

In the Matter of Interest Arbitration Between:

MIDDLESEX COUNTY (CORRECTIONS)

“Employer,”

- and -

PBA LOCAL 152A (CORRECTIONS SUPERIORS)

“Union.”

Docket No. IA-2002-002

MIDDLESEX COUNTY (SHERIFF’S OFFICE)

“Employer,”

- and -

SHERIFF’S SOA

“Union.”

Docket No. IA-2000-83

**INTEREST ARBITRATION
DECISION AND
AWARD**

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the Employer:

Robert W. Gluck, Esq.
Mandelbaum, Salsberg, Gold, Lazris,
Discenza & Steinberg, PC

For PBA Local 152A:

Leonard C. Schiro, Esq.

For the Sheriff’s SOA:

William G. Schimmel, Esq.
Weissman & Mintz

The County of Middlesex [the "County"] is a party to six collective negotiations agreements covering various law enforcement employees.¹ Correction Officers are represented by PBA Local 152. Correction Officer Superiors are represented by PBA Local 152A. Sheriff Officers are represented by PBA Local 165. Sheriff Superior Officers are represented by the Sheriff's Superior Officers Association. The Prosecutor's Detectives and Investigators are represented by PBA Local 214. The Prosecutor's Superior Officers are represented by Superior Officer Association Local 214. The labor agreements between the County and the aforementioned employee organizations expired on December 31, 1999. The County and all of the employee organizations reached impasse during the course of collective negotiations for a new agreement and all impasses were eventually submitted to interest arbitration pursuant to P.L. 1995, c. 425. In accordance with this statutory citation and the rules of the New Jersey Public Employment Relations Commission, I was designated to serve as interest arbitrator in each of the six individual impasses between the County and these various law enforcement organizations.

I conducted several pre-arbitration mediation sessions. Because the main issues at impasse were substantially similar in nature, all parties eventually agreed to the informal consolidation of mediation/arbitration sessions for reasons

¹ For the purposes of this proceeding, references to the County of Middlesex shall include the Board of Chosen Freeholders, the Office of the Sheriff, the Office of the Prosecutor and the Department of Corrections.

of economy and efficiency. Correspondence between the arbitrator and the parties reflected stipulations that although the petitions for interest arbitration were not formally consolidated, a common record would be developed covering all of the groups on issues which pertain to all of them. The correspondence also reflected that each of the six negotiating units reserved its right to proceed independently on issues unique to each unit.

Interest arbitration hearings were held on June 15, August 16, September 4 and September 10, 2001 in New Brunswick, New Jersey. During the course of these hearings voluntary agreements were achieved between the County and four of the law enforcement units: PBA Local 152 (Correction Officers), PBA Local 214 (Prosecutor's Detectives and Investigators), PBA Local 165 (Sheriff Officers) and SOA Local 214 (Prosecutor's Superior Officers). Each of these negotiations units entered into a Memorandum of Agreement [Jt. Exs. #8, #9, #10, #11]. Interest arbitration hearings continued on September 10, 2001 to conclude the record on the two negotiations units which remained at impasse and which are the subject of this arbitration award: PBA Local 152A (Corrections Superior Officers) and Sheriff's SOA (Sheriff's Superior Officers).

During the hearings each party presented substantial documentary evidence. In addition, testimony was received from Thomas Chester, Personnel Officer for the County, Michael T. Abode, the Warden, Correction's Lieutenant Jose Arbelo, Correction's Sergeant William McMahon, Sheriff's Sergeant Walter

Baran and Correction's Captain John Tevoli. Post-hearing briefs were submitted by all parties.

FINAL OFFERS OF THE PARTIES

The County, PBA Local 152A and the Sheriff's SOA submitted the following final offers:

THE COUNTY

1. Four year contract covering the years 2000 through 2003.
2. The proposed wage increase for each of these years per employee computed on the base salary of the prior year is 3.25% for 2000, 3.5% for 2001, 3.75% for 2002 and 3.75% for 2003.
3. The medical benefit plan as per County Policy is proposed as in Exhibit A.
4. All other provisions as set forth in contract terminating December 1999.

SHERIFF'S SOA

1. The Union proposes a five year contract covering the years 2000 through 2004.
2. The Union opposes the County's medical benefit plan as set forth in Exhibit A. The status quo should be maintained.
3. The Union proposes a yearly clothing allowance of \$500.00.
4. The Union proposes modifying Article 5, Section B (page 6) of the current Collective Negotiations Agreement, to wit:

"The pay scale as negotiated pursuant to this contract will be found in Appendix "A" annexed. Further, there shall be a rank differential of fifteen percent (15%) between ranks beginning with Senior Sheriff's Officer and Sheriff's Sergeant continuing up between Sheriff's Sergeant and Sheriff's Lieutenant and Sheriff's Captain for the life of this agreement."

At the arbitration hearing, the SOA revised proposal #4, point #4 to be deleted and replaced by the following:

4. The Union proposes the following wage increases:
 1. Effective January 1, 2000 all eligible employees shall receive the negotiated wage adjustment increase of 3.5% retroactive to January 1, 2000 over their previous December 31, 1999 base salaries.
 2. Effective January 1, 2001 all eligible employees shall receive the negotiated wage increase of 3.75% retroactive to January 1, 2001 over their previous December 31, 2000 base salaries.
 3. Effective January 1, 2002 all eligible employees shall receive the negotiated wage increase of 4.75% over their previous December 31, 2001 base salaries.
 4. Effective January 1, 2003 all eligible employees shall receive the negotiated wage increase of 4.75% over their previous December 31, 2002 base salaries.
 5. Effective January 1, 2004 all eligible employees shall receive the negotiated wage increase of 4.75% over their previous December 31, 2003 base salaries.
 6. Employees who have 20 plus years of service with the County of Middlesex shall receive the negotiated wage increase plus 4% over their base salary. Employees hired after September 6, 2001 are required to have 20 plus years with the Middlesex County Sheriff Dept. to receive Senior Officer Pay of 4% as to sworn personnel.

PBA LOCAL 152A

1. Economic Issues

Final offer of PBA Local 152A on economic issues is identical to that proposed above by the SOA.

2. Shift and Work Schedule Bidding

Shift and work schedule bidding pursuant to Appendix E of Joint Exhibit 3 (Collective Negotiations Agreement between County of Middlesex and PBA Local 152) as amended by Section 5 of Joint Exhibit 10 (Memorandum of Agreement by and Between Middlesex County and PBA Local 152) which states:

Appendix E of the agreement shall be amended to provide that shift and work schedules shall be open to bid and posted by the Warden between Oct 1 and 10, 2002 and at least every 24 months thereafter. This shall be available to Officers with at least 36 months continuous service. In addition, bids subsequent to October 2002 shall be open to any Officer with at least 24 months of continuous service as a Middlesex County Correction Officer.

The County, PBA Local 152A [the "PBA"] and the Sheriff's SOA [the "SOA"] have offered testimony and substantial documentary evidence in support of their final offers. I am required to make a reasonable determination of the above issues as reflected in the parties final offers giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (8) which I find relevant to the resolution of these negotiations. I am also required to indicate which of these factors are deemed relevant, satisfactorily explain why the others are not

relevant, and provide an analysis of the evidence on each relevant factor. These factors, commonly called the statutory criteria, are as follows:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when

considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq).

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

(7) The cost of living.

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

BACKGROUND

The County has a population of 750,162 and has grown by 11.7% since 1990. The County services a land area of 310 square miles. The population, at a density of 2,420 persons per square mile, is more than double the New Jersey

average. The median household income is \$52,646 based upon a 1997 estimate. Its general tax rate per \$100 assessed value is .396 which falls above Morris at .278 and below Union at .463. In 1999, the County's aggregate assessed valuation of real property was \$37,027,777,940, representing an increase of approximately 5% over 1998. Its percentage of residential ratable value is 62.19%. The commercial/industrial percentage is 29.58%.

The County's 1999 budget was \$253,498,000, a slight decrease from 1998. The amount raised by taxation through the County Purpose Tax \$180,400,000 in 1999, slight decrease from 1998.

