

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

BOROUGH OF CHESTER

"Borough"

-and-

**CHESTER BOROUGH POLICE
OFFICERS ASSOCIATION**

"CPA"

**INTEREST ARBITRATION
DECISION
AND
AWARD**

Docket No. IA-2000-91

**Before
James W. Mastriani
Arbitrator**

Appearances;

For the Borough:

Richard L. Marcickiewicz, Esq.
Sears, Sweeney & Marcickiewicz

For the CPA:

David J. DeFillippo, Esq.
Klatsky & Klatsky

I was appointed arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425, in this matter involving the Borough of Chester [the "Employer" or "Borough"] and Chester Borough Police Officers Association [the "CPA"]. A pre-arbitration mediation was held on November 27, 2000. Because the impasse was not resolved, a formal interest arbitration hearing was held on April 26, 2001. Testimony was received from Patrolman Keith Anderson, Police Chief Neil Logan and Borough Administrator Robert Glass. Both parties introduced evidence. Post-hearing briefs were submitted by June 15, 2001.

FINAL OFFERS OF THE PARTIES

The Borough and the CPA submitted the following final offers:

The CPA

1. **Duration** -- January 1, 2000 to December 31, 2002.
2. **Additional Duties Stipend (Article V)** -- The CPA proposes a \$500 stipend for additional duties performed by Patrolmen formerly performed by the Police Lieutenant.

3. Salary (Article VI) -- The CPA proposes that all steps shall be increased as follows:

5.0% effective January 1, 2000
5.0% effective January 1, 2001
5.0% effective January 1, 2002.

4. Longevity (Article VI, Paragraph B) -- The CPA proposes that longevity be increased across the board by \$500 effective January 1, 2000.

5. Overtime (Article VII, Paragraph B) -- The CPA proposes that Patrolmen be permitted to have the discretion to elect compensatory time in lieu of cash payment for overtime.

6. Clothing Allowance (Article XII, Paragraph C) -- The CPA proposes that the clothing allowance of \$575 be paid as a stipend rather than through the voucher system.

7. Off-Duty Employment -- The CPA proposes that the off-duty employment rate be increased to time and one-half of the Police Sergeant's regular rate of pay retroactive to January 1, 2000.

The Borough of Chester

1. Duration

January 1, 2000 through December 31, 2002.

2. Salary (Article VI)

Effective January 1, 2000	3.5% increase
Effective January 1, 2001	3.75% increase
Effective January 1, 2002	3.5% increase

The Borough and the CPA have offered testimony and considerable documentary evidence in support of their final offers. Numerous Borough and CPA exhibits were received in evidence. I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (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 Borough of Chester is a municipality located in Morris County. It is a suburban municipality covering 1.54 square miles, having a population of 1,356 with a per capita income of \$35,321.

According to the Chester Borough Monthly Police Report for the year 2000, there were sixty seven (67) criminal and juvenile arrests, a total of ninety three (93) reported crimes and three (3) violent crimes (2 suicide threats and 1 aggravated assault).

The Borough's municipal tax rate decreased from .868 in 1995 and has remained relatively stable since 1998 - .721 in 1998, .722 in 1999, and .723 in 2000. Its total budget for 2000 was \$2,674,544 with the police portion of the budget at approximately \$667,977, or 20%.

The Chester Borough Police Department is composed of six (6) Patrol Officers, one (1) Sergeant and a Police Chief. The CPA represents all officers except the Chief. The department did have a Lieutenant position which remained unfilled after Lieutenant Neil Logan was promoted to Chief of Police.

POSITIONS OF THE PARTIES

CPA

The CPA contends that its last offer is reasonable, is consistent and supported by the statutory criteria and should be adopted by the arbitrator in its entirety. Addressing N.J.S.A. 34:13A-16g (1), the interest and welfare of the public, and (5), the lawful authority of the employer, the CPA asserts that its proposals will not create a Cap Law problem for Chester and can be funded in a manner consistent with the interest and welfare of the public. According to the CPA, the Borough only increased its Cap by 2.5% (\$44,528) and could have lawfully budgeted an additional \$44,528 in 2000 within the Cap, but elected not to do so. Borough Administrator/Clerk Robert H. Glass testified that the Borough could have increased the index rate to 5% rather than using a 2.5% index rate. The CPA also cites the testimony of Glass that Chester did not have a Cap problem in 1999 or 2000. Specifically, the CPA calculated that the excess unused Cap for 1999 was \$59,958. The CPA also notes that in 1999, the Borough used a 1.5% Cap index rate, which equals \$25,696 rather the 5% that was permitted. The CPA also points out to that the Borough, while consistently

underutilizing the Cap from 1995 through 2000, has consistently held a Cap bank since 1995. For these reasons, the CPA concludes that its proposals will not compel the Borough to exceed its Cap.

Addressing N.J.S.A. 34:13A-16g (6), the financial impact on the Borough, its residents and taxpayers, the CPA points out that from 1996 to 1999 the Borough experienced a surplus with its highest surplus in 1999, with a fund surplus balance of \$639,794 after deducting appropriation in general revenues in the amount of \$314,873. The CPA compares this surplus to the \$520,826 surplus in 1998. Additionally, the CPA notes that the Borough used \$275,000 of its 1996 surplus of \$501,476 as a revenue source in 1997. In contrast, in 2000, the Town used \$314,873 of its surplus of \$954,667 as of December 31, 1999 as a revenue source in 2000. According to the CPA, the Borough has successfully used and regenerated its surplus in recent years. The CPA explains that the Borough has a surplus of \$795,826 at the close of 1998 and used \$275,000 of that amount in 1999, leaving only \$520,826 as surplus. However by the end of 1999, the Town had regenerated a surplus of \$433,841.

