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**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration)	
)	
Between)	
)	
STATE OF NEW JERSEY)	PERC DOCKET #IA-96-013
("State"))	
and)	
)	
STATE LAW ENFORCEMENT CONFERENCE))	OPINION AND AWARD
OF THE NEW JERSEY)	
STATE POLICEMEN'S BENEVOLENT)	
ASSOCIATION)	
("PBA"))	
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Before: J.J.Pierson, Esq.
 Arbitrator

For the State of New Jersey:

Desmond Massey, Esq.
Beth Hinsdale, Esq. on the Brief
Grotta, Glassman & Hoffman

For the State Law Enforcement Unit:

Robert Fagella, Esq.
Paul Kleinbaum, Esq.
Zazzali Zazzali Fagella & Nowak

The undersigned was appointed by the New Jersey Public Employment Relations Commission ("PERC") to serve as Interest Arbitrator in the impasse between the herein named parties. Appointment was made pursuant to N.J.A.C. 19:16-5.6. (See Appointment letter dated September 12, 1995). The proceedings were initiated under the Compulsory Police and Fire Interest Arbitration Act P.L. 1977, c. 85 (C:34:13A-14 et seq.), and continued after January 10, 1996 under the newly adopted interest arbitration statute P.L. 1995, c. 425., entitled "The Police and Fire Public Interest Arbitration Reform Act". The procedures utilized by this Interest Arbitrator were those in effect at the time of decision.

BACKGROUND:

The State of New Jersey (hereinafter, the "State") and the State Law Enforcement Unit of the Policemen Benevolent Association (hereinafter, "PBA") are parties to a series of Collective Bargaining Agreements, the most recent of which expired on June 30, 1995. (hereinafter, the "Agreement", see Joint Exhibit J-1).¹

The PBA bargaining unit (the "PBA Conference" of State law enforcement units) consists of 6,000 State employees as described within Appendix II of the Agreement under the specific State Title and Code. The PBA bargaining unit is primarily composed of five thousand (5,000) Correction Officers working within sixteen (16) State penal institutions administered by the Department of Corrections ("DOC"), but also consists of seventy-one (71) Campus Police Officers (represented by PBA Local 278); four (4) Capital Police (represented by Local 224); twenty-nine (29) Conservation Officers (represented by PBA Local 120); twenty-three (23) Alcohol & Beverage Control Inspectors (represented by PBA Local 104); one hundred thirty (130) Marine Police Officers (represented by PBA Local 220); three hundred seventeen (317) Parole Officers (represented by PBA Local 326); fifty-eight (58) Human Services Officers (represented by Local 113); Palisades Interstate Parkway Officers (83); sixteen (16) Park Rangers (represented by PBA Local 222); twenty-one (21) Weights and Measures Inspectors (represented by PBA Local 269).²

1. For purposes of the record, Exhibits are identified by the following reference: (J-) for Joint Exhibits; (PBA-) are PBA Exhibits; (S-) for State Exhibits. Reference to Transcripts are identified by date of hearing and page: July 23, 1996 (Tr.1-); July 25, 1996 (Tr.2-); September 9, 1996 (Tr.3-); October 8, 1996 (Tr.4-); November 4, 1996 (Tr.5-). Briefs are referenced by party and page: State Brief (S-Br.); PBA Brief (PBA-Br.).

2. The job duties and responsibilities of each law enforcement unit will be described below.

Article XLVII, entitled "Term of Agreement" states:

"This contract shall become effective on July 1, 1992, and shall remain in full force and effect until June 30, 1995.

The contract shall automatically be renewed from year to year thereafter unless either party shall give written notice of its desire to terminate, modify or amend the Agreement. Such notice shall be by certified mail prior to October 1, 1994 or October 1 of any succeeding year."

The parties met prior and subsequent to the Agreement's expiration date to negotiate a successor Agreement. However, negotiations were not successful and a petition was filed by the PBA with PERC to initiate Interest Arbitration.

INTEREST ARBITRATION

Interest Arbitration is permitted in labor disputes for the public fire and police departments within the State of New Jersey per N.J.S.A. 34:13A-14 et. seq. The statute provides that, in the event the parties do not agree on any designated acceptable terminal procedures or do not fashion one of their own with the approval of PERC, the mandatory procedures of the statute shall be implemented. Pursuant to N.J.S.A. 34:13A-16(d)(2), the impasse in the negotiations herein are to be by "conventional arbitration".³ Moreover, under Subsection 3(d) of the Act, the appointed Arbitrator is directed to "separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria set forth under [N.J.S.A. 34:13A-16g]."

3. This Arbitration is governed by the "Police and Fire Public Interest Arbitration Reform Act" pursuant to P.L. 1995, c.425, which was signed into law on January 10, 1996 and establishes "conventional arbitration (as opposed to last and final offer arbitration) as the terminal procedure to be utilized when ... unable to reach a new collective agreement (contract).

STATUTORY CRITERIA

The criteria which require such consideration are listed under the statute (at N.J.S.A. 34:13A-16g) as follows:

1. **The interests and welfare of the public.** Among the items the arbitrator... shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40A:4-45.1 et seq.).
2. **Comparison of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceedings with the wage, hours, and conditions of employment of other employees performing the same or similar service 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, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
3. **The overall compensation presently received by the employees, inclusive of direct wages, salaries, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits and all other economic benefits received.**
4. **Stipulation of the parties.**
5. **The lawful authority of the employer.** Among the items the arbitrator... shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40A:4-45.1 et seq.).
6. **The financial impact on the governing unit, its residents and taxpayers.** When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator... shall take into account, to the extent the evidence is introduced, how the award will affect the municipal or county

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

7. The cost of living.
8. The opportunity and stability of employment including seniority factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective bargaining between the parties in the public service and in private employment."

The statute further requires that the arbitrator:

Shall decide the dispute based on a reasonable determination of the issues, giving due weight to [the above listed factors]...and...indicate which of the factors are deemed relevant, satisfactorily explain why other are not relevant, and provide an analysis of evidence on each relevant factor. See Id.

Mediation

The statute recognizes and encourages the voluntary settlement of public sector contracts and, as such, permits the named Interest Arbitrator to initiate proceedings with mediation efforts. The Act provides that “[T]hroughout formal arbitration proceedings the chosen arbitrator or panel of arbitrators may mediate or assist the parties in reaching a mutually agreeable settlement.” see P.L. 1995, c. 425. Section 2 , Subsection 3f(3).

In the present case, an extensive and extended mediation effort was undertaken by the parties, covering a period of nearly nine months.⁴ While issues and positions were reduced and redefined, there was always a question whether the two parties, considering the inherent pressures placed on their representatives, could exercise their abilities to reach a settlement sufficiently articulated to meet with the full approval and/or ratification of their respective constituencies.

Notwithstanding, when the schedule of hearings was established and mediation efforts ceased, the terms and conditions of a proposed settlement were submitted to the parties for their consideration and acceptance. The proposed settlement was not approved by either party.⁵

4. During that same period of time, this Arbitrator was escorted on numerous tours of state operated penal institutions. A discussion of those tours will be discussed below.

5. The written communication advised the parties that: “Prior to the commencement of hearings and in furtherance of an attempt to reach agreed-to terms of a successor Collective Bargaining Agreement (“Agreement”) between the above parties, outlined below is a proposed settlement as developed through mediation sessions and caucuses. **Note that the below terms are being submitted in my attempts to mediate this dispute and, once the arbitration proceeding has commenced (at the time the hearing is opened and evidence is entered), the record developed by the parties may support a finding by this Arbitrator different than the proposals found below.**” (emphasis added by this Arbitrator). The parties were further advised that the proposal was being submitted without (present or subsequent) prejudice to their positions or arguments.

Procedural Issue

On August 4, 1995, the PBA filed an unfair practice charge with PERC against the State and Office of Employee Relations ("OER"). (see PERC Docket No. CO-96-40). The charge alleged that the State, as employer of PBA Members, ceased paying contractually required uniform allowances and eye care benefits and stopped providing paid and unpaid union leaves to employees represented by the PBA.⁶ The PBA applied for interim relief and an order to require the State to resume providing the benefits and leaves which were withheld.

The State responded that "with the expiration of the PBA contracts, certain contractual items are longer operative" and would no longer be provided during successor contract negotiations. The State based its decision on a practice established through previous negotiations with the PBA law enforcement unit.

PERC considered the request for interim relief and, on June 28, 1996, Acting Chair Millicent A. Wasell, issued an Interlocutory Decision and Order and addressed the three issues in dispute. (see PERC I.R. No. 96-31). The Order stated:

The State of New Jersey (Office of Employee Relations) is ordered to provide leaves for the Association activity referred to in Article XXVI during successor contract negotiations. Any leaves during this period need not exceed the amounts set by the predecessor contract and may be charged amounts set by the predecessor contract and may be charged against any amount specified by the successor contract. The application for interim relief is otherwise denied.