There are twenty-one (21) Sheriff's superior officers in the negotiating unit with base salaries totaling \$1,388,271 as of December 31, 1999. They supervise one hundred thirty (130) Sheriff's line officers whose base salaries total \$7,097,071 as of December 31, 1999. There are thirty-seven (37) Correction's superior officers in the negotiating unit with base salaries totaling \$2,419,103 as of December 31, 1999. They supervise one hundred ninety-five (195) Correction's line officers whose base salaries total \$10,015,129 as of December 31, 1999.

I set forth the positions of the parties on the issues in dispute.

POSITION OF THE COUNTY

The County contends that the Unions have not provided adequate reasoning for an agreement of five years duration. The County states that it is unaware of any arbitrator's award which sets contract terms for five years in length. The County acknowledges that its salary offer of four years rather than five years is influenced by the Unions' failure to agree to its medical benefits package. According to the County, that issue was a key component enabling it to voluntarily agree to a five year term for the four other law enforcement units. In this instance, the County states that it does not foreclose a fifth year if there is inclusion of the same medical benefits package which was voluntarily agreed to by the other law enforcement units.

The County points out that its medical benefits package preserves existing medical benefits for current employees and impacts on new hires only. The County relies upon testimony and exhibits which reflect that it has experienced substantial increases in the cost of medical benefit premiums. The County cites the testimony of Chester who authenticated a document [C. Ex. #3] reflecting an increase in premiums of 15.61% from 1998 to 1999 and 8.42% from 1999 to 2000. The County also references a series of documents reflecting substantial increases in health insurance premiums as well as increasing trends requiring employee contributions to health insurance in both the public and private sectors.

The County contends that the long-term savings to be achieved by the employee contributions are necessary to offset the costs of higher wage increases and increased benefits for current employees and will provide some long-term relief in the face of escalating health insurance premiums. The County believes that its proposal is reasonable and intended to bring these contracts in line with the other labor agreements it negotiated with both non-law enforcement and law enforcement units.

The main aspect of the County's proposal is the requirement that new hires contribute to premiums on a sliding scale commensurate with salary. The terms of the medical benefits plan are set forth in Exhibit A:

MEDICAL BENEFITS

A. Vision Care

The County shall reimburse costs of vision care for its employees who have been continuously employed for more than sixty (60) days to the extent set forth below. The vision care allowance shall be limited to payments every other year or not more than once every two calendar years. This benefit shall not be cumulative.

Eye Examination	\$50.00
Lenses and Frames	<u>\$90.00</u>
Maximum	\$140.00

B. Dental Coverage

The County shall provide, an appropriate dental care plan whose benefits and provisions shall be the substantial equivalent of the dental care plan in place for employees as of December 31, 1998. In the event the County wishes to alter, amend or replace the current dental care plan, it shall give thirty days notice to the Union representative of such proposed change and make available to such representative a full schedule of benefits and costs of the proposed program. In the

event of objection to such County action the parties shall enter into good faith negotiations regarding the adoption of any new dental plan with due regard for competitive availability of equivalent plans, relative costs and benefits and ease of administration of benefits.

1. Employee contributions to premiums for the approved dental care plan shall continue at the same level and frequency as provided for in the collective bargaining contract in effect on December 31, 1998. Any annual increase in said contributions shall not exceed 14.99% of previous annual premium.

2. The County is not and shall not be required to provide Dental Expense Coverage to current or future retirees unless otherwise agreed to by a collective bargaining agreement.

Health and Hospitalization Insurance

1. Eligibility

All County employees on the County payroll for not less than sixty (60) days or on July 1, 1999 whichever shall be later, and their eligible dependents shall be eligible to enroll in any of the County offered medical insurance plans subject only to the provisions and limitations specifically set out in this contract. Employees who enroll in any medical insurance program shall do so in writing on a form promulgated by the Personnel Department acknowledging the offered programs and their selection of a specific plan.

2. Level of Benefits

The County, through the Middlesex County Joint Insurance Fund, MCJIF, shall continue to provide to all eligible employees and qualified dependants on the payroll as of the date of the execution of this contract the (3) HMO options, as available on January 1, 1999 equivalent to the pre-existing plans, a POS and Traditional Indemnity Coverage. The parties recognize the significantly greater premium costs of Traditional Indemnity Coverage and thereby agree that only employees and their dependents who are currently enrolled in the Traditional Indemnity Plan as of the execution of this contract shall be permitted to continue such coverage. If any such employee or eligible subscriber shifts medical coverage to any other plan they shall not be permitted subsequently to re-enter the Traditional Indemnity plan at a later date. Employees and their eligible dependents currently enrolled in any other medical care plan may not subsequently enroll in the Traditional Indemnity Plan. In the event the County desires to re-enter the State Health Benefits Plan (SHBP) of New Jersey it must provide thirty (30) days notice to the Union and enter into negotiations regarding the applications of this contract.

3. Employee Contribution to Premium Costs

a. All eligible County employees on the payroll or on authorized leave as of the date of the execution of this contract shall continue to receive medical insurance benefits at full cost to the County without contribution of payment by the employee for as long as they are continuously employed. Employees who separate from County service other than through approved or contractual leave, forfeit such entitlement should they, at some later date, re-enter County service. Technical terminations because of reassignment, title change, promotion or department transfers shall not constitute a forfeiture of entitlement as long as the new County service shall be consecutive and without actual interruption of service.

b. Employees who enter County service or become eligible for medical insurance coverage after the execution of this contract shall be entitled to the same level of benefits and will be permitted to enroll in all available health care options described in C., 2 above except new hires may not enroll in the Traditional Indemnity Coverage plan which shall not be offered to new employees.

c. New employees, as defined above, whose annual base salary is \$25,000 or less shall not be required to contribute to premium payment for health insurance coverage.

d. New employees, as defined above, earning an annual base salary in excess of \$25,000 shall be required to contribute towards premiums paid on their behalf upon the following schedule during the term of this contract. The only exception shall be in a case where an employee's raise or promotion moves them beyond \$25,000 but less than the amount of the required premium contribution in which case their net pay shall not be less than their pay prior to the pay increase or promotion.

Salary Level	% of Costs of Selected Plan	Annual Ceiling of Contributions
\$25,001-\$30,000	25%	\$400
\$30,001-\$35,000	35%	\$650
\$35,001-\$40,000	45%	\$900
\$40,001-\$45,000	55%	\$1,250
\$45,001-\$50,000	65%	\$1,500
\$50,001+	75%	\$1,750

e. The costs of premiums for the respective plans selected by the employee and their eligible dependents shall be determined by the County on an annual basis with notice to each affected employee with the first paycheck of each calendar year. Such contributions shall be based on rated costs provided by the plan administration. Employee

contributions shall be determined and any adjustment thereto shall be made annually as of the first pay period of each calendar year. The County may not increase or alter an employee's required contribution at any other time.

4. Prescription Coverage

The County shall continue its 1998 level of prescription coverage for all present and future employees for the term of this contract. Eligible employees and their dependents shall not be required to make co-payment for generic drugs prescribed by duly licensed physician. Eligible employees and their dependents who desire to require brand name prescription drugs shall be required to make a co-payment of three (\$3.00) dollars.

5. Retirement Benefits

a. Retired County employees and qualified dependents shall continue all benefits due them under the terms of the contract in force as of December 31, 1998 including prescription coverage as herein defined. Retired County employees may not have their benefits reduced or costs increased except upon some act of the Legislature of New Jersey, the Congress of the United States or an order of a Court or competent jurisdiction.

b. The County shall continue to provide fully paid medical benefits to employees who honorably retire after twenty-five (25) years of credited public service as described by state statutes and criteria of the New Jersey Department of Personnel; and employees who qualify for and are approved by New Jersey Dept. of Personnel for receipt of disability retirement benefits.

c. Retired employees as described in paragraph 2 above shall be entitled to the same level of prescription benefits as active employees. Retired employees shall not be entitled to dental benefits unless so offered by the County at some later date at the County's discretion and terms.

6. Administration

In the event a third party administrator fails to pay any appropriate and fully completed claim for a covered service within sixty (60) days the effected employee may apply to the County to pay such claim upon adequate submission of supporting documentation. When the County deems such claim properly completed it shall make payment therein within an additional thirty (30) days. As part of such application the County may require the execution of a binding assignment or subrogation agreement from the employee to the extent of payments made on the employee's behalf.

