent (3-1/2%) increase effective January 1, 2001, and the 2002 wage increase shall be three and one-half percent (3-1/2%) increase effective January 1, 2002.

Thus, over the life of the Agreement I am awarding the Borough's Police Officers an eighteen percent (18%) rate increase in their salaries, for an average annual rate increase of three and six-tenths percent (3.6%). This is a rate increase between the five percent (5%) annual wage increase being sought by the Association and the two and six-tenths percent (2.6%) annual wage increase proposed by the Borough. However, it is significantly closer to the two and six-tenths percent (2.6%) annual wage increase sought by the Borough.

Thus, the financial circumstances of the Borough and its residents and taxpayers have been taken into account and the wages of the Borough's police personnel have not fallen further behind the wages paid to officers in comparable neighboring communities. As to the cost of living, the evidence demonstrates that the Consumer Price Index increased by one and six-tenths percent (1.6%) in 1998, and by one and seven-tenths percent (1.7%) in 1997. While the cost of living has been exceeded in this Award, the increases awarded are not substantially above the cost of living. Moreover, they are less

than the increases being sought by the Association. Thus, I have incorporated relevant evidence concerning the cost of living into this Award.

Moreover, I am cognizant of the fact that police officers in the past did not receive wage increases equal to the cost of living when the increases in the cost of living were running in the double digits or close to the double digits. Under those circumstances, common sense required that salary increases be less than the cost of living.

This is not surprising. It is ordinarily the case that in periods of very high inflation, salary increases tend to lag behind the rate of inflation. Conversely, in times of low inflation, when the cost of living is quite moderate, wage adjustments somewhat exceed the cost of living. Pursuant to historic trends in the cost of living and police officer wage rates, I find the economic package awarded herein to be the appropriate result. The awarded increases exceed the cost of living but reflect the long term historic trends in the cost of living and are far more moderate than the increases received by police officers in prior years. Stated otherwise, the increases awarded herein reflect and take into account the decline in the cost of living.

The final criterion concerns the continuity and stability in the employment of Shrewsbury's police personnel. The evidence establishes that the present complement of police personnel in Shrewsbury have a high level of continuity and stability in their

employment. That is, there is no evidence to suggest that the Borough's police personnel face the imminent threat that their positions will be eliminated or that the number of police personnel will be reduced. As a result, this criterion favors a more moderate increase than the one sought by the Association.

Accordingly, for the above reasons, I find that the following statutory criteria support the Association's wage proposal over the Borough's wage proposal: the wages paid to comparable employees, and overall compensation. However, I also find that the following statutory criteria support the Borough's wage proposal over the Association's wage proposal: the interests and welfare of the public, the financial impact on the Borough and its residents and taxpayers, the cost of living and the continuity and stability of employment.

In summary, in light of all of the statutory criteria, as described in detail above, I award the following wage increases:

January 1, 1998	4% across-the-board
January 1, 1999	3-1/2% across-the-board
January 1, 2000	3-1/2% across-the-board
January 1, 2001	3-1/2% across-the-board
January 1, 2002	3-1/2% across-the-board

These increases balance the legitimate right of the Borough's police personnel to be compensated appropriately without unduly burdening the residents and taxpayers of Shrewsbury. I turn now to the other economic and non-economic proposals made by the parties.

Currently, Borough Police Officers are paid time and one-half for four (4) holidays and straight time for ten (10) holidays. The Borough has proposed that the number of paid holidays be reduced to thirteen (13) and that all of them be paid at straight time rates. The Association, on the other hand, has proposed that the Borough's Police Officers be paid time and one-half for all fourteen (14) holidays.

Neither proposal is supported by the evidence. As noted above, the record shows that the lower wages paid to Borough Police Officers in comparison to the wages paid to officers in comparable Monmouth County jurisdictions, is somewhat offset by the superior benefits, such as holiday benefits, provided to Shrewsbury Police Officers. The wage increases awarded herein have not resulted in the Borough's Officers improving their salary ranking within the County. Thus, the increase in wages awarded to the Borough's Officers does not justify cutting this benefit.