The Decision noted that, in part, the two issues were not granted interim relief because the parties were in interest arbitration and the interest arbitrator was authorized to address the issues and determine if full relief on the retroactivity of the contract terms and benefits should be granted.

6. The charge alleges violations of subsections 5.4(a)(1) and (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. which prohibit public employers, their representatives or agents from interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by the act and, further, refusing to negotiate in good faith.

Hearings

The parties proceeded to formal arbitration hearings with the understanding that information disclosed during the mediation efforts would be held in confidence and not be relied upon nor referred to by this Arbitrator as "evidence" in the arbitration or the award.

Hearings spanned a period of months and were conducted at the Forrestal Center, Princeton, New Jersey on July 23rd, July 25th, September 9th, October 8th, and November 4, 1996. Stenographic transcripts recorded the proceedings. A procedural meeting was conducted with Counsel on December 13, 1996. The parties were afforded full opportunity to present evidence and witnesses in support of their economic and non-economic positions and, upon completion of the hearing, the parties submitted post-hearing briefs (on December 23, 1996) and, upon receipt, the record was declared closed.

Appearing for the State and Representatives of Employer Departments:

Desmond Massey, Esq.
Beth Hinsdale, Esq.

John Koerwer, Consultant
David Collins, Office of Employee Relations
John T. DeFilippio, Office of Employee Relations
Dudleyna Pantan - Office of Management & Budget
Tom Sawey - Department of Corrections
Dennis Salamandra - Department of Corrections
Harvey Fox - Department of Environmental Protection
Carol Miller - Department of Environmental Protection
Anita Avolio - Department of Human Services
Les Summiel - Department of Personnel
J. Robert King - Division of Law and Public Safety
James Bruncati - New Jersey State Police

Witnesses:

Robert Bocci - Department of Corrections
George Camp, Principal - Criminal Justice Institute
Elizabeth L. Pugh, Director - Office of Management & Budget
Department of Treasury
Philip York, Chief - Budget Office, Department of Corrections

Appearing for the SLEU and Representatives of Local Unions:

Robert Fagella, Esq.
Paul Kleinbaum, Esq.
Thomas Little, President, PBA Local 105 (Corrections Officers)
Edward Murphy, Executive Vice President, PBA Local 105
John Cunningham, Executive Vice President, PBA Local 105
Jay Glass, Jr., Delegate, PBA Local 105
Tony Sgro, President, PBA Local 326 (Parole Officers)
Steve Paparozzi, President, PBA Local 326
Matthew A. Wightman, President, PBA Local 113 (Human Services Officers)
James J. Duca, Delegate, Local Union 113
Thomas Goletz, President, Local 104 (Alcoholic Beverage Commission Officers)
Stephen Suckow, Officer, Local 104
Walter Siri, President, Local 83 (Palisades Interstate Parkway Officers)
George Mroizko, Vice President, PBA Local 220
Steve Vincent, Treasurer, PBA Local 220
Joseph M. Przygocki, President, Local 222 (Rangers)
Joanne Christos, Delegate, Local 222
Harry Naylor, Jr., PBA Local 224 (Capital Police Officers)
James W. Briood, PBA Local 224
Robert Sich, President, PBA Local 120 (Conservation Officers)
Jeff Ray, Delegate, PBA Local 120
Richard Cook, President, PBA Local 278 (Campus Police Officers)
David Tartza, Delegate, PBA Local 278
Joe Romano, President, PBA Local 269 (Weights and Measures Officers)
Ray Szpinp, Delegate, PBA Local 269

Witnesses

Daniel Levine, Principal - Regional Affairs Leadership Center, Inc.
Francis M. McEnerney, CPA :

FINAL ECONOMIC OFFERS:
Final Economic Offer Of The State

I.	<u>Term of Contract:</u>	July 1, 1995 through June 30, 1999.	
II.	<u>Salary</u>	To Base	Bonus (not on Base)
	7/1/95	0.00%	0
	7/1/96	0.00%	\$ 250.00
	7/1/97	\$ 840.00	0
	1/1/98	\$ 420.00	0
	7/1/98	\$ 840.00	0
	1/1/99	\$ 525.00	0

III. Health Benefits

State to pay full cost of employee and eligible dependent coverage to those employees electing New Jersey Plus or approved HMO's. Employees with a base salary plus maintenance of more than \$50,000.00 who elect the Traditional Plan will pay the difference between the cost of the Traditional Plan and the average of the cost to the State of the Managed Care and approved HMO's. Employees with a base salary of less than \$50,000 shall pay 1% of their annual base pay, but not less than \$20.00 per month if they elect to stay in the Traditional Plan. All new hires hired after July 1, 1996 who elect the Traditional Plan shall pay the difference between the cost of the Traditional Plan and the average cost to the State of the Managed Care and approved HMO's. If both spouses are active State employees and eligible to participate in the State Health Benefits Program, the couple may choose only one HMO family policy.

IV. Uniform Allowance

No increase in uniform allowance. The State will pay the uniform allowance not received in 1995 and 1996 as a lump sum effective with the receipt of the Interest Arbitrator's award.

The offer of the State contains no proposal on shift overlap. In the opinion of the State, the issue of shift overlap is non-negotiable and, as such, non-arbitrable. Moreover, the State retains the right to take all appropriate legal action in support of its position with regard to shift overlap.

Final Economic Offer Of The PBA

Term July 1, 1995 - June 30, 1999

I. <u>Salary</u>	To Base	Bonus (not on base)
7/1/95-6/30/96	0%	0
7/1/96	3.00% increase	\$ 1,000.00
7/1/97	3.50% increase	\$ 850.00
7/1/98	3.75% increase	\$ 850.00

II. Clothing Allowance

Retroactive and prospective clothing allowance in same amounts as expired agreement, together with lost hourly overtime (both retroactive and prospective) normally payable when clothing allowance is included in base.

- III. Reinstatement of all other economic and non-economic items contained in expired agreement, which were unilaterally removed by Veniero memorandum of August, 1995 (includes vision program and PBA leave time, in addition to clothing allowance).
- IV. Reduction of hours of work at end of shift for corrections officers by 10 minutes per day (50 minutes per week) currently denominated as overlap and paid at overtime rate. This offer is subject to assurances that incidental overtime will be tabulated correctly, paid in cash upon accumulation of one hour or more, and that applicable Articles of agreement will be revised if necessary to provide accordingly.
- V. Miscellaneous changes in the grievance and arbitration procedure as discussed in our earlier proposals, including strict adherence to timeliness for institution, hearing and resolution of discipline charges.

PBA Non-Economic Proposals:

- I. SLEU requests that all overtime checks be paid on a supplemental check separate from the bi-weekly paychecks. This is consistent with the prior practice of the parties, and further is consistent with the agreement recently reached by the State with other bargaining units, including AFSCME (see attached).
- II. SLEU requests that Article XII be amended to provide that all disciplinary charges shall be brought within 30 days of the appointing authority reasonably becoming aware of the offense. In the absence of the institution of the charge within that time, the charge shall be dismissed.
- III. SLEU requests that Article XII(F) be amended to require that the absence of conducting a hearing within 20 days of the disciplinary appeal, or issuing a decision within 20 days thereafter, the discipline shall be deemed dismissed unless the delay is occasioned by the employee.
- IV. SLEU requests that Article XI(H) Step Three (2) be amended to provide that PBA 105 may request an immediate appointment from the permanent panel of arbitrators in the event immediate review of a purported contract violation is required.

SUMMARY OF THE STATE'S POSITION

The State repeatedly and steadfastly maintained that its "proposal was consistent with the proposal it has made to every other employee group, both civilian and law enforcement units, in the State of New Jersey."⁷ According to Counsel, the "State Package" was designed as part of a state-wide mandate to reduce expenditures and alleviate the growing tax burden faced by New Jersey residents and to counterbalance the increase in mandated expenditures." The State argued:

"Over 60,000 State employees have already accepted the State package. The State has determined that it is vital to continue this pattern and successfully implement the package for all State employees." (David Collins)

As noted, the "State Package" referred consists of a 2 year wage freeze (for fiscal years 1996 and 1997); a \$250. bonus in the second year; and base wage increases totaling \$1260. in 1998 and \$1365. in 1999 bringing a corrections officer's maximum base salary to \$50,803. The Package also includes a proposal to have employees contribute towards the cost of health benefits, only if the employee chooses to remain in the traditional indemnity plan.

According to the State, the four year proposal (excluding increments and overtime) anticipates a cost to the State of approximately \$20,140,725. in increased salaries over the term of the Agreement, based on evidence submitted by the PBA.

7. As will be discussed in detail below, the "State package" was modified under the collective bargaining agreements between the Garden State Parkway and New Jersey Turnpike and its employee unions. Those modifications were based on the State gaining significant "concessions" in negotiations and lead to the funding of increases in wages and bonuses.