Further, the CPA calculates that from 1998 through 2000, the Borough has averaged \$331,141 in excess revenues over expenses each year. According to the CPA, there are several reasons why the Borough has been able to create such surpluses. First, the CPA asserts that the Borough has estimated the percentage of taxes to be collected at a rate less than what it actually has

been able to collect. Specifically, the CPA compares the estimated percentage of taxes to be collected for the years 1998 through 2000 to that which the Borough actually collected. According to the CPA, the Borough has underestimated its tax collections over that time period by an average of 2.07% each year. Second, the CPA asserts that the Borough has underestimated its excess revenues over expenses each year. The CPA indicates that the Borough has consistently generated revenues above its expenses since 1998 but nevertheless budgets total general appropriations to equal its estimated total general revenues. Third, the Borough has increased its revenue from interest on investments between 1997 and 2000 by 125%, from \$61,216 to \$137,744. Fourth, the Borough almost tripled its revenue from interest on costs and taxes between 1996 and 2000, from \$23,463 to \$64,124. Fifth, the Borough has increased its construction code fees from 1997 to 2000 by 123%, from \$34,382 to \$76,958. For these reasons, the CPA claims that the Borough is in excellent financial shape and that the CPA's economic proposals would not result in adverse financial impact.

The CPA reviews the economic conditions of the Town, pointing out that its municipal tax rate has decreased from 1995 through 2000. Specifically, the CPA indicated that the municipal tax rate decreased from .868 in 1995 to .723 in 2000. The CPA also notes that the overall tax rate for Chester residents has decreased from 1995 to 1999. The total tax rate including municipal, county and

local school tax was 3.05 in 1995, 2.33 in 1996, 2.41 in 1997, 2.58 in 1998 and 2.69 in 1999.

The CPA contends that the Borough has increased its assessed valuations for all real property by \$56,317,406 between 1994 and 1999, from \$146,416,295 to \$202,733,701. According to the CPA, the increase in assessed valuations coupled with the decrease in the municipal and total tax rate prove that the Borough is in excellent financial shape.

Once again addressing N.J.S.A. 34:13A-16g (1), the interest and welfare of the public, the CPA indicates that Chester was recently ranked as the 207th wealthiest community in the United States and that only 12 other New Jersey municipalities ranked above the Borough's median home price of \$385,000. Further, the CPA asserts that Morris County ranks second to Fairfax, Virginia in both median family income and median household income. In 1989, Morris County also had the highest per capita money income in New Jersey and the 10th highest in the United States. In 1990, Chester's average value of multi-family units ranked 2nd in the County with \$450,000, exceeding the County average by \$276,273. In 1999, the median value of Borough homes was \$229,000, exceeding the County average by approximately \$12,000.

The CPA points to the fact that between 1990 and 2000, Chester's population grew by 34.7%, the highest percentage increase in the County. The

CPA indicates that the Borough's unemployment rate of 2.3% in 1999 was .5% lower than the County average.

The CPA indicates that the Borough has experienced commercial growth. A new shopping mall will break ground this year and the Borough has processed many new construction permits.

Addressing N.J.S.A. 34:13A-16g (2), the comparison of wage, salaries, hours, and conditions of employment, the CPA compares the patrolmen to the Borough teachers whose salaries are paid from the school tax levy. The CPA compares the number of work days, work hours in a day and year, and other working conditions between the CPA and the Borough's elementary and high school teachers:

	Chester Borough <u>Police Officer</u>	Chester Borough Elementary <u>School Teachers</u>	Chester Borough High <u>School Teachers</u>
Days in Work Year	260	185	183
Length of Day	8 Hours	7 ¼ Hours	7 ½ Hours
Hours in Working Year	2,080	1,341.25	1,372.5
Work Evening Shift	Yes	No	No
Work Midnight Shift	Yes	No	No
Work Weekends	Yes	No	No
Work Christmas	Yes	No	No
Work Easter	Yes	No	No
Work Other Holidays	Yes	No	No
Work Summer	Yes	No	No
Work Snow Days	Yes	No	No
Carry a Gun	Yes	No	No

According to the CPA's comparison, the Borough's teachers work fewer months, days and hours than patrolmen and are not required to work night shifts, holidays, weekends or snow days.

According to the CPA, for school year 1997-1998, Borough elementary and high school teachers reach the top step of the salary guide in the 17th year. For the 1997-1998 school year, elementary school teachers at the top step earned with longevity included \$58,088 and a high school teacher earned \$62,755. In comparison, a Borough patrolman reaches the top step in his or her 4th year. Therefore, a patrolman at the top step in his or her 17th year of service earned \$49,008 in 1997 and \$50,771 in 1998 with longevity included. The CPA averaged the patrolman's salary with longevity included for the 1997-1998 school year to be \$49,889.

For the school year 1998-1999, a Borough elementary school teacher reaches the top step of the salary guide in his or her 15th year and earned \$58,788 without longevity included. In comparison, a Borough patrolman at the top step in his or her 15th year of service earned \$48,771 in 1998 and \$50,600 in 1999. According to the CPA, a patrolman, over the 1998-1999 school year, earned an average of \$51,185 - \$49,685 plus a longevity payment of \$1,500 in the 15th year of service.