The County further notes that the superior officers in both units will not be impacted to the extent that employees in the line officer units will be because of the length of time it takes a new hire to reach the rank of a superior officer. The County points to exhibits which project such savings over an extended period of time [C. Exs. #1 & #2] for line officers. In short, the County asserts that it will not realize the cost savings with the superior officer units that it will achieve with the line officer units. The County believes that the Unions' failure to accept this proposal is an important consideration underpinning the County's proposals for these superior officers in contrast with the terms of settlement it achieved with the line officers.

The County urges denial of each Union's request for a \$500 annual increase in clothing allowance. The County notes that the Sheriff's Superiors currently receive no clothing allowance having added a previous clothing allowance of \$500 to base salary and the Corrections Superiors currently have an existing allowance of \$1,000.00. The County contends that the Unions have not submitted sufficient justification for their proposals to increase the clothing allowances.

Turning to the wage issue, the County relies upon Chester's testimony and exhibits which detail rates of pay and rates of increases for Sheriff and Corrections Superiors throughout the State of New Jersey. The County seeks

that little weight be given to the Union's position on wages. It notes that these proposals reflect the equivalent increases each of the four units voluntarily agreed to, but that these units also agreed to the County's medical benefit package. In the County's view, the failure of these two Unions to provide comparable savings, especially in the health and medical insurance area, sorely undercuts their demands to receive the same wage increases received by the other law enforcement units.

The County seeks rejection of the Unions' proposal to award a 4% increase in base salary effective January 1, 2000 for employees with 20 plus years of service with the County (hereinafter "senior step increase"). The County offers several reasons for its position. Initially, the County contends that the Unions did not raise this issue in a timely manner and thus, the issue cannot be considered by the arbitrator. In support of this position the County relies upon City of Newark, PERC No. 98-166, 24 NJPER 36 (¶29173 1998) and Middlesex County, PERC No. 97-63, 22 NJPER 17 (¶28016 1996). The County raised this objection at the September 10, 2001 hearing and refers to that objection in its post-hearing brief [Tr. p. 19 & 20]. At hearing, the County stated:

As I review the petitions that were filed in these matters by both organizations, neither has asked for a senior step regardless of the percentage number of years. The concept was not included and not referred to. The first time reference was made to a senior step was, I believe, in mid August during the second round of -- well, it was even after that, subsequent to mid August, was late August after the first two hearing

dates were already completed. I believe that the case law indicates that unless a matter has been raised within a petition, it should not be considered by the arbitrator and my objection is that this is being raised for the first time now at this late date and should not be considered by the Arbitrator. I would ask that it not be considered. [See Tr. p. 19, 20].

In the event that the arbitrator considers this proposal, the County urges its rejection. The County contends that the Unions have put forward no rational basis to receive the senior step increase. The County cites evidence that no other similar superior officer units in any county have received such a step. The County also seeks rejection of Sergeant Baran's testimony that the Sheriff's superiors have received contract terms which have mirrored that of the Sheriff's line officers as a basis to now receive the same senior step increase. The County sees no relationship on this issue between the line officers and the superior officers in either Correction's or Sheriff's unit which would warrant the granting of the Unions' proposal for a 4% senior step increase. In this respect, the County asserts that the value of the benefit in the superior officer units is significantly more than in the line officer units. The County also cites the absence of any senior step increase in its settlement with the Superior Officers Association in the Office of the Prosecutor despite the inclusion of this benefit in its agreement with the unit of Prosecutor's investigators.

The remaining issue is one sought only by the Corrections superiors. PBA Local 152A seeks to include a procedure for shift and work schedule bidding currently included in Appendix E of the Agreement the County negotiated with

the Correction's line officers, PBA Local 152. The County points to the testimony of Warden Abode who testified that shift assignments for superior officers are based solely upon the prerogative of management and the needs of the department. According to the Warden, these considerations necessitate an evaluation of each individual's skills and supervisory abilities when assignments are made to each shift and work schedule. The County seeks rejection of Union arguments and testimony that such assignments have been either arbitrary, based upon favoritism or in retaliation for union activity.

Based upon all of the foregoing, the County urges that its position on all outstanding issues be awarded.

POSITION OF THE UNIONS

The positions of the SOA and PBA Local 152A are identical on the issues of duration, medical benefits plan, clothing allowance, wages and senior step increase.² Each proposes a five year contract, a status quo on the County's medical benefits plan as contained in the contract which expired on December 31, 1999, a \$500 increase in clothing allowance, a 21.5% increase over five years (3.5% in 2000, 3.75% in 2001, 4.75% in 2002, 4.75% in 2003 and 4.75% in 2004), and a senior step increase wherein employees with 20 plus years of service with the County would receive a 4% increase over base salary effective

² Because the positions of the Unions are identical on these outstanding issues, I will refer to the positions set forth in support of these issues as the position of the "Unions".

January 1, 2000³. PBA Local 152A also seeks a shift bidding procedure identical to that included in the County's agreement with PBA Local 152, the Correction's line officer unit.

The Unions rely on the across-the-board increases set forth in the voluntary settlements the County reached with PBA Local 152 (Correction Officers), PBA Local 165 (Sheriff Officers), PBA Local 214 (Prosecutor's Detectives and Investigators), and SOA Local 214 (Prosecutor's Superior Officers). In each instance, five year agreements were reached with annual base wage increases of 3.5%, 3.75%, 4.75%, 4.75% and 4.75% covering contract years 2000 - 2004. In addition, the County and PBA Local 152 (Correction's Officers), PBA Local 165 (Sheriff's Officers) and PBA Local 214 (Prosecutor's Detectives and Investigators) agreed upon a new "senior step" added to the wage schedule effective January 1, 2000. The new senior step is valued at 4% for not less than 20 years service coupled with a "grandfathering" for the calculation of the 20 years for present members in each bargaining unit. New hires would require 20 years service within each department. The County and PBA Local 152 (Correction's Officers) agreed to a \$150 increase in clothing allowance and PBA Local 165 (Sheriff's Officers) agreed to a \$500 increase in clothing allowance effective January 1, 2002.

³ Under the proposal, new employees would be required to have twenty (20) plus years within their department.

The Unions contend that the most substantial weight must be given to factor N.J.S.A. 34:13A-16(2) which provides for a comparison of wages and benefits with those employees of the employer performing the same or similar services. In simple terms, the Unions contend that “equitable treatment” requires parallel conclusions between the packages they seek to receive with those the County voluntarily entered into in the aforementioned bargaining units and especially those containing non-supervisory employees which the superior officers supervise.

The Unions argue that the County’s refusal to provide the same wages and senior step increases for their units is not justified. They assert an entitlement to the same value of the “quid pro quo” in compensation for the medical benefits plan which was reached in the Correction’s and Sheriff’s line officer units as well as in the Prosecutor’s Investigators unit. The Unions point to proposals the County made to all six units which reflected a uniform bargaining position and that the County never expressed a position that any one bargaining unit’s agreement to its medical benefit plan had more or less value than that of any other unit.

The Unions also point to testimony of Sergeant Baran that superior officers (at least in the Sheriff’s Office) have never received a smaller economic package than line officers. Pointing to the testimony of Baran, the Unions assert that the contracts have mirrored each other [Tr. p. 59] and that salary differentials

have been included and maintained since 1998 between top step Sheriff's line officers and Sheriff's superior officers. The Unions assert that these differentials will be upset by the inclusion of a 4% senior step for line officers but not for superior officers.

The Unions acknowledge County testimony and exhibits which reflect that senior steps are absent in superior officer contracts in other counties throughout the State of New Jersey but assert that this fact is irrelevant. The Unions seek reliance on the fact that the 4% benefit in one newly received by line officers they supervise in Middlesex County. Further, its creation for line officers has been accompanied by the medical benefits package, a concession which the County also seeks from the superior officer units. The Unions point to the other county agreements submitted into the record which do not contain a medical benefit plan containing cost savings at a level anywhere near that which has been provided by the four units who have settled with the County.

The Union's contend that if the senior step increase given to line officers is denied to superior officers, the Unions will be denied the "whole package" and thereby undermine their unique role in the supervision and management of their respective institutions. PBA Local 152A contends that:

The failure to provide the senior step would serve to disintegrate the delicate balance between the line officers and superiors. The line officers will now enjoy a four percent senior step while the superiors would

not. This would effectively provide a bonus to line officers lacking the skill, determination or desire to take on the added responsibility of becoming a superior officer. Conversely, those correction officers with a demonstrated passion and ability to ascend to the rank of superior would be denied the four percent senior step. This would have an adverse affect on the 'continuity and stability of employment' required to be factored into decision.