On the other hand, the wage increases awarded herein have not resulted in the Borough's Officers losing ground to their counterparts in Monmouth County jurisdictions. Thus, the record also does not support improving this benefit as proposed by the Association.

For these reasons, I find that both the Association's and the Borough's holiday proposals are unreasonable and should not be awarded.

The Association has proposed adding the following passage to

the end of Paragraph B of Article XVIII of the Agreement:

Additionally, the Borough shall provide indemnification to a member in the event of any adverse judgment. Pursuant to N.J.S.A 59:10-4, the Borough shall also indemnify a member for exemplary or punitive damages resulting from the employee civil violation of State or Federal law if, in the opinion of the governing body, the acts committed by the member upon which damages are based did not constitute actual fraud, actual malice, wilfulness, or an intention wrong (Exhibit B-1)

(Association Brief at pgs. 39-40)

It asserts that this clause confirms with the relevant statutes and case law.

The Borough opposes this proposal which it describes as an Association proposal to add the language of N.J.S.A. 59:10-4 to the end of Article XVIII, paragraph B of the Agreement. It asserts that in New Jersey, municipal indemnification of police officers is governed by statute and is outside the scope of labor contracts. The Borough further asserts that pursuant to T & M Holmes, Inc. v. Pemberton Twp., 190 N.J. Super. 637 (1983), municipalities do not have the power to waive immunity from punitive damages.

There is no evidence in the record that the current system of municipal indemnification for police officers has not worked adequately to protect Shrewsbury's Police Officers. Nor is there any other persuasive evidence in the record that the current system needs to be changed. Therefore, the Association's indemnification proposal shall not be awarded.

Currently, the parties' grievance procedure culminates in advisory arbitration. The Association has proposed amending the

Agreement so that the grievance procedure culminates in binding arbitration.

There is no evidence in the record that the Borough has ever refused to follow the recommendations made in an advisory arbitration award. Nor is there any evidence that the operation of the current grievance procedure has been hindered by the advisory arbitration provision the Association is seeking to change. Thus, while I, of course, am personally in favor of binding grievance arbitration, I find that there is no persuasive evidence in the record supporting this Association proposal. Therefore, it shall not be awarded.

Currently, Borough Police Officers are permitted to perform outside employment for independent contractors who must pay the Borough the Officer's hourly rate as well as an administrative fee. Article XXIII, Paragraph A(14) of the Agreement provides that when an Officer engages in such outside employment, "he or she shall, for purposes of his or her police pension, be entitled to all benefits that an off-duty police officer is normally entitled to." (Association Exhibit A at pg. 35)

The Association maintains that this is a typographical error and that the phrase "off-duty police officer" should be changed to "on-duty police officer." The record supports the Association's assertion. (Association Exhibit A at pg. 83) Therefore, its outside employment proposal shall be awarded.

Currently, the Borough's Chief of Police is required to post the work schedule for all Officers for a given calendar year by

January 15th of that calendar year. (Association Exhibit A at pg. 12) In addition, vacation lists are posted by January 15 and approved by the Chief of Police by March 31 of each calendar year. (Association Exhibit A at pg. 12)

The Association has proposed amending Article VIII, Section A (a), of the Agreement, so that the work schedule and vacation list for a calendar year is posted by December 15 of the preceding calendar year and so that vacation requests are approved by February 15 of the calendar year.

There is no persuasive evidence in the record that awarding this Association scheduling proposal would place an undue burden on the Borough. On the other hand, awarding this scheduling proposal will give Borough Police Officers additional notice of their work and vacation schedules. This will make it easier for the Borough's Police Officers to balance their work and family lives. Thus, I find that the Association's scheduling proposal will make a positive contribution to Police Department morale without placing on undue burden on the Borough. Therefore, the Association's scheduling proposal shall be awarded.

Article VIII, Section B (3), of the Agreement, currently requires Borough Officers to request payment for accumulated compensatory time in the same calendar year that the time was accumulated. (Association Exhibit A at pg. 12) The Association has proposed amending the relevant clause by adding the following provision: "except for time earned after the last vouchered of the year/request for which must be submitted by January 15 of the

succeeding year."