In responding to the PBA's proposal to eliminate ten (10) minutes per day in shift overlap beginning in June, 1997, the State maintained that the PBA's proposal would nevertheless cost the State \$66,510,707 in increased salaries alone (excluding increments and the impact on overtime). (see PBA-32). The State contended that it demonstrated that the PBA already receives a wage and benefits package far superior to comparable employees throughout the country.

In that respect, the State indicated that an award granting any increase beyond its proposal for 1996 and 1997 "will have a direct and significant negative financial impact on the State and will require it to take money from other departments or programs (some of which are deemed high priority) to fund the award." (S.Br.).

The State maintained, while the law enforcement employees have enhanced rights to interest arbitration, it can not and should not serve as a reason for granting the PBA a better economic package than the increases afforded to and accepted by civilian employees.

Finally, the State contended that "Clearly without some significant justification to deviate therefrom, the State pattern should be upheld."

SUMMARY OF THE PBA POSITION

Economic

The PBA contended that the total cost of its four year proposal, as opposed to State's proposal offered by the State, is "minuscule". Estimating the difference in cost projections as approximately \$29 million, an average of slightly over \$7 million per year in an annual budget of almost \$16 billion, the PBA believed its position to be both reasonable and within the State's ability to pay. (PBA-31 & 32). Relying on its budget analysis⁸, the PBA asserted that "the State's real but unspoken claim is not a financial inability to pay, but rather an unwillingness to do so." (PBA Br.)

According to the PBA, "the State's proposal would result in real and significant economic losses to SLEC members -- a position unnecessary in light of the State's sound financial footing and wholly at odds with the ever-increasing difficulties of the job."

The PBA maintained that, despite recent tax cuts, the State's revenues have not been concomitantly reduced. The PBA believed to the contrary, referring to the State's expert witness⁹, that revenues for the State have risen for each of the last three years despite cuts in the state income tax." The PBA cited the "Amnesty Program" in which the State collected almost \$400 million in unexpected revenues.

8. Daniel H. Levine, Principal - Regional Affairs Leadership Center, Inc., testified that "the State of New Jersey is not in any budgetary crisis."

9. Elizabeth L. Pugh, Director - Office of Management & Budget, Department of Treasury.

The PBA contended:

"The undisputed fact is that the State is in sound financial condition, both in terms of its past, current and prospective revenues, and its existing budgetary surplus. Factoring in the amounts which the State has already budgeted for proposed increases for the bargaining unit, the State's financial ability to fund SLEC's modest proposal is not even debatable." (PBA Br.).

Non-Economic

The PBA maintained that its proposals were "limited in scope" and "designed to improve the effectiveness of the contractual process".

The PBA requested that all overtime checks be paid on a supplemental check separate from the bi-weekly paychecks. According to the PBA, this is consistent with the prior practice of the parties, and consistent with the agreement recently reached by the State with other bargaining units, including AFSCME.

The PBA requested that Article XII be amended to provide that all disciplinary charges be brought within 30 days of the appointing authority reasonably becoming aware of the offense. In the absence of the institution of the charge within that time, the charge shall be dismissed.

The PBA requested that Article XII(F) be amended to require that the absence of conducting a hearing within 20 days of the disciplinary appeal, or issuing a decision within 20 days thereafter, the discipline be deemed dismissed unless the delay is occasioned by the employee.

The PBA requested that Article XI(H) Step Three (2) be amended to provide that PBA 105 may request an immediate appointment from the permanent panel of arbitrators in the event immediate review of a purported contract violation is required.

CONSIDERATIONS UNDER THE STATUTORY CRITERIA

N.J.S.A. 34:13-16(g)(1) requires consideration of the "interests and welfare of the public."

Although a "silent party" to the interest arbitration,¹⁰ the public inevitably bears the consequence of its outcome. At the same time, the interest arbitrator carries a responsibility to insure that the financial weight shouldered by the public is reasonable under specific criteria. As the State has cited:

"New Jersey courts have held that public sector arbitrators must be subjected to stringent safeguards to protect the interest and welfare of the public. Division 540, Amalgamated Transit Union v. Mercer County Improvement Authority, 76 N.J. 245, 251 (1978); Hillsdale PBA Local 207 v. Borough of Hillsdale, New Jersey Supreme Court, Docket No. A-68-93 (May 17, 1994).

Under this criterion, the parties concentrate on their concept of public interests and welfare. The employer invariably focuses on the financial and budgetary impact, while the employee representative highlights the quality of services provided by the unit. That distinctive approach has not been altered by the parties herein. The PBA maintains that the public's interest is best served when State institutions and property are protected by competent and qualified law enforcement unit. The State contends that the public's interest is best served when costs are contained, expenditures recede, tax burdens are reduced and productivity and performance increases.

Accordingly, this Arbitrator has approached the analysis in two parts: first, by describing the quality of service provided by the law enforcement unit and, second, by considering the budgetary impact of the proposals.

10. See Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 N.J. 71, 82-83 (1994).

I. :

The PBA's arguments under this criterion focus primarily upon the quality of service provided by the law enforcement unit. The PBA submitted that the interest and welfare of the public would best benefit from a police force that was adequately compensated and efficiently staffed.

It is important to consider the composition of the bargaining unit, not only to the extent of job duties, but also to the diversity of its membership and broad range of law enforcement functions.

The majority of the bargaining unit is comprised of 5,000 correction officers ... " charged with the daily care and custody of state inmates throughout the state of New Jersey ... in the state penal institutions." (Tr.1 at 19 to 21). According to the testimony of Thomas Little, President of PBA Local 105, there are approximately sixteen (16) state penal institutions, composed of state prisons and camps spread throughout the state. When questioned about the responsibilities of corrections officers, Mr. Little responded:

An expansion of the concept of custody and care. We not only house the inmate population for the State of New Jersey, we maintain the custody and security of the facilities throughout the state, even down to the aspect of new level transportation or medical fare of those inmates throughout the state in regard to custody situations.

The bargaining unit also includes three hundred and seventeen (317) State Parole Officers and, testifying on behalf of the unit, Tony Sgro described their duties:

We handle all 21 counties of the state for parolees for this state and other parolees that are accepted into our state from other jurisdictions. ... parole officers average 180 cases per individual officer. We have special programs, officers handling intensive supervision surveillance, electronic monitoring, high-impact cases, and specialized sex offender case loads throughout the state of New Jersey.

Parole officers supervise ... to attempt to make a parolee, or those coming out of prison, more productive members of society We go out and check their jobs, their residences, their employers, their community-based programs they are attached with.

That requires parole officers to at least be out in the field at least four days a week giving the equipment to this assignment. (Tr.1 at 21 to 23).

Officer Sgro also described the changes in parole officer duties, such as the creation of Electronic Monitoring Response Team and the granting of police officer power. Parole officers participate in PTC training for enforcement qualifications (arrests), as well as enforcing other agency warrants.

[We now have full police powers, but] we don't have Title 39, I guess, the Traffic Code. Before the change in legislation we had the --we could take a parolee into custody. Hopefully he would go with us automatically, but that doesn't always happen. And what is happening now is that we also have many times run into other fugitives who are wanted by other police agencies. We have also run into many crimes in progress.

[We now carry weapons]. [Parole officers] have to requalify every year, same as any local police department, and what happens there is that the department provides us with ammunition for that one qualification only.

We [now go through PTC training], go through the firearms, we go through the full 2C, we go through all the defensive tactics that are required by all police agencies. When parole received their police officer powers, the senate elected to put in there that we will pass the same police training as every law-enforcement agency in the state of New Jersey.

Matthew Wightman, representing fifty-eight (58) Human Services Officers within the Department of Human Services, testified that their primary job duty was to perform criminal investigation and traffic enforcement on all the properties controlled and in the care of the Department.

[There are] Sixteen [facilities] between the main psychiatric developmental centers and the veteran affairs centers We also do investigation and transportation for 73 juvenile services, residential and day programs which are located throughout the state... (Tr.1 at 23-24).

The Palisades Interstate Parkway ("PIP") is patrolled by members of the bargaining unit. Walter Siri, President of Local 83, represents fifteen (15) patrolmen and one (1) detective from of the PIP Police.

We enforce Title 32, Title 39, and Title 2C of the New Jersey statutes. We patrol the Palisades Interstate Park Commission property located in New Jersey and northeastern Bergen County. Our patrol duties include 12 miles of highway, two large boat basins, five large picnic areas, the historic park in Ft. Lee, approximately 30 miles of hiking trails, and a Green Brook bird sanctuary in Tenafly.

We have four patrolmen in our Accident Investigation Unit, which deals with motor vehicle accidents, serious motor vehicle accidents. We have four members in our repel team. We have cliffs ranging from 150 feet to 350 feet, so basically a recovery unit. We have one member assigned to the Bergen County Fatal Accident Investigation Unit and one with the Bergen County Deployment Force. (Tr.1 at 24-25).

Inspectors with the Alcoholic Beverage Commission are likewise included within the bargaining. Thomas Goletz, representing twenty-three (23) Inspectors, related the enforcement duties of the Bureau (which is within the Division of State Police located in the Criminal Investigation section).