The Sheriff's SOA offers a similar argument:

The County is saying that Line Officers who, for whatever reason, cannot get promoted should receive an extra 4 percent salary increase after 20 years to reward their time in the Department. The flip side of that coin is that there is then no reward for Superior Officers who have been promoted, who do exercise supervisory duties and responsibilities over the Line Officers, and who provide an equally if not greater value to the County are not equally rewarded. So in essence, the County is rewarding the Officer who fails to be promoted. While it certainly makes sense to reward officers for their longevity in the Department, that should include Superior Officers as well.

The Unions seek rejection with the County's comparison of the Correction's and Sheriff's superiors with the superior officers in the Prosecutor's Office with respect to the senior step increase. Although the latter group did not receive a senior step increase, the Unions assert that the difference in salaries between its groups and the Prosecutor's Superior Officers Association is staggering thus defying any reasonable comparison. The Unions point to Prosecutor's investigators making \$8,000 more than Correction's Sergeants in 1999 and Captains in the Prosecutor's Office receiving 24% more than Captains

in Correction's. The Unions assert that the 4% senior step received by Prosecutor's investigators would place them above the level of Lieutenant's pay in the Correction's Department.

The Unions also contend that the base percentage increases it is seeking (21.5% over 5 years), averaging 4.3% per year is identical to the terms negotiated by the law enforcement units which have settled. While they assert that this is the most relevant fact, the Unions also contend that the increases are comparable to many of the other county agreements which have settled including Mercer, Bergen, Essex and Somerset counties.

PBA Local 152A seeks an award which includes a procedure for shift bidding by seniority, a similar term and condition received by PBA Local 152, the Correction's line officers. PBA Local 152A contends that many labor agreements in various counties provide for shift bidding for assignment by seniority. This Union contends that it has proven the need for this provision based upon the already existing provision with line officers coupled with evidence that the absence of such procedure for Correction's superiors has led to unfair exercise of power in the manner in which the Correction's department has unilaterally assigned superior officers to less desirable shifts.

PBA Local 152A cites the testimony of Lieutenants Teeple and Arbello and Captain Tivoli, all of whom have been assigned to midnight or non-day shifts.

The Union disputes the testimony of management that these assignments were predominantly motivated by training objectives or supervisory skills and abilities inasmuch as the greatest degree of monitoring of Correction's officers and inmates and training does not occur on the midnight shifts.

DISCUSSION

As stated above, I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The County, PBA Local 152A and the Sheriff's SOA have articulated fully their positions on the issues and have submitted evidence and argument on each statutory criterion to support their respective positions. These submissions are expert and comprehensive in nature. The evidence and arguments have been carefully reviewed, considered and weighed.

The final offers of the parties reflect several areas in dispute including duration, salary, "senior step compensation," clothing allowance, the Medical Benefits Plan and shift bidding, the latter issue pertaining only to PBA Local 152A. These final offers have been previously set forth above and, for the sake of clarity, are again set forth below.⁴

⁴ As set forth in the County's post-hearing brief.

<u>County</u>	<u>Sheriff Sup.</u>	<u>Corr. Sup.</u>
1. 4 Year Contract	5 Year Contract	5 Year Contract
2. Medical Benefits Plan as attached hereto (Exhibit A) and set forth in County Personnel Manual (C-7)	Medical Benefits Plan as set forth in Contract expiring Dec. 31, 1999	Medical Benefits Plan as set forth in Contract expiring Dec. 31, 1999
3. No increase in clothing allowance	\$500/year increase in clothing allowance	\$500/year increase in clothing allowance
4. 14% increase in wages over 4 years (2000 = 3 ¼%; 2001 = 3 ½%; 2002 = 3 ¼%; 2003 = 3 ¾%)	21.5% increase over 5 years (2000 = 3.5%; 2001 = 3.75%; 2002 = 4.75%; 2003 = 4.75%; 2004 = 4.75%)	21.5% increase over 5 years (2000 = 3.5%; 2001 = 3.75%; 2002 = 4.75%; 2003 = 4.75%; 2004 = 4.75%)
5. No "senior step"	Employees with 20+ years of service receive 4% increase over base salary	Employees with 20+ years of service 4% increase over base salary
6. No shift bidding	N/A	Shift bidding pursuant to seniority

I first examine the County's motion to dismiss the Union's proposals for senior step pay. The County asserts that the issue was not proposed at the time of petition filing and should be barred under applicable case law.⁵ That case law grants discretion to the arbitrator as to whether a party can proceed to arbitrate an issue not raised in a petition or a response to that petition. In this instance, the parties have stipulated to deferral of a decision on the County's motion until after a full record was developed on all issues in the absence of any prejudicial effect arising from proceeding in that manner [Tr. p. 21-22]. The Union's

⁵ This objection is distinguished from one raising a bar to a revision of an issue which was specifically identified in a petition or response.

responses to the County's motion have been set forth on the record and need not be restated here.

After due consideration of this motion, I conclude that the issue of senior step pay, while not specifically identified in either union's petition, or the County's responses, must be found to predominantly concern the issue of compensation, an issue which clearly was timely raised. The merits of the compensation issue are clearly before me and the disputed issue is clearly subsumed within compensation and I will proceed to make a reasonable determination of the compensation issue including the disputed component of senior step pay.

Only one of the issues in dispute is non-economic in nature. That issue is the proposal by PBA Local 152A relating to shift and schedule bidding. PBA Local 152A seeks the inclusion of the shift bidding/days off arrangement which is set forth in Appendix E of the January 1, 1996 - December 31, 1999 agreement, as amended by point 5 of the Memorandum of Agreement between the County and PBA Local 152 [Jt. Ex. #10].

Appendix E sets forth a comprehensive system for selection of employees for shifts and schedules. Among other things, Appendix E provides for the recognition of seniority but also designates special posts requiring special training and skills and exempts certain positions from the shift and schedule bidding process. Appendix E provides that shift and work schedules are only

open to bid every 24 months including Correction's officers temporarily assigned as Sergeants. Appendix E also recognizes and preserves management prerogatives such as the right to act unilaterally upon employer determination of special needs, special qualifications, special skills or special training in relation to the performance of particular tasks or when an emergency exists. Section 8 of Appendix E also states that the employer retains the authority to determine, define, establish and change the shifts and schedules.

Appendix E has been continued in the new agreement between the County and PBA Local 152. PBA Local 152A seeks to include the same procedures as set forth in Appendix E of the PBA Local 152 agreement. There are many relevant considerations present in any assessment of the merits of the shift and schedule bidding proposal of PBA Local 152A.

Appendix E sets forth a comprehensive procedure allowing line officers to select shift and schedules set by the County within a framework which does not significantly interfere with the prerogatives of the employer. These reservations of management's rights are specifically defined in Appendix E. As such, Appendix E represents a careful balancing of the terms and conditions of employment of Correction's officers with the preservation of the rights of the employer to manage the jail consistent with its lawful managerial prerogatives.

There is no evidence reflecting that Appendix E has not operated consistent with its stated intentions to allow for some employee choice in shift and schedule selection within the operational and policy framework set by the department. It has been carried forward into the 2000-2004 agreement. There is no similar scheme allowing superior officers any participation whatsoever in shift or schedule selection.

Currently the deployment of superior officers is at management's discretion [Tr. p. 34]. According to the Warden, the absence of input in the assignment of superior officers to different shifts or different days off are a pre-condition to acceptance of a superior officer position. County testimony reflected its reasoning as to why line officers have the ability to bid on shifts but superiors do not:

When anybody in your bargaining and unit came to work at the facility, they all realized that they would work different shifts, they would have different shifts, they would have different days off and that really isn't my concern as a manager, what people's personal needs are. If there are some special problems, I've always tried to entertain those, but I have -- my responsibility is to manage and run the jail.

Substantial weight must be given to the Warden's testimony view that Correction's superiors play a key role in managing the jail. The warden properly notes that superior officer personnel are in important decision-making roles and that the role of supervision in a correction facility is critical. He distinguishes this

role from that of the line correction officer. However, the County has not established that the mission of the jail or the exercise of its managerial rights would be compromised by providing for a procedural system which allows for some employee input into the shift or schedule that a superior officer works.