For the school year 1998-1999, a Borough high school teacher reaches the top step of the salary guide in his or her 17th year and earned \$64,360 - \$63,919 in salary plus \$450 longevity. In comparison, a Borough patrolman, over

the 1998-1999 school year, earned an average of \$51,685 - \$49,685 plus a longevity payment of \$2,000 in the 17th year of service.

According to the CPA, even if its salary increases of 5% and longevity increases of \$500 are awarded, the Borough's top patrolman with 14 years of service in the 1999-2000 school year will be paid approximately \$6,423 less than a Borough elementary school teacher with the same number of years of service. Further, a top patrolman with 17 years of service will earn \$11,645 less than a Borough high school teacher with the same number of years of service. The CPA also indicates that Borough teachers receive educational incentives that patrolmen do not. [Union Exhibit R-20].

The CPA also compares benefits to the private sector. According to the CPA, personal income in New Jersey increased by 4.9% between January 2000 and January 2001 while personal income nationally rose by 6.5%. The CPA also indicates that the state's unemployment rate in 2000 dropped from 1999 rate of 4.6% and tied its record low of 3.8% in 1988. The CPA cites a report in the Asbury Park Press on July 19, 2000, that indicated that the state's unemployment rate in June 2000 dropped to "the lowest level in 30 years." The CPA contends that Chester patrolmen should be permitted to participate in the same economic boom experienced by other New Jerseyans and Americans.

Remaining focused upon N.J.S.A. 34:13A-16g (2), the CPA compares the benefits of Chester patrolmen to other municipal patrolmen in Morris County. In this regard, the CPA makes its most vigorous argument. The CPA indicates that Borough patrolmen have been among the worst paid in the County and will continue to earn substantially less even if its proposal is awarded. The CPA provided the following as the average salary increases for municipal patrolmen in Morris County from 1998 through 2002:

<u>Year</u>	<u>Average County % Raise</u>
1998	4.00%
1999	4.20%
2000	4.07%
2001	4.17%
2002	3.87%

The CPA indicates that Borough patrolmen in 1999 and 2000 received less than the County average for salary increases - .45% less in 1999 and .57% less in 2000, thereby aggravating its unfavorable comparison. The CPA cites the 1999 increase as the 18th worst percentage raise in the County and the 2000 increase as the 29th worst. The CPA contends that if the Borough's proposed increase is awarded that the patrolmen would receive .42% less than the County average in 2001 and .37% less than the County average in 2002 and would possess the 20th worst percentage increase for 2001 and the 2nd worst in 2002. In terms of salary increase expressed in dollar amounts, Borough patrolmen received \$493 less than the County average of \$2,322 in 1999 and ranked as the 27th worst dollar amount raise. The CPA contends that if the Borough's proposal of a 3.5% salary

increase for 2000 is awarded patrolmen would receive \$595 less than the County average of \$2,366 and would rank as the 29th worst in the County. Further, if the Borough's proposal is awarded, the dollar amount raise for top level patrolmen will raise as the worst in the County in 2002.

In addition to receiving lesser salary increases than the County averages, the CPA claims that it ranks among the worst in the County for annual sick leave benefits, receives three (3) personal days per year, and does not receive a uniform maintenance allowance while the County average was \$444.

The CPA further indicates that the Borough's superior officers are paid below the County average for superiors.

The CPA contends that even if its proposal for salary increases is awarded that the top patrolmen salary would be \$7,486 below the County average for 2000 and \$7,441 below if longevity were included. In 2001, top patrolmen would earn \$7,172 below the County average for 2001 and \$7,407 below if longevity were included. The patrolmen would rank as the worst of the 28 County municipalities. In 2002, top patrolmen would earn \$6,303 below the average and \$6,341 if longevity were included. For these reasons, and those cited by the CPA above, the CPA claims that its proposal should be awarded.

The CPA indicates that there is little monetary difference between its proposal and the Borough's. According to the CPA, the cost difference for salary and longevity is \$6,773 for 2000, \$12,154 for 2001, and \$18,804 for 2002. Assuming the CPA's salary proposal is awarded but its longevity proposal is not, the cost difference is less - \$4,627 for 2000, \$9,654 for 2001, and \$16,189 for 2002. Therefore, the total cost difference over the entire contract would be \$30,470 without longevity awarded and \$37,731 with longevity awarded.

Addressing N.J.S.A. 34:13A-16g (8), the continuity and stability of employment, the CPA contends that in the event that its proposal is not awarded that the Borough will not be able to retain its less experienced officers employed because they will seek greater salary and benefits elsewhere. The CPA emphasizes the importance of employing senior police officers who become familiar with the Borough residents, geography and crime patterns and who train less experienced officers. The CPA believes that its proposals, if awarded, would be a step towards bridging the salary and benefit gap between the Borough's officers and those employed elsewhere in the County.

The CPA also contends that additional work performed by its members support its wage proposal. Patrolman Anderson testified that Neil Logan was promoted from Lieutenant to Chief of Police but the Borough did not fill the vacant Lieutenant position. Instead, the Borough has reassigned Lieutenant duties to CPA members as set forth in Chief Logan's March 5, 2001 letter. The

CPA contends that its salary and longevity proposal is reasonable considering the fact that the Borough's patrolmen receive less than average wages in the County and that they are performing additional duties.