We have full police powers. Our title is funded through Title 53.

Our basic duties are to investigate all criminal and administrative investigations into the liquor industry, be it retail licenses or wholesalers, and transportation of alcohol throughout the state.

We are funded by the fines and revenues which we bring in. Some of the fines we put in for the past year's investigations ... anticipates ... \$15 and \$18 million over a short period of time.

Inspector Goletz related his work with representatives of the State Police:

We work hand and glove with the state police detectives. They have been working with us. We train them. Some of our senior inspectors supervise these detectives.

We are used interchangeably with the detectives and are transferred and are dispatched on certain operations to state police units.

Our similarities are so many the same, there's pending legislation in the legislature which would incorporate us fully into the state police.

The witness also related the distinctions in comparison to State Police Officers:

We are a little different. We are not uniformed personnel, but we are required to adhere to a dress code which is by way of SOP¹¹ in the state police in that male members should wear sport coats or a jacket or suits ... female members are expected to be attired in dresses or business suits or appropriate dress pants, and all garments and wear that we're expected to wear are expected to be within the image of the New Jersey State Police. We are given some equipment but not all equipment we are given, and we are expected by SOP to maintain our equipment. We are issued state police vehicles, yet we are expected to maintain those vehicles by way of yearly inspection and spot inspections which are brought upon us by the unit level or when Internal Affairs visits our stations. (Tr. 1- 25-27).

In addition sixteen (16) Park Rangers are represented in the unit. Joe Przygochi, President of Local 222, described the responsibilities of the Rangers:

... all law-enforcement functions in the state parks properties which covers 38 state parks and 11 state forests, all recreational areas, 41 natural areas, 23 historic sites.

We have over 13 million visitors a year. We are responsible for enforcing criminal laws under 2C, Title 12 boating laws, Title 13 park regulations, Title 23 fish and game regulations, Title 39 Motor Vehicle Code.

Our property of the park service is over 322,000 acres ranging from high point in Sussex County down to the tip of Cape May where there is Cape May State Park. (Tr. 1 at 27-28).

11. Standard Operating Procedure.

Conservation Officers are included in the unit and, as Jeff Ray described, twenty-nine (29) members exercise full police powers in the enforcement of fish and game regulations and environmental regulations.

... Titles 23, 58, 50, 13. ... We work very closely with local, county, and state police doing environmental enforcement such as pollution and illegal dumping. And also we work with, on various narcotics work, we have various narcotics strike forces centering around the possession of narcotics and the growing of narcotics statewide.

We work closely with some of the federal law-enforcement agencies enforcing illegal traffic of products, including fish and wildlife products, the U.S. Coast Guard and National Fishery Service as well as Custom Service. (Tr.1 at 28-29).

Richard Cook represents eighty (80) Campus Police at six State colleges (Fairleigh Dickinson, William Paterson, Kean, Stockton, Trenton State, and Montclair).

We have public safety officers as well as campus police officers, and we have full police powers throughout the state. We enforce Title 39, 2C ... same powers as police officers in municipalities.

Fairleigh Dickinson in Madison. It's a private institution. We recently acquired it. It's a private (sic) college, but we have been charged with the responsibility of representing them now. We are introducing this contract to Fairleigh Dickinson. [The state doesn't pay for FDU employees]. (Tr.1 at 29-31).

Twenty-one (21) employees with the Office of Weights and Measures are also included within the bargaining unit. Joe Romano, representing PBA Local 269, testified to the primary task of testing (and initialing) official weighing devices throughout the twenty one counties.

... We enforce Titles 51, 13 and 56. We do investigations with other law-enforcement agencies throughout the state. As far as our clothing goes, we have to wear -- our clothes are damaged during testing, ... concrete plants ...

We have 21 members, 21 inspectors...Don't have police powers. We have the power of a crest (sic - "arrest"), but we don't have full police powers. We had just passed a new regulation where all weighing and measuring devices have to be registered with the State ... (Tr.1 at 32-33).

Counsel for the PBA also noted that the bargaining unit consisted of other law enforcement units, including the Marine Police, Capitol Police and Aeronautics.

There is strong argument that the functions performed by members of the law enforcement unit, particularly Corrections Officers and Parole Officers, are among the most compelling and important services provided to the State and its citizens. The PBA asserted that, notwithstanding the emphasis placed on the two local units, each of the law enforcement units present dramatic evidence of an explosion in work over the last few years with staffing levels which have, at best, remained constant. According to Counsel, staffing levels at the various institutions, in many cases, have significantly declined.

Pointing to the increase in workload, the PBA alleged that, in 1995 alone, there was more than a 16% increase in the number of cases for which the Bureau of Parole was responsible (PBA-1A-10) and, in certain of those cases, individuals with the propensity for serious criminal conduct were the clients. The PBA referred to the "Report of the Committee to Review the Conrad Jeffrey Matter", dated October 1995. (see PBA-1A-10).¹²

12. Conrad Jeffrey is an adult male who kidnaped, sexually assaulted, and murdered a seven year old girl on May 5, 1993. Jeffrey, a parolee, was released from prison after having served only a portion of a sentence for attempting to abduct a fourteen year old girl at knife point in 1990. Upon Jeffrey's arrest shortly after the May 1993 murder, a number of questions arose regarding his background and the failures in the criminal justice system that led to Jeffrey being free from custody when he might have otherwise been confined.

In response, Chief Justice Wilentz of the New Jersey State Supreme Court created a committee to review the "failures in the criminal justice system ... breakdown of communication between agencies ... changes to prevent a similar occurrence ..." in May 1993. The Committee issued the referenced report in October 1995.

With respect to parole officers, the Committee's report stated:

The Committee's investigation found that the tools currently available to parole officers to monitor their parolees and ensure that they are complying with the condition of their parole are lacking. Despite that fact that Jeffrey was reporting regularly to his parole office, he was arrested several times but his parole officer had no knowledge of these arrests. As the Jeffrey case demonstrated, it is vital that supervising parole officers gain immediate access to information indicating that their parolees have violated the terms of their parole through subsequent arrests. The Committee discusses technological advances later in this report that would provide parole officers with enhanced information about their parolees after they are released from prison. (see PBA-10A, p. 33).¹³

Counsel reiterated that the legislature passed legislation granting Parole Officers law enforcement status. N.J.S.A. 2A:154-4. It was noted that Parole Officers were trained as Police Officers, with the authority to carry weapons and make arrests.

II

The State has taken affirmative steps in considering the interests and welfare of the public by drawing on a strategy of uniform economic proposals to develop consistency in results. As a result, the State offered an economic increase with proposals identical to every State (of New Jersey) employee group, both civilian and law enforcement units. Witnesses for the State confirmed that the "State Package" was designed as part of "a state-wide mandate to reduce expenditures and alleviate

13. It is of note that two newspaper articles, submitted by the PBA, supported the conclusions of the Committee. The first referenced article, "Concern About Liability Keeps Parole Officers on Edge", *New York Times*, August 9, 1995 commenting that "growing caseloads weigh on officers". The second referenced article, "Pulse/Parole", *New York Times*, January 30, 1995. The second article cited the number of parolees to parole officers in New Jersey as 84 to 1 compared to New York with 62 to 1 and Connecticut with 35 to 1. (as of 1993). (see PBA-1(11) and (12).

the growing tax burden faced by New Jersey residents and to counterbalance the increase in mandated expenditures."

David Collins, Employee Relations Coordinator - Office of Employee Relations (OER),¹⁴ testified to the OER's strategy for negotiating with sixty thousand (60,000) executive branch employees, including members of the International Federation of Technical Employees ("IFTE"), the American Federation of State, County & Municipal Employees ("AFSCME"), the Communication Workers of America ("CWA"), the American Federation of Teachers ("AFT"), the State Troopers Fraternal Association ("STFA"), Non-Commissioned Officers, Superior Officers Association and the various PBA agreements. Mr. Collins' office was also involved in the negotiation of the Agreements at the University of Medicine and Dentistry of New Jersey ("UMDNJ"), New Jersey Institute of Technology ("NJIT"), authorities affiliated with the State of New Jersey, such as the New Jersey Turnpike Authority ("NJTA") and the Garden State Parkway Authority ("GSP"), and the New Jersey Transit ("NJT"), both bus and rail. (Tr.3 at 13-14).

Elizabeth Pugh, Director of the Office of Management, also commented on the conclusions reached by the State and the decision to remedy a "disparity" between the salaries (and benefits) of Corrections Officers with DOC supervisors, corrections officers on a national basis, and private industry in general. However, Ms. Pugh testified that a "promise" was made to taxpayers by

14. Mr. Collins will be repeatedly referenced throughout this Award. In his sixteen (16) years of experience in the Governor's Office of Employee Relations, Mr. Collins has participated in the negotiation and administration of the State's executive branch collective bargaining agreements. Those contracts include IFTE, AFSCME, CWA, AFT, STFA, NCO, SOA the various PBA contracts. According to Mr. Collins, the OER is also involved in the negotiation of the contracts of the UMDNJ, NJIT, Rutgers University and the authorities affiliated with the State of New Jersey.