Appendix E provides a comprehensive system for Correction line officers. As previously noted, the rights of jail management are expressly reserved in Appendix E by very explicit language including positions not subject to the bidding process, the delineation of special posts which must be filled by employees possessing special skills, the authority to determine, define, establish and change the shifts and schedules, the right to act unilaterally in assigning shifts and schedules based upon special needs, special qualifications and special skills or when an emergency exists and the authority to determine what shift and what days and during what hours any given correctional task is to be performed. Given the fact that the County has successfully negotiated a system with line officers which allows for bidding while simultaneously preserving management rights, I conclude that there is no reasonable basis to have a blanket denial of a procedure which allows some employee input for superior officers. I further note that Appendix E allows for bidding for the rank of temporary Sergeant.

In so concluding, I recognize that a system for superior officers may be markedly different than that which exists for line officers. By way of example, the

issue of which rank and number of superior officers the County would require in the staffing level for any shift or day of work would predominantly relate to a non-negotiable management prerogative. For this and other similar reasons, I do not award the inclusion of Appendix E into the contract with PBA Local 152A. Instead, I award that a system which allows for some employee input which also recognizes legitimate management prerogatives to be negotiated between the County and PBA Local 152 and included in this agreement but that a six month time period from the date of this award be established to promote a system procedure which will touch upon the procedural mechanics in a mutually acceptable manner. Such time period will allow the parties to directly deal with the specific procedural aspects of such a system based upon their respective needs prior to its implementation. In the event of an inability to reach such agreements, either party may pursue its statutory rights under N.J.S.A. 34:14A-16(1.1 et. seq.).

I next turn to the economic issues in dispute. These issues include ~~across-the-board~~ wage increases, clothing allowance, the senior step increase and the medical benefits package.

Because much of the evidence and the parties' primary arguments on compensation issues relate to the voluntary settlements achieved by the County with PBA Local 152 (Correction's Officers), PBA Local 165 (Sheriff's Officers), PBA Local 214 (Prosecutor's Detectives and Investigators) and SOA Local 214

(Prosecutor's Superior Officers), I will set forth the terms of each Memorandum of Agreement. All have been submitted into evidence as Joint Exhibits.

The Memorandum of Agreement for the PBA Local 165 (Sheriff's Officers) has been incorporated into the proposed agreement between those parties governing the contract years January 1, 2000 through December 31, 2004 [Jt. Ex. #11].

**AGREEMENT BETWEEN
COUNTY OF MIDDLESEX AND THE
SHERIFF'S OFFICERS OF MIDDLESEX COUNTY
PBA LOCAL 165**

1. **Duration:** January 1, 2000 through December 31, 2004
2. **Article VII: Wages and Pay Periods:**

Section A.

1. Effective January 1, 2000 all eligible employees on step shall receive a step increment plus the Negotiated wage adjustment increase of 3.5% retroactive to January 1, 2000 over their previous December 31, 1999 base salaries.
2. Effective January 1, 2001 all eligible employees on step shall receive a step increment plus the Negotiated wage adjustment increase of 3.75% retroactive to January 1, 2001 over their previous December 31, 2000 base salaries.
3. Effective January 1, 2002 all eligible employees on step shall receive a step increment plus the Negotiated wage adjustment increase of 4.75% over their previous December 31, 2001 base salaries.
4. Effective January 1, 2003 all eligible employees on step shall receive a step increment plus the Negotiated wage adjustment increase of 4.75% over their previous December 31, 2002 base salaries.

5. Effective January 1, 2004 all eligible employees on step shall receive a step increment plus the Negotiated wage adjustment increase of 4.75% over their previous December 31, 2003 base salaries.

Section B.

1. Effective January 1, 2000 all eligible employees at maximum shall receive the negotiated wage increase of 3.5% retroactive to January 1, 2000 over their previous December 31, 1999 base salaries.

2. Effective January 1, 2001 all eligible employees at maximum shall receive the negotiated wage increase of 3.75% retroactive to January 1, 2001 over their previous December 31, 2000 base salaries.

3. Effective January 1, 2002 all eligible employees at maximum shall receive the negotiated wage increase of 4.75% over their previous December 31, 2001 base salaries.

4. Effective January 1, 2003 all eligible employees at maximum shall receive the negotiated wage increase of 4.75% over their previous December 31, 2002 base salaries.

5. Effective January 1, 2004 all eligible employees at maximum shall receive the negotiated wage increase of 4.75% over their previous December 31, 2003 base salaries.

3. **Article VII**

Section C. **Senior Officer Pay**

Employees who have 20 plus years of service with the County of Middlesex shall receive the negotiated wage increase plus 4% over their base salary. Employees hired after September 6, 2001 are required to have 20 plus years with the Middlesex County Sheriff Dept. to receive Senior Officer Pay of 4% as to sworn personnel.

4. **Medical Benefits:** for all new hires after September 4, 2001, such persons shall be subject to the County's Medical Benefits provisions which include the requirement of employee co-payment for medical premiums and the elimination of Traditional Indemnity Coverage, as more particularly set forth in the County Personnel Policy Guide, attached hereto and made a part hereof. The parties further stipulate that such policy shall remain as per such attached

exhibit during the new cba's duration even if changed for other County employees during such time period. However, the annual ceiling of contribution shall not be increased through December 31, 2004.

The remaining memoranda of agreements state:

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN
MIDDLESEX COUNTY AND PBA LOCAL 152**

[Jt. Ex. #10]

This Memorandum of Agreement is made this 4th day of September, 2001, by and between Middlesex County and PBA Local 152 (Correction Line Officers), and shall modify the collective bargaining agreement ("cba") that expired December 31, 1999. This agreement is expressly contingent upon the condition that it be ratified by the Freeholders and by the members of PBA Local 152. The parties that have negotiated this tentative agreement hereby certify that they will recommend such settlement to their respective principals for ratification. The expired agreement shall be incorporated in total into the new cba except as expressly amended by the terms of this Memorandum of Agreement.

The 1999 cba shall be modified as follows:

1. **Duration:** January 1, 2000 through December 31, 2004;
2. **Wages:** across-the-board increases (the "NWI") shall be applied to the cba's wage schedule for 1999, retroactive to January 1, 2000, as follows:

1/1/00	+3.50%
1/1/01	+3.75%
1/1/02	+4.75%
1/1/03	+4.75%
1/1/04	+4.75%

3. Also commencing 1/1/00, a new "**Senior Step**" shall be added to the wage schedule. The Senior Step shall be set each year as the last step below Senior Step plus 4%. The Senior Step shall be treated in all respects as base pay and the new cba shall expressly provide that the employees paid at such rate may be expected to provide additional services for such additional pay. To qualify for

payment on the Senior Step, the employee must have not less than 20 years of sworn duty in the Middlesex Adult Correction Center. As of this date, however, all present members of the bargaining unit shall be given credit for non-bargaining unit prior service (full-time only) plus sworn service within the bargaining unit provided such prior service has previously been recognized for determination of vacation eligibility, etc. by the employer.

4. **Medical Benefits:** for all new hires after September 4, 2001, such persons shall be subject to the County's Medical Benefits provisions which include the requirement of employee co-payment for medical premiums and the elimination of Traditional Indemnity Coverage, as more particularly set forth in the County Personnel Policy Guide, attached hereto and made a part hereof. The parties further stipulate that such policy shall remain as per such attached exhibit during the new cba's duration even if changed for other County employees during such time period. However, the annual ceiling of contribution shall not be increased through December 31, 2004.
5. **Appendix E** of the agreement shall be amended to provide that shift and work schedules shall be open to bid and posted by the Warden between Oct 1 and 10, 2002 and at least every 24 months thereafter. This shall be available to Officers with at least 36 months continuous service. In addition, bids subsequent to October 2002 shall be open to any Officer with at least 24 months of continuous service as a Middlesex County Correction Officer.
6. **Article 6.09H** of the current agreement shall be amended to provide that the PBA bank time be increase to 80 hours annually. Article 6.02 shall be amended to provide the applicable leave time for PBA Mini-Convention shall be increased to 5 days.
7. The **clothing allowance** contained in Article 20.04 shall be increased to \$150, effective January 1, 2002.