The CPA indicates that the \$575 uniform allowance provided in the Agreement is paid through a voucher system rather than on a stipend basis. The CPA contends the Borough will most likely not suffer additional costs by switching from a voucher to a stipend. Further, the CPA claims that even if the voucher amount was viewed as a stipend, the stipend amount is below the County average by \$196 in 2001.

The CPA also proposes that CPA members be paid overtime in compensatory time rather than in cash. According to the CPA, compensatory time will save the Borough money and will enhance the morale of the Department. The CPA also proposes that the hourly rate for off-duty employment be increased, retroactive to January 1, 2000, to the overtime rate of time and one-half of a Borough Sergeant's hourly rate. According to the CPA, the Borough will not incur any additional cost from this proposal because it is the private vendors who pay for off-duty employment. For these reasons, and those cited above, the CPA contends that its proposals will promote the continuity and stability of employment and that when all of the statutory criteria are taken into consideration, its final offer should be adopted in its entirety.

BOROUGH OF CHESTER

The Borough contends that its final offer is reasonable and should be adopted. Initially, the Borough relies upon the testimony of Administrator Glass. According to Glass, the salaries and benefits for police officers constitutes 25% of the municipal purposes element of the budget as illustrated below:

Year	Total Budget	Police Budget	% of Total Budget	Cost Per Resident
2000	2,674,544	667,977	25%	550.23
1999	2,635,601	657,642	25%	541.71
1998	2,737,347	589,982	22%	485.98

For this reason, increases in police salaries have significant impact upon the municipal budget.

Glass testified that the surplus in the Borough's 2001 budget is not a significant factor because it included a one-time sale of the Borough's water company for \$850,000. Glass acknowledged that other wage increases for 1999 and 2000 were below the Cap level with the exception of the chief financial officer and the administrator but that this result was because both jobs were assumed by one person.

Glass testified that the Borough does not anticipate an influx of additional development which would have a significant impact upon the budget because existing vacant land area is almost exhausted.

Logan became the police chief in January, 2001. Logan testified that the duties assigned to CPA members duties formally performed by the Lieutenant were primarily administrative in nature and neither extend the patrolmen's work hours nor interfere with their other daily responsibilities. Logan further testified that the Borough would encounter a scheduling problem due to its small police force if the CPA's proposal for compensatory time off was awarded. The Borough indicates that it employs only eight (8) officers, including the Sergeant and the Police Chief. There are three (3), twelve (12) hour shifts: morning, noon and night. Each shift is manned by only one (1) officer. For these reasons, the Borough maintains that the CPA's proposal for compensatory time is unreasonable.

The Borough compares itself to other municipalities with similar demographic and economic information and disputes the CPA's comparison to all municipalities located in Morris County. The Borough compares its patrolmen with other Borough employees. The Borough contends that awarding the patrolmen greater salary increases than that received by other Borough employees will have a negative effect upon employee relations.

Based upon the guidelines and factors PERC provides for consideration, the Borough contends that it must be compared to other small municipalities such as Morris Plains, Netcong Borough, Riverdale Borough, Rockaway

Borough, Wharton and Peapack Gladstone. The Borough provides a demographics table of the municipalities listed above:

Community	Pop	Land Area	# Parcels	% Res	% Com	Per Capita Income	# Police
Morris Plains	3435	2.6	2104	56	43	34,754	23
Netcong Borough	3359	.77	926	72	16	17,656	8
Riverdale Borough	2411	2.08	975	52	39	18,582	16
Rockaway Borough	6435	2.09	2154	69	26	19,772	15
Wharton	5518	2.18	1815	68	25	18,588	12
Peapack Gladstone	2253	5.80	888	54	35	33,796	9
Chester Borough	1356	1.54	621	54	44	35,321	8

According to the Borough, these municipalities, although most of them are larger in land area, are similar to the Borough in their percentage of residential and commercial parcels. Of the entire comparison group, Chester has the smallest population and is tied with Netcong Borough for employing the fewest number of police officers. The Borough points out that, while the patrolmen's duties are similar to those of other municipalities, their patrol area is smaller than most of the comparison group and that the Borough is comprised of the fewest parcels of the group.

The Borough cites the 2000 New Jersey Municipal Almanac as indicating that the Borough only had 53 crimes in 1998 and none of which were violent. The Borough also cites the Chester Borough Monthly Police Report for 2000 that was prepared by the Police Chief. According to that report, the police department made 67 criminal and juvenile arrests, had 93 reported crimes which

included 3 violent crimes. The Borough contends that the patrolmen's duties "are overwhelmingly related to traffic control and related activities."

The Borough provides a chart summary of the comparison group for salaries including starting salary, top patrolman, and sergeant for 1999, 2000 and 2001:

Town	Starting Salary			Top Patrolman			Sergeant		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
Morris Plains	23,423	25,278	27,198	54,272	57,172	60,673	50,060	59,057	62,159
Netcong Boro	23,500	24,370	27,345	49,133	50,951	55,947	51,589	New - does not cover Sergeant	
Riverdale Boro	17,256	20,985	21,824	55,714	58,156	60,482	57,839	60,153	62,559
Rockaway Boro	36,556	37,835	39,065	58,878	60,939	62,919	60,840	62,696	65,015
Wharton	26,000	26,000	26,000	56,628	58,893	61,249	60,477	62,896	65,412
Peapack Gladstone	31,500	31,500	31,500	55,281	57,216	59,333	57,781	59,716	61,833