Governor Christine Whitman to “cut taxes” and that required salaries and benefits to remain at “zero increases” for the first year of the Agreement (and fiscal year July 1, 1995-June 30, 1996).

The State, relying on a national study, also took the position that the wages and benefits of Correction Officers exceed those received by correction officers across the country.¹⁵

In this Arbitrator’s opinion, the State has demonstrated a concerted effort to lessen the economic impact on the taxpayer by offering each bargaining unit a consistent and uniform economic proposal. The strategy of the OER (to effectuate fiscal stability by standardizing the economic proposal to each bargaining unit) and the recommendation of OMB (to effectuate economic order in formulating the State budget) have been productive. the interests and welfare of the public have been well pursued by the State.

The question remaining, however, is whether containing increases in salaries and benefits of Correction Officers best serves the mission of law enforcement. Is the public welfare merely to be evaluated in terms of tax dollars or budget percentages or is quality of performance in enforcing the laws of the State, confining those sentenced under criminal codes and providing the safety of the State correctional facilities as important to public welfare? Those persons called to service are entitled to a competitive wage and benefits which are necessary to meet the goals of law enforcement. In this Arbitrator’s opinion, the interests of the public and the economic increases must be balanced.

15. Testimony and publications of George Camp, Director of the Criminal Justice Institute, will be further referenced under criteria g(2).

N.J.S.A. 34:13A-16(g)(2) requires "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.**
- (b) In public employment in general.**
- (c) In public employment in the same or similar comparable jurisdictions.**

N.J.S.A. 34:13A-16(g)(3) requires consideration of 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."

The above criteria has been routinely addressed by adversarial parties in interest arbitration through overlapping evidence. In the present matter, the parties have taken a similar approach and, as such, this Arbitrator will address both subsections concurrently. The intent is to facilitate, without duplication, a cohesive and comprehensive analysis of the arguments raised.

It is significant that the PBA does not allege that State enforcement units and corrections officers are underpaid. Rather, SLEU is "merely seeking to maintain -- and not increase -- their current compensation package." As such, the PBA's only economic proposal was in the form of salary increases.¹⁶ Nevertheless, the PBA recognizes that their wage proposals must meet compensation analysis and "comparisons".

With respect to comparisons with private sector median wage increases in 1996, the PBA cited 3% salary increases in the private sector and, when factoring in lump sum bonuses, increases averaged 3.1%.¹⁷

16. The sole economic issue is not to be confused with the restoration of uniform allowances and eye care plan which was previously alleviated by the State.

17. 153 LRR 509-510. (BNA 12/16/96).

In referencing the average \$47,285. salary for teachers in New Jersey who worked an average of 180 days in the 1994-95 school year, the PBA asserted that teachers' salaries exceed the average salary of corrections officers. (see PBA-20).¹⁸

In comparing the job specifications of Senior Corrections Officer and Senior Medical Security Officer (see PBA-23 and S-17N),¹⁹ the PBA maintained:

A Correction Officer is a law enforcement officer who is armed and who works a highly volatile situation. A Senior Medical Security Officer is essentially a caretaker responsible for the care of sedated patients in State institutions.

The PBA contradicted the implications of the State and maintained that the current salary structure for enforcement units and correction officers is clearly in line with other comparable positions in the State whose employees are performing comparable work. The PBA presented evidence of the salaries and benefits of County Correction Officers in New Jersey, some of whom earn significantly more than State Correction Officers. (see PBA-34 through PBA-37). As Counsel noted:

For example, in 1995 in Bergen County, Correction Officers earned \$56,375; in Passaic County, Correction Officers earned \$52,346; and, in Ocean County, Correction Officers earned \$50,000 (PBA 34)." State Corrections officers' salaries lag behind corrections officers in 4 of New Jersey's 21 counties: Bergen, Passaic, Union and Mercer. PBA also argues that county corrections officers have compensation packages that are comparable to or better than State corrections officers. (see PBA Br.).

18. For purposes of this Award, as presented in Mr. Collins testimony and accepted by the PBA, the average salary for Corrections Officers as of June 30, 1995 is \$45,225.00.

19. For purposes of comparison, the average salary for Senior Medical Officers (as of July 1, 1996) is \$37,393. (see S-19).

In response to the State's position that Corrections Officers are among the second or third highest paid (corrections officers) in the country, the PBA noted that New Jersey has the second or third highest per capita income in the country and is effectively one of the wealthiest states in the union. Turning to overall comparison of salaries, the PBA asserted that "(E)ven the Department of Labor acknowledges that average wages in New Jersey are ... higher than in the nation". (see PBA-16 at p.16).

It is clearly the position of the law enforcement unit that the group most comparable with the SLEC is the State Troopers, then other (County) corrections officers within the State being secondary. Therefore, the PBA has attempted to justify its position with comparison of its work to the duties of the a State Troopers. (see S-15D and PBA-29). The PBA noted that "several of the titles represented by this unit will soon become part of the Division of State Police." (see PBA Br. at p. 32). The Marine Police were cited as the example.

The proofs reveal that members of the State Troopers, at top step, earned \$57,122. plus a maintenance allowance of \$8,190.00. in 1996. (see PBA-4). If compared, a Corrections Officer at top step earns significantly less. Notwithstanding that difference, the request of the PBA for increases in wages are similar and comparable to the increases reached between the Parkway and IFPTE Local 196 and the Turnpike and IFPTE Local 194 for July 1995 through June 30, 1999. (see PBA-8a and PBA-8b). Both contracts provide for a first year wage freeze, a bonus of approximately 3% (off base) payment in the second year, and 3.5% increases in the third and fourth year, plus bonuses.²⁰

20. PBA Counsel contended: "other than the second year increase in the form of a bonus rather than inclusion of the raise in base pay, the SLEC proposal is virtually identical with the pattern of raises the State has given these other bargaining units for the same period as this contract." (see PBA Br)

Indeed, the State confirmed that the economic package offered to the PBA was identical to the contract settlements with the Communications Workers of America (CWA represents 32,000 State employees), with AFSCME and IFPTE (each represents 8,000 State employees), with the American Federation of Teachers (AFT represents employees at the State's nine colleges and one university) with the AFSCME and OPEIU units at the New Jersey Institute of Technology, and by the EMS unit at the University of Medicine and Dentistry of New Jersey. Mr. Collins testified:

"over 60,000 State employees have already accepted the "State Package" either in its original form or in a modified version, with changes being traded for significant give backs." (see S-1 through S-10).

Mr. Collins explained that the State was consistent in its negotiations with all State units, both civilian and law enforcement, in offering a package consisting of a two year base wage freeze, percentage base increase approximating 3% and 3.25% in the second and third years and a bonus payment of \$250. (not in base) in the second year.

Mr. Collins clearly distinguished the settlements reached with the employee units at the Garden State Parkway and the New Jersey Turnpike, wherein the successor agreements reflected a modified version of the State package. As the witness explained:

... the wage portion of the settlements were increased in exchange for significant give backs gained from the unions, resulting in substantial savings in real dollars in each year of the contract."²¹ (emphasis added by this Arbitrator).

The State expressed its opposition to the PBA's attempt to deviate from the "State Package" without giving this Arbitrator the justification for such a ruling. That justification, in the State's view, would be in the form of economic give backs.

21. The testimony of Mr. Collins reflected significant give backs in hard dollars in each year for which enhanced wage increases and bonuses were granted in the Parkway and Turnpike contracts

Claims of increased workload, however, is not an argument which the State believes would justify a wage increase that deviates from the State Package. According to the State's Counsel, every state employee has experienced an increased work load due to staffing cuts. The State also maintained that, with the increase in workload for the Correction Officers, the number of correction officers has increased by 162% since 1983. (see S-11).

In this Arbitrator's opinion, the increase in correction officers may be significant. However, just as pivotal is the increase of the number of prison inmates and inmate population, which by evidence has increased by 131%. (see PBA-14) Likewise, the claim of increased workload and staffing (discussion again on page 60-63) may be a function of expanding correctional facilities and the construction of new state prisons.

Which employee group or job title does the State consider comparable to the Correction Officers?

Robert Bocci, Civil Service Personnel Analysis Representative, testified to his analysis of the job classification title of Correction Officer.²² As a result of his analysis, the Senior Corrections

22. By way of background, Mr. Bocci previously worked in the Department of Personnel, Classification and Compensation unit. His duties revolved around "difficult" classification and job analysis issues. (Tr.3 at 147-149). As such, Mr. Bocci analyzed and evaluated titles and placed into a salary rank. The "Hay System" was utilized.