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN
MIDDLESEX COUNTY PROSECUTOR
AND PBA LOCAL 214**

[Jt. Ex. #9]

This Memorandum of Agreement is made this 4th day of September, 2001, by and between Middlesex County, The Middlesex Prosecutor and PBA Local 214 (Prosecutors Investigators), and shall

modify the collective bargaining agreement (“cba”) that expired December 31, 1999. This agreement is expressly contingent upon the condition that it be ratified by the Freeholders, the Prosecutor and by the members of PBA Local 214. The parties that have negotiated this tentative agreement hereby certify that they will recommend such settlement to their respective principals for ratification. The expired agreement shall be incorporated in total into the new cba except as expressly amended by the terms of this Memorandum of Agreement.

The 1999 cba shall be modified as follows:

1. **Duration:** January 1, 2000 through December 31, 2004;
2. **Wages:** across-the-board increases (the “NWI”) shall be applied to the cba’s wage schedule for 1999, retroactive to January 1, 2001, as follows:

1/1/00	+3.50%
1/1/01	+3.76%
1/1/02	+4.75%
1/1/03	+4.75%
1/1/04	+4.76%

In addition to such NWI increases, **new steps** will be added to the wage schedule. Commencing on 1/1/00, two new entry level steps (“A” @ \$32,000 and “B” @ \$39,000), each step being one year in duration, will be added to the wage schedule. The Prosecutor shall have complete and sole discretion to place new hires on either of such steps. Once placed any such new hire shall proceed along the steps as heretofore.

Also commencing 1/1/00, a new “**Senior Step**” shall be added to the wage schedule. The Senior Step shall be set each year as the last step below Senior Step plus 4%. The Senior Step shall be treated in all respects as base pay and the new cba shall expressly provide that the employees paid at such rate may be expected to provide additional services for such additional pay. To qualify for payment on the Senior Step, the employee must have not less than 20 years of sworn duty in the Middlesex Prosecutor’s Office. As of this date, however, all present members of the bargaining unit shall be given credit for non-bargaining unit prior service (full-time only) plus sworn service within the bargaining unit provided such prior service has previously been recognized for determination of vacation eligibility, etc. by the employer. All such “grandfathered” persons and their recognized prior service shall be listed on an exhibit to be attached to the new cba.

3. **Medical Benefits:** for all new hires after September 4, 2001, such persons shall be subject to the County's Medical Benefits provisions which include the requirement of employee co-payment for medical premiums and the elimination of Traditional Indemnity Coverage, as more particularly set forth in the County Personnel Policy Guide, attached hereto and made a part hereof. The parties further stipulate that such policy shall remain as per such attached exhibit during the new cba's duration even if changed for other County employees during such time period.
4. **Miscellaneous:** the County's Personnel Policies regarding the payment of attorneys and the payment of accumulated sick time at retirement, to the extent not inconsistent with Article XII of the cba, shall be incorporated into the text of the new cba.

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN
MIDDLESEX COUNTY PROSECUTOR AND SOA**

[Jt. Ex. #8]

This Memorandum of Agreement is made this 4th day of September, 2001, by and between Middlesex County, the Middlesex Prosecutor and SOA Local 214 (Prosecutor Investigator Superiors), and shall modify the collective bargaining agreement ("cba") that expired December 31, 1999. This agreement is expressly contingent upon the condition that it be ratified by the Freeholders, the Prosecutor and by the members of the SOA. The parties that have negotiated this tentative agreement hereby certify that they will recommend such settlement to their respective principals for ratification. The expired agreement shall be incorporated in total into the new cba except as expressly amended by the terms of this Memorandum of Agreement.

The 1999 cba shall be modified as follows:

1. **Duration:** January 1, 2000 through December 31, 2004;
2. **Wages:** across-the-board increases (the "NWI") shall be applied to the cba's wage schedule for 1999, retroactive to January 1, 2000, as follows:

1/1/00	+3.50%
1/1/01	+3.75%
1/1/02	+4.75%
1/1/03	+4.75%
1/1/04	+4.75%

3. **Overtime:** for the ranks of Lieutenant and Captain, the “definition” of overtime in Article V of the new cba shall be amended, effective upon ratification of this Memorandum by the parties hereto, to redefine “overtime” as being time worked in excess of 40 hours in the work week. Hours worked in excess of 35 but less than 40 shall be paid at the employee’s regular hourly rate of pay. In the case of the rank of Sergeant, overtime shall continue to be paid in accordance with the cba.

4. **Medical Benefits:** for all new hires after September 4, 2001, such persons shall be subject to the County’s Medical Benefits provisions which include the requirement of employee co-payment for medical premiums and the elimination of Traditional Indemnity Coverage, as more particularly set forth in the County Personnel Policy Guide, attached hereto and made a part hereof. The parties further stipulate that such policy shall remain as per such attached exhibit during the new cba’s duration even if changed for other County employees during such time period.

5. **Miscellaneous:** the County’s Personnel Policies regarding the payment of attorneys, snow days and the payment of accumulated sick time at retirement, to the extent not inconsistent with Article XII of the cba, shall be incorporated into the text of the new cba.

The economic issues of medical plan benefits, clothing allowance, salary and senior step pay remain in dispute. Careful review of the arguments presented by the County and the Unions reflect heavy emphasis on the terms and applicability of the voluntary agreements to the issues in dispute. I conclude that the two labor agreements between the County and the PBA Local 165 (Sheriff’s officers) and PBA Local 152 (Correction’s officers) are the most relevant areas of the evidence when evaluating the merits of the parties’ positions on these issues. In reaching this conclusion, I apply the statutory mandate that due weight be given to those factors deemed relevant in reaching a reasonable determination of the issues. N.J.S.A. 34:13A-16(g)2(c) provides that comparisons be made among employees performing the same or similar

services in the same jurisdiction. The terms of the respective line officers' agreements represent the most appropriate framework for the disposition of the issues. N.J.S.A. 34:13A-16g(8) also provides for consideration of the continuity and stability of employment, including seniority rights, of the affected employees as well as other factors ordinarily or traditionally considered in the determination of wages and other terms of employment. The record reflects that a strong relationship has existed between line officers and superior officers which has contributed to continuity and stability of employment in the Sheriff's office and the Correction's department and to the development of supervisory personnel who assist in managing the important function of each institution. Each memorandum of agreement also serves a guidepost to what the County and the other law enforcement units have deemed acceptable to themselves after consideration of all of the key factors which have influenced the overall terms of these packages. Substantial weight must be given to internal comparability and to the ordinary and traditional considerations which arise from the more practical aspects of the collective bargaining process. The remaining criteria are not irrelevant but have been factored in by the parties themselves in their development of the terms of the voluntary agreements. The well articulated post-hearing briefs of the parties serve as evidence of their acceptance of this framework and their arguments presented therein reflect the significance attached to the memoranda of agreement. It is clear that the differences between the parties are not reflective of differences over the relevance of the voluntary agreements but rather the manner in which each party seeks to apply their terms to the unresolved issues.

The County's proposal concerning the medical benefits plan is a key element in the evaluation of all of the disputed economic issues. The medical benefit plan governs new hires. The County has established that substantial cost savings will be achieved by the terms of the plan [See Appendix A and County Exhibits #1 & #2]. The terms of the plan have been agreed to by all other County bargaining units covering both non-law enforcement employees and law enforcement employees [C. Exs. #8 - #13, Jt. Exs. #7 - #11]. The interests and welfare of the public are served by incorporating these terms into the agreements covering Sheriff's and Correction's superior officers. The positive financial impact of the medical benefits plan will serve as cost offsets for the improved terms and conditions of employment to be received by new and current employees and serve as a uniform foundation for easing the increases in health insurance premiums for the future. The Union's argument that the precise terms of the plan are not generally present in other county labor agreements is without merit. It is a countywide plan in Middlesex County which includes other law enforcement personnel and I give substantial weight to this fact. It is also significant that no future hires will be affected in these two units for many years due to the length of time it normally takes a correction's officer or a sheriff's officer to become a superior officer. In contrast, new line officers will be hired immediately causing immediate cost savings for the County through employee contributions to the medical benefits plan. For these reasons, I award the adoption of the County's proposed medical benefits plan for employees who are

hired by the County after September 4, 2001 and who become superior officers in these two bargaining units.