The Borough also cites to Exhibit F which provides the salary increases received by police officers in Butler, Clinton Township, New Milford, Ramsey, River Edge and Roxbury. The Borough indicates that the salary increases in those municipalities were 4.0% or lower. In addition, the Borough cites to labor statistics for police officers in the tri-state areas for 1999 and compares its officers to a mean for the tri-state area and New Jersey:

Mean

<u>Hourly Wage</u>	<u>Weekly Wage</u>	<u>Annual Salary</u>	<u>Yearly Hours</u>
\$25	\$982	\$51,247	2043

New Jersey

\$26.73	\$1,069	\$55,600	2080
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Chester Borough 1999

\$24.33	\$973	\$50,600	2080
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The Borough projects its officers' 2000 and 2001 salaries utilizing the officers' 1999 salaries and assuming increases of 3.5% and 3.75%, respectively, and then compares them to the previously cited comparison group:

Town	Starting Salary			Top Patrolman			Sergeant		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
Morris Plains	23,423	25,278	27,198	54,272	57,172	60,673	50,060	59,057	62,159
Netcong Boro	23,500	24,370	27,345	49,133	50,951	55,947	51,589	New - does not cover Sergeant	
Riverdale Boro	17,256	20,985	21,824	55,714	58,156	60,482	57,839	60,153	62,559
Rockaway Boro	36,556	37,835	39,065	58,878	60,939	62,919	60,840	62,696	65,015
Wharton	26,000	26,000	26,000	56,628	58,893	61,249	60,477	62,896	65,412
Peapack Gladstone	31,500	31,500	31,500	55,281	57,216	59,333	57,781	59,716	61,833

Town	Starting Salary			Top Patrolman			Sergeant		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
Chester Boro	33,200	34,362	36,650	50,600	52,371	54,334	55,479	57,690	59,854

The Borough also indicates that patrolmen receive the following benefits: thirteen (13) holidays, three (3) personal days, vacations (as specified), travel (IRS rule), meal allowances (\$7.00 per meal), sick leave (12 days after one [1] year), cash reimbursement of accrued sick days, bereavement leave (up to five [5] days), health benefits under New Jersey State Health Benefits Plan, Pension in the Police and Fireman's Retirement System, clothing allowance (\$575.00 per year) and college tuition reimbursement. For all of these reasons, the Borough maintains that its proposal is fair and reasonable and should be awarded. The Borough claims that the evidence will show that its wage proposal is fair and acceptable.

Addressing the interest and welfare of the public, the Borough maintains that CPA members will move along the salary steps and the compounding effect

will therefore be greater than the proposed salary increase percentages. According to the Borough, the CPA's proposal will cost the Borough almost \$40,000 over the life of the new Agreement excluding other fringe benefits. For this reason, coupled with the Borough's assertion that other municipal employees will suffer low morale if the CPA's proposals are awarded, justifies the rejection of the CPA's proposals.

Addressing N.J.S.A. 34:13A-16g (7), the cost of living, the Borough contends the cost of living figures for 1999 and 2000 favor its proposal. The Borough asserts that the Cost of Living Adjustments [COLA] is 2.4% for 1999 and 3.5% for 2000. In addition, the Borough cites the United States Department of Labor Consumer Price Index for All Urban Consumers [CPI] to average 2.2% for 1999 and 3.4% for 2000. The Borough also contends that the costs associated with medical care will increase at a faster rate than the CPI. For these reasons, the Borough maintains that the CPA's proposals must be viewed not simply in terms of a salary increase, but rather, viewed in terms of how those increases compare to the cost of living adjustments. According to the Borough, its proposal is equivalent to the COLA whereas the CPA's proposal exceeds the COLA by more than a percent point each year of the Agreement.

The Borough notes that (1) the Department enjoys a low turnover rate, (2) many officers have been employed for more than 5 years, and (3) "there is little

history of personnel resigning or transferring from the department because of wages or duty requirements." [Borough Brief, p. 19].

As for the CPA's remaining proposals, the Borough contends that the CPA has failed to justify an award in its favor. With respect to the CPA's longevity proposal, the Borough maintains that the current benefit is competitive with the comparison group. As for the CPA's proposal for a stipend for performing duties formerly performed by the Lieutenant, the Borough claims that officers do not have to work beyond their normal schedule and that the duties are only administrative in nature. Therefore, there is no support for a stipend.

In addition, the Borough maintains that a clothing allowance is not needed because the current voucher system is effective and the voucher dollar amount is sufficient. According to the Borough, the CPA is simply attempting to keep the unused balance as additional compensation. As noted above, the Borough contends that the small size of its police force makes the CPA's request for compensatory time unreasonable. The Borough also believes that there is no justification for increasing the hourly rate for off-duty pay because those duties are less stringent than their regular job duties.

For all of the above reasons, the Borough maintains that its proposal is reasonable in light of the statutory factors and should be awarded in its entirety.

DISCUSSION

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 Borough and the CPA have expertly articulated their positions on the issues and have submitted comprehensive evidence and argument on each statutory criterion to support their respective positions. All of the evidence and arguments have been carefully reviewed, considered and weighed.

Although salary is the primary unresolved issue, other issues remain in dispute. I apply the commonly accepted principle that a party seeking change in terms and conditions of employment bears the burden of establishing the need for such modification. I apply that principle to each issue in dispute.