This proposal, if awarded, would give Borough Police Officers a reasonable amount of time to submit the relevant paperwork. It also would not burden the Borough. Therefore, the Association's compensatory time proposal shall be awarded.

The Borough has proposed to eliminate the current longevity benefit for newly hired Police Officers and replace it with the Borough's Personnel Policy which pays employees four hundred dollars (\$400) per year for each five (5) years of completed service. Given the role that this benefit plays in offsetting the lower than average wages paid to the Borough's Police Officers, I find that there is no persuasive evidence in the record that would justify cutting this important benefit. Therefore, the Borough's longevity proposal shall not be awarded.

Currently, Borough Police Officers are permitted to accumulate up to one hundred and eighty (180) unused sick days. (Association Exhibit A at pg. 9) Upon retirement, they are entitled to be paid for up to one hundred and ten (110) unused sick days. (Association Exhibit A at pg. 9)

The Borough has proposed reducing this benefit to payment for up to ninety (90) days of unused sick leave upon retirement. It also has proposed restricting this benefit to Officers who retire with twenty five (25) years or more of service.

Again, given the role that this benefit plays in offsetting the lower than average salaries paid to the Borough's Police Officers, I find that there is no persuasive evidence in the

record that would justify cutting or restricting this important benefit. Therefore, the Borough's terminal leave proposals shall not be awarded.

Currently, the Borough pays the full cost of major medical and dental benefits for its Police Officers. The Borough has proposed that newly hired Officers pay a portion of the cost of these health insurance benefits.

Given the cost of health insurance within the Borough, it is reasonable that newly hired Police Officers be asked to shoulder part of the burden during the beginning of their employment with the Borough. After all, until a newly hired Officer has worked for the Borough for several years, it remains unclear whether he or she will have a permanent employment relationship with the Borough. Until it is reasonably clear that a newly hired Police Officer has decided to make a career as a Borough Police Officer, it is reasonable for the Borough to require that newly hired Officer to pay a portion of the cost of his or her health insurance premiums.

However, it also is important that a permanent two tier benefit structure not be introduced into the Borough's Police Department. A permanent two tier benefit structure can adversely affect morale and esprit de corps within a police force. Thus, once it is reasonably clear that a newly hired Police Officer has decided to make a career with the Borough's Police Department, the health insurance contribution required of that newly hired Officer should be phased out so that he or she is treated for

health insurance purposes like the Borough's present complement of Police Officers.

In order to accomplish these goals and balance these interests, the Borough shall be required to pay the following percentages of the cost of health insurance for newly hired Police Officers during the first three (3) years of their employment:

For any Police Officer hired on or after June 1, 2000, the Borough shall pay seventy five percent (75%) of the cost of that Officer's health insurance during the Officer's first full year of employment; eighty five percent (85%) of the cost of that Officer's health insurance during the Officer's second full year of employment; ninety percent (90%) of the cost of that Officer's health insurance during the Officer's third full year of employment; and, thereafter, one hundred percent (100%) of the cost of that Officer's health insurance.

It is important to emphasize that there is not a scintilla of evidence in the record that awarding this health insurance proposal will encourage the Borough to attempt to replace its veteran Police Officers with newly hired Officers. To the contrary, the record demonstrates that the Borough recognizes the importance of retaining its veteran Police Officers and maintaining stability and continuity of employment within its Police Department.

Thus, I find that it is reasonable to require newly hired Police Officers to work for the Borough for three (3) years

before the Borough is required to pay one hundred percent (100%) of the cost of their health insurance. After three (3) years of employment, a newly hired Police Officer has sufficiently demonstrated that absent some non-employment related reason, he or she intends to have a career as a Shrewsbury Police Officer.

Currently, the Agreement's salary structure contains two (2) probationary steps and four (4) patrolmen steps. The Borough has proposed adding two (2) new salary steps for patrolmen.

The record supports the Borough's request to lengthen the parties salary structure, but not to the extent proposed by the Borough. Therefore, only one (1) new step shall be added to the parties' salary structure for patrolman so that there are a total of five (5) patrolmen steps in addition to the two (2) probationary steps. Those five (5) patrolmen steps should also be equalized so that the amount between each salary step is the same.