The issue of contract duration is in dispute. The County's other law enforcement units have voluntarily concluded contracts with five year durations. The interest and welfare of the public are served by agreements among all of these units which expire on the same date. This conclusion would be consistent with the fact that all of these contracts expired on the same date, December 31, 1999. Deviation from this commonality is not warranted. I also note that the County's main objection to a contract of five years duration related to the Unions' refusal to accept the medical benefits plan. Having incorporated that medical benefits plan into each new labor agreement, a basis has now been provided for a contract with five years duration.

The record reflects that the agreements for line officers in Sheriff's and Correction's provided clothing allowance increases of \$500 and \$150 respectively. Sheriff's line officers did not receive a clothing allowance prior to 2000 while the Correction's line officers received \$650. Sheriff's superiors receive no clothing allowance having previously added \$500.00 to base while Correction's superiors receive \$1,000. No credible evidence has been submitted by the County in support of the denial of parallel clothing allowance increases in these two units. The increases are a core element of the overall compensation packages given to each line officer in the Sheriff's office and Correction's

department. The five year duration of the agreement supports the provision of these increases on the same effective dates as provided to PBA Local 165 and PBA Local 152.

I now turn to the issue of the across-the-board wage increases. The preponderance of the evidence in the record supports across-the-board wage increases identical to that received by the County's law enforcement personnel. Those agreements contain identical wage increases as reflected in each memorandum of agreement. I rely on the across-the-board wage increases set forth in each memorandum of agreement as a basis to award identical terms to each unit. Accordingly, the wage increases shall be 3.5% effective January 1, 2000, 3.75% effective January 1, 2001, 4.75% effective January 1, 2002, 4.75% effective January 1, 2003 and 4.75% effective January 1, 2004.

The most fundamental disagreement between the County and the Unions is the relevance and applicability of the senior step increase as contained in each memorandum of agreement the County negotiated with PBA Local 152 and PBA Local 165. In simple terms, the County seeks a new agreement in these two units without any augmentation in compensation beyond the across-the-board increases while the Unions view the incorporation of the senior step increase as an essential ingredient which provides additional value in the whole package agreed to by the County and PBA Local 152 and PBA Local 165. These

disparate positions have been considered as well as the evidence in support of each view.

There is merit to the County's contention that the senior step component of its voluntary settlements with PBA Local 152 and PBA Local 165 cannot be simply grafted on to these superior officer units. I also conclude that there is merit to the Unions' contention that comparable treatment with the units which the superior officers supervise cannot be reached without some additional value incorporated into the terms of the new agreement.

I am mindful that this issue is absent in the Memorandum of Agreement the County negotiated with the Prosecutor's Superior Officer Association, Local 214. I do not find this fact to be controlling or one which requires the adoption of the County's position on this issue. A comparison of the terms and conditions of employment of all superior officers involved reflect substantial differences in compensation, work and shift schedules, and day-to-day duties which does not dictate that the superior officers in PBA Local 152A and the Sheriff's SOA must receive the identical terms set forth in the Memorandum of Agreement between the County and Prosecutor's Superior Officers Association, Local 214, thereby undermining the strong relationship which has existed with the units containing line officers which they supervise.

The record clearly does not support an additional 4% increase for all superior officers with more than 20 years of service. The senior step increase, unlike the other economic issues, cannot be given the identical treatment the Unions seek for several reasons. All parties have recognized that a strong relationship exists between this issue and the medical benefits plan. The cost savings which will accrue to the County on the medical benefits plan are dramatically more significant in the line officer units than what will be realized in the superiors units. The record reflects that a line officer will normally not become a superior officer for ten or more years after initial hire date. This places any savings which will accrue in the superior officer units well into the future and, in fact, beyond the duration of the agreements.

A second consideration is that this benefit is distinct from the across-the-board wage increases and clothing allowances because eligibility for the senior step increase is attained after the length of time an employee has been employed, directly affecting the value of the benefit on a unit by unit basis.

Based upon charts set forth below, the number of employees eligible for a senior step increase is dramatically different when superior officers are compared with line officers. The charts reflect that only 2 of 195 Correction line officers (1%) are eligible for this benefit in 2000 while 17 of 37 Correction's superiors (46%) would be eligible in 2000. Projections for 2004 reflect that 21 Correction's line officers out of 195 (11%) are eligible while 27 out of 37 Correction's superiors

(73%) would be eligible. Similar results are reached when comparing employees in the Sheriff's Office. The charts reflect that 16 of 130 Sheriff's line officers (12%) are eligible in 2000 while 14 of 21 Sheriff's superior officers (67%) would be eligible. Projections for 2004 reflect that 34 of 130 Sheriff's line officers (26%) would be eligible while 19 of 21 Sheriff's superior officers (90%) would be eligible. A reasonable conclusion drawn from these facts is that the senior step increase is a benefit in the voluntary agreements which was clearly not intended to be conferred on the vast majority of employees in those bargaining units and that the economic impact and value of the benefit was a relevant consideration in its inclusion in the overall wage package.

The economic impact and value of the benefit is a relevant consideration. The economic value of a 4% senior step increase in each of these two units is significantly greater when compared to the economic value of the benefit when applied to the line officer units. This conclusion is compelled after careful calculation of the relative value of this benefit. Such calculation is necessary given the statutory requirement that the net annual economic change in an award must be calculated and justified by the statutory criteria. I have done so and have set forth my calculations in the charts below.⁶

⁶ I recognize that certain calculations are based upon projections and may not reflect the precise figures which may be realized. This is due to information being calculated based upon facts existing as of December 31, 1999, the last date of the expired agreements. Various factors may affect the projected costs including, but not limited to, turnover and promotions of line officers into the superior officer units.

PBA Local 165 Sheriff's Line Officer Roster	Base Salaries 12/31/99	Maximum Step Pay	Base Salaries Eligible 20+ years	4% Senior Step Increase Per Eligible Employee	Total Cost 4% Senior Step Increase	Value of Senior Step as % of Base Salaries	\$ Per Employee based upon total roster
130 1/1/00	1/1/00 \$7,345,468 (3.5%)	\$56,318	(16) \$901,088	\$2,258	\$36,128	0.50	\$288
130 1/1/01	1/1/01 \$7,620,923 (3.75%)	\$58,450	(17) \$993,310	\$2,337	\$39,732	0.52	\$306
130 1/1/02	1/1/02 \$7,982,917 (4.75%)	\$61,206	(21) \$1,285,326	\$2,448	\$51,413	0.65	\$395
130 1/1/03	1/1/03 \$8,362,105 (4.75%)	\$64,113	(26) \$1,666,938	\$2,564	\$66,664	0.80	\$513
130 1/1/04	1/1/04 \$8,759,305 (4.75%)	\$67,159	(34) \$2,283,406	\$2,686	\$91,324	1.10	\$703

Sheriff's SOA Roster	Base Salaries 12/31/99	Average Salary All Ranks	Base Salaries Eligible 20+ years	4% Senior Step Increase Per Eligible Employee (Average)	Total Cost 4% Senior Step Increase	Value of Senior Step as % of Base Salaries	\$ Per Employee based upon total roster
21 1/1/00	1/1/00 \$1,436,860 (3.5%)	\$68,422	(14) \$957,908	\$2,737	\$38,316	2.6	\$1,825
21 1/1/01	1/1/01 \$1,490,742 (3.75%)	\$70,988	(15) \$1,064,820	\$2,840	\$42,593	2.9	\$2,028
21 1/1/02	1/1/02 \$1,561,552 (4.75%)	\$74,360	(17) \$1,264,120	\$2,974	\$50,564	3.2	\$2,408
21 1/1/03	1/1/03 \$1,635,726 (4.75%)	\$77,892	(18) \$1,402,056	\$3,116	\$56,082	3.4	\$2,670
21 1/1/04	1/1/04 \$1,713,423 (4.75%)	\$81,592	(19) \$1,550,248	\$3,263	\$62,010	3.6	\$2,953