The CPA has proposed that Article VII, Paragraph B be modified to allow police officers to elect to take compensatory time in lieu of cash payment for overtime. The Borough urges rejection of this proposal based principally upon the size of the police force which would allegedly place strain on its manpower requirements. I have considered the CPA's argument that the taking of compensatory time may be less costly to the Borough than overtime payments. This point, however, must be evaluated in the context of the small size of the police force which could require the assignment of overtime work to cover for

officers who elect to take compensatory time. A reasonable determination of this issue would provide for allowing a police officer to request that compensatory time be taken in lieu of cash payment for overtime coupled with the right of the Borough, through the Chief of Police, to retain the sole discretion to grant such request. Accordingly, I award the following modification to Article VII, Paragraph B.

Members of the CPA may request the taking of compensatory time in lieu of cash payment for overtime and the Chief of Police shall retain, in his or her sole discretion, the prerogative to grant any such request.

The CPA has proposed that the off-duty employment rate be increased to time and one-half of the Police Sergeant's regular rate of pay retroactive to January 1, 2000. The Borough has responded that the CPA has not justified the requested increase, that police officers should not be compensated at a higher rate for work less stringent than their normal responsibilities and that retroactive application would be imprudent because the Borough cannot renegotiate prior contracts which have already been fulfilled. The police officers, pursuant to Borough Ordinance 3-10 currently receive time and one-half of their regular rate of pay as compensation for off-duty employment. The wage increases provided in this award will raise the regular rate of pay thus increasing the time and one-half rate of pay for off-duty employment. An enhancement of this formula to time and one-half of Sergeant's rate of pay has not been justified and is denied.

The CPA has proposed that police officers receive a \$500 stipend for additional duties formerly performed by the Police Lieutenant. The record reflects that the position of Police Lieutenant was not filled after the Police Lieutenant was promoted to Chief of Police. Some administrative duties performed by the Lieutenant are now performed by the police officers. Testimony establishes that the work is being performed within the normal work day and work week and does not require the performance of overtime. While additional tasks are being performed, it has not been established that they are substantial or measurable to the extent that a stipend should be provided. Further, there is no evidence that the Borough has decided to abandon the position of Lieutenant on a permanent basis. For these reasons, I do not conclude that a stipend is warranted although the arguments the CPA sets forth are relevant towards the consideration of appropriate wage adjustments to the existing salary schedules.

The CPA has proposed that Article XII, Paragraph C be amended to provide a clothing allowance of \$575 directly to each police officer rather than being paid out through a voucher system. Currently all purchases are subject to the Chief's approval and paid through a voucher system. The CPA does not propose an increase in this allowance. Instead, it seeks to convert these payments to a one-time payment to be paid on the first payday of June in each contract year. Testimony from both parties reflects that the \$575 clothing allowance amount is consistently utilized. The labor agreements in evidence

reflect that the vast majority of such payments are higher than the \$575 and contain a variety in the methods and manner in which such payments are made. It is more common for such allowances to be paid directly to each police officer. The Borough maintains a prerogative to require each police officer to represent him or herself in a neat and professional manner. Given this requirement, I conclude that there is nothing which precludes the conversion of the current system to the one now proposed by the CPA. I award this change effective January 1, 2002 at the current level of \$575. Any payments made to any police officer between January 1, 2002 and the date of this award shall be deducted from that officer's annual clothing allowance for contract year 2002.

The CPA has proposed that longevity be increased across the board by \$500 effective January 1, 2000. The current longevity provision provides for the following payments:

After Five (5) Years:	\$500.00
After Eight (8) Years:	\$1,000.00
After Twelve (12) Years:	\$1,500.00
After Sixteen (16) Years:	\$2,000.00
After Twenty (20) Years:	\$2,500.00
After Twenty Four (24) Years:	\$3,000.00

The amount of increases in the longevity schedule sought by the CPA are unsupported by the record. The initial level would increase by 100% and the final level by 16.6%. The labor agreements in evidence reflect that some schedules

within Morris County are formulated by percentage amounts relating to years of service which yield dollar amounts both above and below that provided in the Borough's labor agreement. Some schedules are formulated by dollar amounts, and when doing so yield dollar amounts below that provided in the Borough's labor agreement. In both instances, it is common for the dollar amounts to increase, in varying amounts, as base wages are increased. Accordingly, I conclude that some increase in the longevity schedule is warranted, but not to the extent sought by the CPA. I award a modification of \$125 for each longevity step effective January 1, 2001 and an additional \$125 for each longevity step effective January 1, 2002. After factoring in the wage adjustments provided by this award, the net annual economic change in contract year 2001 yields a total cost of \$875 or 0.05%, and an additional \$875 in contract year 2002 yielding an additional \$875 or 0.013%.

The final issue in dispute concerns increases to the salary schedule for the contract duration January 1, 2000 through December 31, 2002. The existing salary schedule is as follows:

Position	1999
Patrolman Start	\$33,200
Patrolman Step One	\$37,350
Patrolman Step Two	\$41,708
Patrolman Step Three	\$46,117
Patrolman Step Four	\$50,600
Sergeant	\$55,479

Assuming all patrolmen at maximum step, total salaries for patrolmen amount to \$303,600. The salary for the one sergeant is \$55,479. Total salaries amount to \$359,079, and 1% of total salaries amounts to \$3,590. The Borough's proposal would cost \$12,567 in 2000, \$13,931 in 2001 and \$13,491 in 2002. The CPA's proposal would cost \$17,953 in 2000, \$18,848 in 2001 and \$19,792 in 2002. The difference in payroll costs between these positions at the end of the new three year contract, is \$16,504 ($\$56,593 - \$39,989 = \$16,504$). On an annual basis, the difference between these positions amounts to \$5,386 in 2000, \$4,917 in 2001 and \$6,301 in 2002.