In summary, I have carefully considered all of the relevant statutory criteria, as well as the type of standards normally evaluated in interest arbitrations of this kind, in reaching my findings above. In my view, they balance the rights of the members of the bargaining unit to fair improvements in their terms and conditions of employment with the legitimate needs of the Borough to budget its economic resources.

Accordingly, the changes herein are awarded to the extent indicated in this Opinion. Any specific proposal not awarded, herein, is explicitly rejected.

AWARD

1. TERM

The Agreement shall have a term of January 1, 1998 through December 31, 2002.

2. WAGES

January 1, 1998	4% across-the-board
January 1, 1999	3-1/2% across-the-board
January 1, 2000	3-1/2% across-the-board
January 1, 2001	3-1/2% across-the-board
January 1, 2002	3-1/2% across-the-board

3. OUTSIDE EMPLOYMENT

Article XXIII, Paragraph A(14) of the Agreement shall be amended to provide that when an Officer engages in outside employment, "he or she shall, for purposes of his or her police pension, be entitled to all benefits that an on-duty police officer is normally entitled to." (Association Exhibit A at pg. 35)

4. SCHEDULING

Article VIII, Section A (a), of the Agreement shall be amended to provide that the work schedule and vacation list for a calendar year are posted by December 15 of the preceding calendar year and that vacation requests are approved by February 15 of the calendar year.

5. COMPENSATORY TIME

Article VIII, Section B (3), of the Agreement shall be

amended by adding the following provision: "except for time earned after the last vouchered of the year/request for which must be submitted by January 15 of the succeeding year."

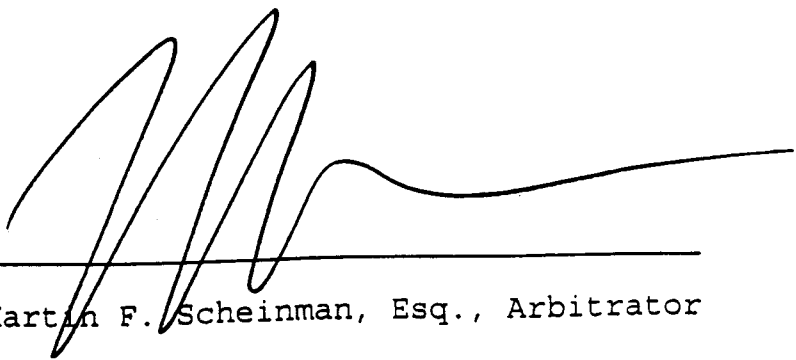
6. NEW HIRE HEALTH INSURANCE

For any Police Officer hired on or after June 1, 2000, the Borough shall pay seventy five percent (75%) of the cost of that Officer's health insurance during the Officer's first full year of employment; eighty five percent (85%) of the cost of that Officer's health insurance during the Officer's second full year of employment; ninety percent (90%) of the cost of that Officer's health insurance during the Officer's third full year of employment; and, thereafter, one hundred percent (100%) of the cost of that Officer's health insurance.

7. SALARY STEPS

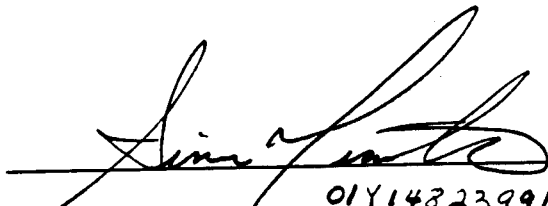
One (1) new step shall be added to the parties' salary structure for patrolman so that there are a total of five (5) patrolmen steps in addition to the current two (2) probationary steps. Those five (5) patrolmen steps shall be equalized so that the amount between each salary step is the same.

May 25 , 2000.



Martin F. Scheinman, Esq., Arbitrator

On this 25 day of May 2000, before me personally came and appeared MARTIN F. SCHEINMAN, ESQ., to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that he executed the same.



NOTARY PUBLIC

01Y14823991
Exp. 7/31/00
Silvia Yiantzelis