PBA Local 152 Correction's LO Roster	Base Salaries 12/31/99	Maximum Step Pay	Base Salaries Eligible 20+ years	4% Senior Step Increase Per Eligible Employee	Total Cost 4% Senior Step Increase	Value of Senior Step as % of Base Salaries	\$ Per Employee based upon total roster
195 1/1/00	1/1/00 \$10,363,658 (3.5%)	\$54,527	(2) \$109,055	\$2,181	\$4,362	0.04	\$22
195 1/1/01	1/1/01 \$10,754,370 (3.75%)	\$56,571	(3) \$169,713	\$2,263	\$6,789	0.06	\$34
195 1/1/02	1/1/02 \$11,265,202 (4.75%)	\$59,258	(9) \$533,322	\$2,370	\$21,330	0.20	\$109
195 1/1/03	1/1/03 \$11,800,299 (4.75%)	\$62,072	(13) \$845,275	\$2,482	\$33,811	0.30	\$173
195 1/1/04	1/1/04 \$12,360,813 (4.75%)	\$65,021	(21) \$1,365,441	\$2,601	\$54,618	0.44	\$280

PBA Local 152A Correction's Superiors Roster	Base Salaries 12/31/99	Average Salary All Ranks	Base Salaries Eligible 20+ years	4% Senior Step Increase Per Eligible Employee (Average)	Total Cost 4% Senior Step Increase	Value of Senior Step as % of Base Salaries	\$ Per Employee based upon total roster
37 1/1/00	1/1/00 \$2,503,771 (3.5%)	\$67,669	(17) \$1,150,373	\$2,706	\$46,014	1.8	\$1,243
37 1/1/01	1/1/01 \$2,597,663 (3.75%)	\$70,207	(19) \$1,333,933	\$2,808	\$53,357	2.1	\$1,442
37 1/1/02	1/1/02 \$2,721,051 (4.75%)	\$73,542	(23) \$1,691,466	\$2,941	\$67,658	2.5	\$1,828
37 1/1/03	1/1/03 \$2,850,301 (4.75%)	\$77,035	(26) \$2,002,910	\$3,081	\$60,116	2.8	\$2,165
37 1/1/04	1/1/04 \$2,985,691 (4.75%)	\$80,694	(27) \$2,178,738	\$3,338	\$87,149	3.0	\$2,355

The charts reflect that the value of the senior step increase by bargaining unit. The value in the Correction's line officers' unit ranges from 0.04% in 2000 to 0.44% in 2004. The value of the same benefit for the Correction's superiors unit would range from 1.8% in 2000 to 3.0% in 2004. The value of the senior step increase for the Sheriff's line officers' unit ranges from 0.5% in 2000 to 1.0% in 2004 while the value of the same benefit for Sheriff's superiors would range from 2.6% in 2000 to 3.6% in 2004. Similar results are realized in other categories of relevant comparison including the average cost of the benefit per unit employee based upon each unit as a whole.

Although I have concluded that the 4% senior step component of the voluntary settlements cannot be simply grafted on to the superior officer units, I have also concluded that the voluntary settlements include an additional value for line officers warranting the inclusion of some additional value into the terms of the new agreement for the superior officers. There is merit to the Unions' argument that equitable and historical considerations require that some additional value be placed in the "whole package." I have already determined that such value must be evaluated in the context of its economic impact and economic change and that the economic impact and economic change must be reasonably related to the value charged to the bargaining unit as a whole rather than to any individual employee.

A reasonable determination of this disputed issue, with due regard to the statutory criteria I have found relevant to the resolution of this dispute, would allow for a superior senior step for each rank, to be non-accumulative in nature⁷, for superior officers. These terms of eligibility for current employees shall be comparable to those set forth in the voluntary agreements. New employees shall be required to earn their years of eligibility for service within their department.

As stated above, the amount of the step should represent a balance between the cost impact to the unit as a whole while providing a reasonable benefit to eligible superior officers. I set that amount at 1.5%. The annual economic change of the step in each unit is calculated below.

Sheriff's SOA	Dollar Cost	%
2000	\$14,368	1.0%
2001	\$15,972	1.1%
2002	\$18,961	1.2%
2003	\$21,030	1.3%
2004	\$23,253	1.4%

PBA Local 152A	Dollar Cost	%
2000	\$17,255	0.7%
2001	\$20,008	0.8%
2002	\$25,371	0.9%
2003	\$30,043	1.1%
2004	\$32,681	1.1%

Accordingly, and based upon all of the above, I respectfully enter the following Awards.

⁷ For example, a sergeant with 20 plus years of service would receive a superior senior step but retain that amount without any additional increase regardless of any promotion to a higher rank.

AWARD - PBA LOCAL 152A

All proposals by the County and the PBA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this Award. Any tentative agreements entered into between the County and the PBA shall be incorporated herein.

1. Duration - There shall be a five-year agreement effective January 1, 2000 through December 31, 2004.

2. Salary: salary at each rank shall be increased as follows:

3.50% effective January 1, 2000

3.75% effective January 1, 2001

4.75% effective January 1, 2002

4.75% effective January 1, 2003

4.75% effective January 1, 2004

3. Clothing Allowance

Effective January 1, 2002, the clothing allowance shall be increased by \$150.

4. Medical Benefits Plan

For all new hires after September 4, 2001 who become Correction's superior officers, such persons shall be subject to the County's Medical Benefits provisions which include the requirement of employee co-payment for medical premiums and the elimination of Traditional Indemnity Coverage, as more particularly set forth in the County Personnel Policy Guide, attached to Joint Exhibit #10 and made a part

hereof. The parties further stipulate that such policy shall remain as per such attached exhibit during the new agreement's duration even if changed for other County employees during such time period. However, the annual ceiling of contribution shall not be increased through December 31, 2004.

5. Shift Work and Schedule Bidding

I award a procedure which allows for some employee input into shift and scheduling assignment which recognizes legitimate management prerogatives. The precise terms of this procedure shall be negotiated between the County and PBA Local 152A within six months of the date of this award. In the event of an inability to reach final agreements, either party may pursue its statutory rights to impasse procedures included in N.J.S.A. 34:14A-16 1.1 (et. seq.).

6. Superior Senior Step

Commencing January 1, 2000 a superior senior step of 1.5% shall be added to the base salary of all unit employees. The Senior Step shall be treated in all respects as base pay and the new agreement shall expressly provide that the employees paid at such rate may be expected to provide additional services for such additional pay. To qualify for payment on the Superior Senior Step, the employee must have not less than 20 years of sworn duty in the Middlesex Adult Correction Center. As of this date, however, all present members of the bargaining unit shall be given credit for non-bargaining unit prior service (full-time only) plus sworn service within the County of Middlesex provided such prior service has previously been recognized for determination of vacation eligibility, etc. by the employer.

AWARD - SHERIFF'S SOA

All proposals by the County and the Sheriff's SOA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this Award. Any tentative agreements entered into between the County and the Sheriff's SOA shall be incorporated herein.

1. Duration - There shall be a five-year agreement effective January 1, 2000 through December 31, 2004.

2. Salary: salary at each rank shall be increased as follows:

3.50% effective January 1, 2000
3.75% effective January 1, 2001
4.75% effective January 1, 2002
4.75% effective January 1, 2003
4.75% effective January 1, 2004

3. Clothing Allowance

Effective January 1, 2002, the clothing allowance shall be increased by \$500.

4. Medical Benefits Plan

For all new hires after September 4, 2001 who become Sheriff's superior officers, such persons shall be subject to the County's Medical Benefits provisions which include the requirement of employee co-payment for medical premiums and the elimination of Traditional Indemnity Coverage, as more particularly set forth in the County Personnel Policy Guide,

attached to Joint Exhibit #11 and made a part hereof. The parties further stipulate that such policy shall remain as per such attached exhibit during the new agreement's duration even if changed for other County employees during such time period. However, the annual ceiling of contribution shall not be increased through December 31, 2004.

5. Superior Senior Step

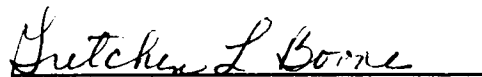
Unit employees who have 20 plus years of service with the County of Middlesex shall receive a superior senior step of 1.5% over their base salary. Employees hired after September 6, 2001 are required to have 20 plus years with the Middlesex County Sheriff's Department to receive the Superior Senior Step.

Dated: April 5, 2002
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 5th day of April, 2002, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



GRETCHEN L. BOONE
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 8/13/2003