In evaluating the respective merits of these proposals, I am required to consider and apply statutory criteria and render a reasonable determination giving due weight to those factors deemed relevant. In doing so, I conclude that all of the criteria are relevant although, for the reasons stated, not all are entitled to equal or identical weight.

Neither position on the wage issue will have an appreciative impact on the continuity and stability of employment of unit members [N.J.S.A. 34:13A-16g(8)]. Although the bargaining unit is small, the record does not reflect a turnover of employment resulting from the existing terms of the Agreement. The comparatively low level of salaries paid to police officers within Morris County could have a negative effect on the hiring and retention of police officers in the future.

The cost of living [N.J.S.A. 34:13A-16g(7)] is a factor which requires moderation in wage demands but is not a controlling factor in this wage determination. This factor does weigh against the awarding of the CPA's proposal but I do not conclude that it should be given identical weight to other statutory criteria including spending limitations, financial impact and comparability data which must also be considered. Both parties' positions are above the cost of living data and this factor has not been shown to be determinative when the wage data in the record is considered which includes private sector wage increases in Morris County as well as wage increases for law enforcement personnel within Morris County and throughout the State of New Jersey.

The record further reflects that the lawful authority of the employer, including limitations imposed upon the Borough of Chester by the P.L. 1976 c. 68 (C.40A:4-45 et seq.) would not be impeded by the costs of an award at the level proposed by the Borough or the CPA or at any level in between these positions [N.J.S.A. 34:13A-16g(5)]. The funds available to support such expenditures are clearly present and would not require the Borough to exceed spending limitations which are imposed by law.

I have also considered the overall compensation currently being received by unit employees including benefit levels [N.J.S.A. 34:13A-16g(3)]. The CPA contends that unit employees compare unfavorably with law enforcement

personnel within the County when overall compensation, including benefits, are considered and compared. The Borough contends that benefit levels are comparable when departments are considered based on similar size and characteristics. These arguments are more suitably addressed to the comparability factors. The record does reflect that benefit levels of unit employees are comprehensive in scope and none are in dispute in this proceeding with the exception of longevity benefits.

The interests and welfare of the public [N.J.S.A. 34:13A-16g(1)] are entitled to substantial weight in the rendering of this award. Although this factor defies precise definition, it unquestionably includes consideration of maintaining a productive and efficient law enforcement department at a cost level which can be supported by the taxpayers and governing body. Consideration must also be given to providing adjustments in terms and conditions of employment which are not inconsistent with terms and conditions of employment among comparable communities unless the Borough's financial posture is such that those terms would cause adverse financial impact or interfere with its lawful spending limitations.

The CPA and the Borough have submitted substantial comparability data concerning salary levels of unit personnel with law enforcement personnel throughout Morris County. The CPA urges that comparisons be drawn with all of the municipalities in Morris County while the Borough asserts that most of these

municipalities should be disregarded in favor of those which share common traits and characteristics such as Morris Plains, Netcong Borough, Riverdale Borough, Rockaway Borough, Wharton and Peapack Gladstone¹. These characteristics include population, land area, parcels of land including percentage of residential versus commercial, per capita income and number of police officers.

The comparability data in evidence is extensive and will not be completely summarized. It does reflect that the Borough's police officers (at \$50,600) ranked 36 out of 37 Morris County municipalities as of December 31, 1999 with Netcong Borough (at \$49,133) the only municipality to rank lower. The salary rate for Sergeant was also ranked next to last and only above Mount Arlington. The data reflects the ranking of patrol officers by maximum rate effective December 31, 1999 as follows:

Municipality	Top Rate
Denville	\$63,141
East Hanover	\$61,894
Randolph	\$61,702
Harding Township	\$61,489
Morris Township	\$61,300
Lincoln Park	\$61,218
Dover	\$61,132
Mendham Borough	\$60,462
Chatham Township	\$60,419
Chatham Borough	\$60,390
Parsippany	\$60,132
Butler	\$59,893
Rockaway Township	\$59,797

¹ The arbitrator notes that Peapack Gladstone, while sharing some common characteristics, is located in Somerset County.

Morristown	\$59,768
Chester Township	\$58,971
Rockaway Borough	\$58,879
Madison	\$58,762
Long Hill	\$58,577
Jefferson Township	\$58,315
Mendham Township	\$57,865
Montville	\$57,741
Mount Olive	\$57,692
Hanover	\$57,483
Mountain Lakes	\$57,388
Kinnelon	\$57,330
Roxbury	\$57,316
Florham Park	\$57,194
Wharton	\$56,628
Boonton Township	\$55,919
Washington	\$54,884
Boonton Town	\$54,329
Morris Plains	\$54,272
Mine Hill	\$52,706
Mount Arlington	\$52,000
Chester Borough	\$50,600
Netcong	\$49,133
Average	\$57,863

The average percentage salary increase in Morris County was 4.07% in 2000, 4.17% in 2001 and 3.87% in 2002 based upon the record evidence. Notwithstanding these salary percentage increases, the record reflects that higher than average salary increases were provided in certain municipalities ranking below the \$57,863 average including those municipalities which the Borough contends are more comparable such as Morris Plains and Netcong. For example, Patrolman maximum in Morris Plains increased at 5.3% from \$54,272 in 1999 to \$57,172 in 2000 and at 6.1% to \$60,673 in 2001. Patrolman maximum in Netcong increased at 3.7% from \$49,133 in 1999 to \$50,951 in 2000 and at 9.8% to \$55,947 in 2001 and at 3.7% to \$58,071 in 2002, with the average

increase over the three years calculated at 5.7%. This data suggests that an average increase herein above the County average is warranted assuming that no adverse financial impact results to the governing body, its residents and taxpayers.