Officer job classification was assigned the title of "Senior Corrections Officer" with a Hay rating of "Range 18".²³ Later, an re-evaluation of the Corrections Officer title was undertaken:

... Department of Corrections came to us and asked that there be a reevaluation here. And they gave a variety of reasons, one of the reasons being the increase in the danger and the environment that these gentlemen and ladies worked under. Another was at that time there was a greater emphasis on rehabilitation and that the correction officer was seen as someone who had a direct impact on how a prisoner could be rehabilitated, if they could be rehabilitated. So, based on that we went to the higher level ... to the P. [The reevaluation was done] somewhere's around 1978, 1980, in that time frame. (Tr.3 at 161-162).

According to the State, evidence reveals the title of Senior Corrections Officer currently receives over \$10,000 more in base pay at top step than any other Range 18 title. (see S-16)."

23. Mr. Bocci described the Hay System and its implementation in New Jersey. (Tr.3 at 149-151).

The Hay system..has been devised by the Edward N. Hay Association out of Philadelphia, Pennsylvania...The State actually began using it in 1970, as a result of a public law which required that...You place a title into a specific rank primarily to insure some type of internal equity within the system. The State one of its primary interests is equal pay for equal work...[The system] was implemented in 1970.

The Hay folks found out that there wasn't a total equity within the state, that some jobs were being paid more than others and there wasn't a good explanation of why that was happening.

The Hay system looks at three major areas,...know how, problem solving and accountability. And there are sub factors within each one of these individual factors, and each title is evaluated in terms of those factors and subfactors. And a total number of points is derived from that evaluation, and those points are then compared against a rank chart to give you, essentially, what the salary rank for that title would be. (Tr. 3 at 152-153).

Hay originally worked with the state and they actually had their consultants work with the state they performed the training and they set up a number of evaluation committees...There was a time period after that original evaluation for...appeal...but once that appeal period was completed then those evaluations were permanent. (Tr.3 at 157).

Mr. Bocci was specifically questioned regarding comparability and, in his opinion, the Correction Officer compared with that of Senior Medical Security Officer (within the Department of Human Services) in terms of job titles. (Tr.3-186-187). According to the witness:

Taking into consideration the custom and nature of the job and the type of clients, so to speak, that the senior correction officer deals with on a day to day basis, probably the senior medical security officer could be a good close comparison.

According to the State, in addition to a \$10,000. difference in base wages (at top step), a senior corrections officer receives an average of \$13,252. in additional overtime compensation per year, \$1610. in yearly clothing allowance and is eligible for pension benefits under the Police and Fire Retirement System. At the same time, a senior medical security officer receives an average of \$5,943. in overtime per year, \$550 clothing allowance and a lesser retirement benefits under the Public Employment Retirement System. (see S-20). From the State's evidence, when the benefits are added up, a senior corrections officer receives \$63,040. in compensation, as compared to \$44,565. by a senior medical security officer, a difference of approximately 42%.

The State's Counsel questioned Ms. Pugh regarding "disparity (in pay) between rank and file corrections officers and their supervisors. In response, she conceded that the disparity results in a situation where it is not a benefit to be promoted, therefore making it more difficult to get the most qualified employees in supervisory positions.

George Camp offered testimony regarding the comparative position of Correction Officers²⁴

24. Mr. Camp is founder and principal of the Criminal Justice Institute (CJI), a research and consulting firm that specializes in the area of corrections. Since 1981, CJI has published an annual survey of state correctional agencies, including probation and parole, through the "Corrections Yearbook". (Tr.4 at 7).

and was asked to comment on the wages and benefits paid to Corrections Officers:²⁵

Corrections officers in New Jersey are paid far more than the average corrections officer across the country. (see S-29).

The maximum corrections salary in New Jersey is \$48,661. The average top step salary across the country is \$32,283. (S-29).

(With regard to job duties) A corrections officer in New Jersey is directly comparable to that of corrections officers throughout the 50 states.

Reference to NJ staffing levels as being "better than average". New Jersey averages 4.2 inmates per line officer, the tenth best ratio in the country. (see S-32 and 33). The average ratio is 5.6 inmates per officer. (Id.)

The number of long term/serious offenders²⁶ in New Jersey prisons was less than the average of other states. (see S-34). The inmate population in New Jersey may be categorized as "less dangerous". (Tr.5 at 28).

New Jersey State Corrections Officers at top step salary earn above the average. (see PBA-35).

... the benefits offered to New Jersey State employees were significantly more generous than those offered to other employees. The per employee cost of health benefits in New Jersey was the second highest in the nation and was double that of New York at \$5488. (See S-27, Corrections Yearbook).

25. Mr. Camp testified from his personal knowledge derived from visits to institutions in nearly every State and from his nearly 35 years experience in various prison systems across the country. (Tr.5)

26. Mr. Camp described "Long Term Serious Inmates". (see S-34 and Tr.5 at 27).

We ask the various agencies to report to us the number of inmates who are serving sentences twenty years in length or more, the number of lifers, those serving life sentences, as well as those serving what is termed natural lifers...we also ask the agencies to report to us the number of inmates who are serving or waiting death sentences.

N.J.S.A. 34:13A-16(g)(4) requires consideration of "stipulations of the parties."

The parties have stipulated to only one issue, which is expressed by amendment to Article I:

1. The term of the contract shall be for four (4) years retroactive to July 1, 1995 and terminating on June 30, 1999.

N.J.S.A. 34:13A-16(g)(5) requires consideration of the "lawful authority of the employer."

In contemplating this criterion, the Arbitrator would normally turn to the fiscal constraints imposed by the legislature under N.J.S.A. 40A:4-45.1 et. seq. (hereinafter, the "Cap Law"). It is well recognized that the State Legislature has imposed specific guidelines which "require local governments to follow sound business principles in their budgetary practices." Morris County v. Skokowski, 86 N.J. 419, 423 (1981). N.J.S.A. 34:13a-16g(5). An arbitrator's analysis of the Cap Law is relevant to considering the limits in which a municipality can expand certain items within its budget.

However, the State budgetary process is "outside" the Cap Law and analysis is not applicable. Instead, State government responds to the mandates of the State Constitution and the constitutional requirement for the Governor (and Executive Branch) and the Legislature of New Jersey to balance the State Budget on a yearly basis. As testimony reveals, expenditures may not exceed revenues

The record demonstrates that Christine Whitman, as Governor of the State of New Jersey, fashioned a leadership style and strategy for negotiating successor agreements with public sector employee representatives. The OER formulated a "State Package" of economic constraints and limited advances, wherein all State employees were to share conservative allowances with the sting of restraint. As Elizabeth Pugh remarked, the decision was reached because revenues were flat in the first year of the budgetary year and, with the promise of a thirty (30%) per cent tax cut and future

property tax relief, no monies were designated for salary increases for union employees during the first year of the contracts. Thereafter, negotiations proceeded.

Negotiations concluded for the majority of public sector employee unions with a uniformity of settlements.²⁷ The present matter is, to this Arbitrator's knowledge, the first State negotiation to proceed to interest arbitration. As described by Mr. Collins, the present Agreement is also the last in the cycle of state contracts expiring in 1995.²⁸

Aside from the initial challenge to the States action in this negotiation²⁹, there was no challenge to the lawful authority of the State in the form or substance of the negotiation or ability to participate in the present interest arbitration. Moreover, the State negotiators did not allege that the State lacked authority to modify the Agreement or fund the increases discussed. Accordingly, this Arbitrator concludes that the State, as employer, proceeded properly and with lawful authority.

27. Notwithstanding the Parkway and Turnpike contracts which, as the record notes, resulted in significant concessions for the benefit of the State and afforded the savings to the State to result in contract gains for the bargaining units.

28. The agreement between the State and the State Troopers Fraternal Association of N.J. (see PBA-4) expired June 30, 1996. The present record did not reveal that the State Troopers' Agreement was settled.

29. PERC Docket No. CO-96-40. (See page 7 of this Award).

N.J.S.A. 34:13-16(g)(6) requires consideration of the "the financial impact on the governing unit, its residents and taxpayers".

The PBA contended that the financial impact of its proposal will be minimal and within the ability of the State to fund. The PBA recognized and accepted the wage freeze in the first year of the Agreement. In addition, the PBA proposed a major concession by offering to amend Article XXVIII and reduce the thirty (30) minutes of "guaranteed" overtime per day for correction officers. According to the PBA, by reducing guaranteed overtime by ten (10) minutes per day, the State would benefit with significant savings in "real dollars".³⁰ As the PBA asserted, the concession or "giveback" to the State of a portion of guaranteed overtime would fund, to a significant degree, the PBA's economic proposal. This Arbitrator agreed.

It is apparent that, in recognizing previous contract settlement patterns and the State's fiscal condition, the PBA responsibly constructed its economic proposal to advance its members most favorably while, at the same time, reduce a contract right to the prospective benefit of the State. As a result of considering the guaranteed overtime concession of the PBA, in analyzing the costs of the parties' proposals, the differences between the two positions are considerably reduced and the proposed economic gains sought by the PBA are deemed fiscally reasonable.

30. Calculations will be further detailed below. However, for purposes of explanation, Senior Correction Officers presently work eight and one-half (8½) hours a day, with the final one-half hour characterized as "overlap". The overlap occurs during shift changes and is necessitated by the obvious need to insure a "count" of inmates. During that ½ hour of overlap, one shift of correction officers transfers responsibility to the following shift of correction officers. As a result, a C.O. has a guarantee of 42½ hours of pay each week, with the ½ hour of daily overtime paid at time and one-half (1½ the Correction Officer's hourly rate of pay). Assuming an average hourly overtime rate of \$30., by reducing overtime by ten (10) minutes per day (or fifty (50) minutes per week), wages of corrections officers would be reduced by approximately \$25. per week, or almost \$1,300 per year per each Correction Officer. The savings to the State, if assuming 5,000 correction officers, may exceed \$6,500,000. per year.

The parties agree that the current budget for the State of New Jersey is approximately \$16 billion. Thus, the State's four (4) year budget will approach \$70 billion.³¹ According to the PBA, it is against this backdrop that the four (4) year, \$29 million differential between the parties' offers must be analyzed. Is it "so negligible as to be barely measurable at all"?³²

Testifying on behalf of the PBA, regarding the review and analysis of the State Budget, Daniel Levine described his approach to the analysis.³³ According to his testimony, the State's financial picture is not determined by tax rates, but rather by tax revenues. He pointed out that, despite income tax cuts, income tax revenues have actually increased by \$200 million. (see Tr. 5 at 69). The increase was due in part to the revenue raised through the tax amnesty. (see Tr.5 at 72). He concluded that the State's economy was healthy, and its revenue projections were quite good. (see Tr.5 at 71-72).

With respect to considering the State's offer in view of its fiscal condition, Mr. Levine offered that, "While the State, like any employer, may wish to keep employee raises low, that is a "political" rather than economic decision ...". (see Tr.5 at 77).

31. These figures may be characterized as very conservative, since neither the projected State budget nor the projected DOC budget incorporates any significant increases in expenditures over the next three (3) years.

32. As the PBA asserts.

33. Mr. Levine is an Economist and leads the Regional Affairs Leadership Center. His *curriculum vitae* was submitted into the record. (see PBA-27 and Tr.5, p.60). Mr. Levine was previously employed by the State of New Jersey as the Assistant Director of Policy and Planning for the Division of Taxation. It is of note that the information upon which the witness based his analysis and opinion is publicly available, although not necessarily "accurate" --- "the last actual revenue (report) ... released is as of February of '96". (see Tr.5 at 64-66). Mr. Levine relied on the State's estimates. (see Tr.5 at 67, line 14).

Francis McEnerney, a Certified Public Account, appeared on behalf of the PBA and testified concerning cost analysis of each proposal and comparisons between the proposals of the two parties.³⁴ Based on Mr. McEnerney's analysis, taken from an actual payroll:

... we added up all of the corrections officer, we allocated ... added those up in each step, and we costed that out. That number came to 4,736 corrections officers.

The same was followed, a similar document, for the parole officer, which amounted to three hundred and two parole officers. (Tr.5 at 112).

We used a number of three hundred and forty other employees. (Tr.5 at 113).

... calculated that at the top step, Step 9 of corrections officer ... It was a high figure. It was the highest figure of a corrections officer. We felt there might be some that are paid more and some that are less. We were hoping that was about an average. (Tr.5 at 113).

We felt only fair that there be some level of attrition built into the cost out. He had no historical information. In the 1996 ... payroll dated roughly July of '95, there was a hundred and seventy-four entry level positions. Based on that, we utilized that number throughout our four-year projections, that a hundred and seventy-four corrections officers would retire to be replaced by a hundred and seventy-four recruits. In addition, on the parole officer side, that number was ten parole officers. we assumed that ten retired each year and that ten were hired each year.³⁵ (Tr.5 at 113-115)

Mr. McEnerney described his assumptions regarding additional hirings. According to the witness, he was advised of the approximate dates for the 740 new hires and made an analysis based 140 new officers being hired on December 31, 1996; 200 new officers hired on December 1, 1997, 200 new officers hired on July 1, 1998 and 200 new officers hired on December 31, 1998.

34. Mr. McEnerney is a partner in a CPA firm in which many clients are law enforcement unions. He has served the Essex County Board of Chosen Freeholders at budget consultant (Tr.5 at 110). Mr. McEnerney's *curriculum vitae* was entered into the record. (see PBA-30).

35. Similar assumptions were not used for the other 340 employees.

Submitted into evidence was the "cost out" of the PBA salary and bonus proposal. (see PBA-31). According to Mr. McEnerney, salaries and increments were calculated for the contract years 1996 through 1999, with percentage increases applied to those amounts. Assumptions on the retirement and on the new hires were included.

For the corrections officers, parole officers and other employees, the cost-out was, for the four years, fifty-one million one hundred and seventy-two thousand dollars. (**\$51,172,107.** per PBA-32 and Tr.5-115-117).

In addition, when the proposed bonuses of one thousand dollars in 1997, \$850. in 1998, and \$850. in 1999, are combined on a non-cumulative basis, the estimated cost of the PBA's proposal is sixty-six million five hundred and ten thousand dollars. (**\$66,510,000.** per PBA-31).

Finally, when combining the proposed salary (\$51,172,107.) and bonus (\$15,338,600.) costs with the incremental costs net of attrition (or **\$24,769,194.** per exhibit PBA-32) the total combined cost of the PBA proposal is ninety-one million two hundred seventy-nine thousand nine hundred eight (**\$91,279,901.**) (see PBA-32 and Tr.5 at 119). Mr. McEnerney was then asked to calculate the savings in ten (10) minutes of overtime (as per Article XXVIII):

... the dollar amount ... if corrections officers were not required to work an additional ten minutes per day in overtime ... The savings is seventeen million two hundred and twenty-nine thousand two hundred and thirty-six dollars. (**\$17,259,236.**)(*emphasis added by the Arbitrator*) Giving a combined net cost of the PBA proposal of seventy-four million fifty thousand six hundred and sixty-five dollars. (**\$74,050,665.**) (*emphasis added by the Arbitrator*) (Tr.5 at 120).

Based on Mr. McEnerney figures, and considering the total cost-out of the State proposal as forty-four million nine hundred thousand nine hundred nineteen (**\$44,909,919.**), the distinction between the two proposals reveals a twenty-nine million one hundred forty thousand seven hundred thirty-six (**\$29,140,736.**) difference over the four years of the contract.

Could the State acquiesce to the PBA's position and absorb the difference in the two proposals? In responding to the figures presented by the PBA, the State presented two witness who testified to the underlying financial conditions upon which the State and DOC's budgets were prepared. At the same time, the State remained consistent in its belief that the State could only accept the impact of the offer equivalent to the economic terms granted to every other State employee through contract settlements with bargaining representatives.

Elizabeth Pugh³⁶ testified to the preparation of the State budget and the economic reasoning for the "State Package" offered to the PBA. According to Ms. Pugh, at the time the Whitman administration took office, revenues were flat. As a result, in the first year of the 1995-96 budget (which would parallel the first year of a successor Agreement), there was no money earmarked for increases in wages. (Tr. 4 at 8). In the second year of the budget, there was a bonus of \$250 budgeted for each employee. As Ms. Pugh related, revenues remained flat and, with mandatory increases in expenditures (and increments), the administration and legislature deemed not to place a wage increase in the budget. (Tr. 4 at 11). However, there were two additional items (the cost of benefits and the rate of employee increases) that were considered:

When this administration came in it had a mandate to cut taxes, and that meant for those who were charged with the budget that they clearly had to identify the places in which expenditures were growing rapidly, places where expenditures needed to be constrained in order to keep a balanced budget and to help the governor keep her promises to the electorate. One of the places that we looked was at *employee benefits, both salaries and health benefits*. seventy percent (or \$3.5 billion) of the direct state services budget (Tr.4 at 48-49). (*emphasis added by this Arbitrator*).

36. Ms. Pugh has been the Director of the Office Management and Budget - Department of the Treasury for the past two years and is responsible for developing the budget for the Governor. As budget director, Ms. Pugh is also responsible for financial reporting and monitoring the execution of the budget once it has been passed by the legislature. (Tr.4 at 5).

When we looked back over time for a ten year period of time, from 1984 to 1994, the *rate of increase of employee salary* was, I think, in excess of seventy-five percent. It might have been as high as seventy-eight percent. But in the private sector, where we knew that, certainly, in the late '80s and the early '90's there had been a lot of downsizing, what-have-you, and other moves to compete with globalization of the economy, the increase over that same period of time was only forty-five percent. (Tr.4 at 49). (*emphasis added by this Arbitrator*).

According to Ms. Pugh, to confirm its finding that the law enforcement unit had received increases “way beyond other state employees” and to compare those increases with wage and benefit packages with correction officers in surrounding states and across the country, the State prepared a study.³⁷

Ms. Pugh expressed that the study prepared by Buck Consultants found, “with respect to the salaries, that New Jersey (Corrections Officers) ranked number one or number two when compared to other states. And in terms of health benefits, the study revealed that the State was offering a dramatically richer benefit package than private employers”. (Tr.4 at 50).