Based upon the arguments and evidence submitted, and after applying the statutory criteria, I have determined that a three-year agreement with wage increases shall be 4.0% effective January 1, 2000, 4.25% effective January 1, 2001 and 4.5% effective January 1, 2002; for a total increase of 12.75% over the three-year term representing an average increase of 4.25%. The terms of the award will cost the Borough \$14,363 in 2000, an additional \$15,868 in 2001 and an additional \$17,514 in 2002. The terms of the award are \$1,796 more than the Borough's proposal in 2000, \$1,937 more than the Borough's proposal in 2001 and \$4,023 more than the Borough's proposal in 2002. The terms of the award are \$3,590 less than the CPA's proposal in 2000, \$2,980 less than the CPA's proposal in 2001 and \$2,278 less than the CPA's proposal in 2002. When the terms of the award are applied to the existing salary schedule, it will cause that schedule to be modified as follows:

	01/01/00 4.0%	01/01/01 4.25%	01/01/02 4.5%
Patrolman Start	\$34,528	\$35,995	\$37,614
Patrolman Step One	\$38,844	\$40,494	\$42,316
Patrolman Step Two	\$43,376	\$45,219	\$47,253
Patrolman Step Three	\$47,962	\$50,000	\$52,250
Patrolman Step Four	\$52,624	\$54,860	\$57,328
Sergeant	\$57,698	\$60,150	\$62,856

The terms of the award are above those received by other municipal employees in the Borough. This fact has been considered and does weigh against an award in an amount sought by the CPA. However, given the comparability data submitted by the Borough and the CPA with respect to law enforcement personnel, an award in lower amounts would cause a deepening of unfavorable comparisons for the Borough's law enforcement personnel which I conclude would be inconsistent with the interests and welfare of the public in maintaining a motivated, efficient and productive police department.

The terms of the award not adversely impact the financial posture of the governing body, its residents and taxpayers. The Borough has maintained a comfortable surplus balance over the long-term through regeneration of surplus funds. Its municipal tax rate is stable. Its revenue from interest on investments has increased as well as its income from uniform construction code fees. The Borough's assessed valuations for real property have increased substantially over the last several years which reflects its excellent financial condition. In sum, the additional cost beyond the Borough's proposal can be funded without adverse financial impact.

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

AWARD

All proposals by the Borough and the CPA 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 Borough and the CPA shall be incorporated herein.

The increases in salary shall be retroactive to their effective date and received by all eligible unit employees, including those who have left employment in good standing between the effective date of the salary adjustments and their last date of employment.

1. **Duration** - There shall be a three-year agreement effective January 1, 2000 through December 31, 2002.

2. **Salary (Article VI)** -- all steps shall be increased as follows:

4.0% effective January 1, 2000
4.25% effective January 1, 2001
4.5% effective January 1, 2002

	01/01/00 4.0%	01/01/01 4.25%	01/01/02 4.5%
Patrolman Start	\$34,528	\$35,995	\$37,614
Patrolman Step One	\$38,844	\$40,494	\$42,316
Patrolman Step Two	\$43,376	\$45,219	\$47,253
Patrolman Step Three	\$47,962	\$50,000	\$52,250
Patrolman Step Four	\$52,624	\$54,860	\$57,328
Sergeant	\$57,698	\$60,150	\$62,856

3. Longevity Incentives -- The longevity schedule shall be increased across the board by \$125 effective January 1, 2001 and by an additional \$125 effective January 1, 2002.

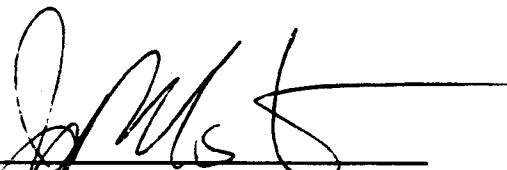
4. Overtime - Article VII, Paragraph B shall be modified as follows:

Members of the CPA may request the taking of compensatory time in lieu of cash payment for overtime and the Chief of Police shall retain, in his or her sole discretion, the prerogative to grant any such request.

6. Clothing Allowance (Article XII, Paragraph C) -- Article XII, Paragraph C shall be modified to provide that the Clothing Allowance of \$575 shall be paid as a stipend on the first payday in June of each contract year commencing in 2002 rather than through the voucher system. Any payments made by voucher between January 1, 2002 and the date of this award shall be deducted from the stipend amount.

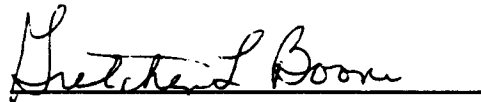
Dated: February 28, 2002
Sea Girt, New Jersey

State of New Jersey
County of Monmouth



James W. Mastriani
ss:

On this 28th day of February, 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