According to the witness, in comparison to surrounding states, the cost to the State for health benefits per employee is the second highest in the nation, averaging \$5,488.00. (Tr.4 at 51). Only six other states in the nation offer such free individual and family health coverage to their employees

Ms. Pugh asserted that, when analyzing the PBA bargaining unit, records indicated that the average salary of a corrections officer, including overtime, was fifty-seven thousand one hundred and

37. The study, prepared by Buck Consultants, reviewed and comparatively analyzed the present levels of pay and benefits. The comparator groups included northeastern states, the overall averages among states and a representative group of large employers in the State. The results were to designed to portray the relative status of State employees in the marketplace. The areas of compensation, retirement income benefits (including pensions) and levels and costs of health and welfare benefits (See Exhibit (supplied by the State in agreement with the direction of the Arbitrator [see Tr.4 at 96-97], with copy to the PBA, and therefore not identified by an exhibit number). The report was dated January 20, 1994).

ninety (\$57,190.), which included base salary and overtime. According to Ms. Pugh, yearly overtime payments for corrections officers averaged eleven thousand forty dollars (\$11,040.) per officer. The average yearly overtime payment amounted to 19% of their individual salaries.³⁸

Notwithstanding the State's decision to continue salary containment through the second year of the Agreement, in the current fiscal year 1997, forty-four million (\$44,000,000.) dollars is budgeted in the salary account for wages increases, including increments, for State employees. (Tr.4 at 19). Other increased labor costs, such as benefits and pensions, are also considered. In the present year, a co-pay for medical benefits is anticipated. (Tr.4 at 20). Ms. Pugh noted that benefit costs account for approximately 70% (of \$3.5 billion) of the operating budget of five (5) billion dollars in an overall State budget of \$15.9 billion. (Tr.4 at 29).

Questioned about the economic reasons for developing the budgets, Ms. Pugh testified to the "compelling" nature of closing a projected deficit of a billion dollars ... eight hundred million (dollars) (Tr.4 at 23). As a result, the executive branch (including department Commissioners and the Department of Corrections) were requested to "prioritize their programs" and "define their mission" in developing the budget. (Tr.4 at 23). Ms. Pugh testified how the State budgeted for corrections

We got seven hundred and thirteen million was recommended in the budget [for the Department of Corrections]. [That was a recommendation] and that's what also passed ... that's for 1997.³⁹ (Tr.4 at 41)

38. The issue of "overtime" will be addressed in detail through the testimony of Edward Murphy, a Senior Corrections Officer and Vice President of Local 105. Mr. Murphy's explanation will lead to an understanding of the distinctions in regular, mandatory and guaranteed overtime and discussion regarding the consideration to balance overtime costs as opposed to decision to hire additional correction officers.

38. \$713,000,000.00.

The witness express her opinion that the budget was not increased over the prior year.

I think, actually, it did not. There is one year in which we took savings initiatives that were based on actions that the corrections department said it was going to take... [The actions] had to do with the reclassification of prisons so that there would be a minimum security prison. Some of it had to do with exploring privatization of facility maintenance and food services... The two that I just mentioned I believe have not taken place. I know there was an RFP that was getting prepared. There was, of course, a privatization of medical services, I believe, last year. (Tr.4 at 42).

Ms. Pugh also related that the State financed capital improvements for the DOC, including the construction of South Winds Prison in Bridgeton. (Tr.4 at 31). Money was budgeted to address the problem of overcrowding at the state prisons and to contract with the counties to house the state inmates as needed.

However, when question why the DOC had requested a supplement to the budget, Ms. Pugh acknowledged that the increase of (state) prisoners were greater than anticipated and "most" of the budgetary problems had to do with the overtime cost. According to the witness, the DOC anticipated another supplemental payment in the current fiscal year, with the primary reason for the request due again to overtime requirements.

Philip York, Chief of the DOC Budget Office, testified to preparation of the DOC budget and the problems encountered over the last several years.⁴⁰ As Mr. York stated, "in order to meet its budgetary requirement ... the DOC has been required to reduce (its budget and spending) in areas where expenses are not mandated."

40. As Mr. York testified, he and his office are primarily responsible for the preparation and review of annual operations budgets for the twelve (12) state institutions operated by the DOC, the Bureau of Parole, and the central management organizations. His office is also responsible for the general monitoring of operating costs to ensure, to the extent possible, spending occurs within the parameters of the budget. In addition, Mr. York is responsible for liaison with the counties in housing state prisoners at county facilities. He also prepares fiscal impact statements on legislation if and when introduced into the Assembly.

The witness stated that, in each budget years, the DOC is given parameters by the Office Management Budget in which to create the department budget. (see Tr.4 at 103-106). The DOC is required to prepare a preliminary budget, which is submitted to OMB.

This year we're requested to prepare a preliminary budget with three scenarios. Scenario one would be a plus three percent increase over our current year funding; scenario two would be a minus fifteen percent reduction over our current year funding; and scenario three is a twenty-five percent reduction over our current year funding.

[following submission to the OMB, that office] provides the department with those initiatives that they will support. The dollar value of those initiatives are either added or subtracted to the continuation base, and a dollar target is arrived at for our final budget submission.

In FY '98 the annualized funding of moneys required for the South Woods Prison⁴¹ and moneys required for increased population are also added to the base. At this point, then, the department has a dollar target figure and proceeds to prepare a final budget. That budget is submitted to OMB and eventually works its way over to the office of Legislative Services and the legislature.

In the early spring the department has the opportunity to make revisions to its budget. [then the budget goes to the Assembly and is subsequently signed by the Governor following which the money is appropriated]

[the grant and aid area accounts for the money that is paid to county institutions for housing inmates] The county jails house at this point about 5000 state inmates. We reimburse them \$58.50 a day for housing these inmates. (Tr.4 at 106-108).

Mr. York explained that the budget is divided into several areas, with approximately 78% of the DOC budget applied to direct state services and the cost to support the operations of the DOC programs. (Operational costs are salaries, supplies, services, equipment and maintenance) Approximately 16% of the DOC budget is grant and aid area and utilized for reimbursement to the counties for housing state inmates. Direct state services and grant and aid are the two major components of the budget.

41. South Woods is the new 3,180 bed state prison in Bridgeton, New Jersey. It will operate with a \$75 million annual budget. South Winds, scheduled to be completed in May 1997 and opened with 980 beds in its first phase, will employ approximately 850 new correction officers. (Tr.4 at 109)

N.J.S.A. 34:13A-16(g)(7) requires consideration of the "cost of living".

Following is recent data relating to the Consumer Price Index:

New York and Northeast New Jersey:		<u>Nationwide Averages:</u>	
1995	3.0%	1995	2.5%
1994	2.1%	1994	2.6%
1993	2.86%	1993	2.7%

The parties have similarly acknowledged that the cost of living has not increased as rapidly as in the past, although the State submitted that its position permitted the PBA to remain ahead of increases. The State maintained that its offer would permit the PBA to continue to out pace the cost of living.

According to Counsel, the PBA members have significantly out paced the cost of living over the previous 15 years, and will continue to be ahead in terms of real dollars under the State's final offer. It was contended that, since 1981, base wage increases for PBA members had out paced the respective increases in the CPI index by 33.6% on an average of 2.24% per year. (see S-14 and S-15).

According to Counsel:

Corrections officers' salaries have out paced the cost of living by 266% over the period 1981 through 1995. (see S-16). :

The PBA believed that the best projections of increases in cost of living are expected to range between 2.5% and 3% per year. However, the PBA contradicted the State's conclusion that raises received by the PBA since 1981 "far outstripped" the cost of living. (see S-15B). According to the PBA, the increases achieved by AFSCME, IFPTE, and CWA exceeded the cost of living by 9.3% since 1981(S-15 A-C). While the salary increases received by the PBA exceeded the cost of living,

the PBA referenced the State Troopers (STFA) in indicating the STFA increases exceeded the CPI (since 1981) by 36.18%. Counsel argued:

The increases now sought by SLEC, when weighted over the term of the four year contract, are lower than the current or projected CPI index. In the cost analysis submitted by SLEC to the arbitrator, the weighted annual average of the increases over the life of the contract range from 2.5% at the top step to 2.79% at the bottom step. Even under SLEC's own proposal, its members will barely keep pace with inflation during the turn of the century.

Counsel noted that, in the first year of the contract year (July 1995-June 1996), if the cost of living rose by 2.7%, the recognized wage freeze will cause State law enforcement officers to lose significantly in relation to the cost of living. The PBA contended that, in the remaining years of the contract, the increases sought by the PBA would, at most, keep pace with the cost of living and inflation or provide very modest increases.

Counsel argued that, assuming a CPI of approximately 12% over the four year period, corrections officers' salaries and compensations would effectively decrease by at least 5% over the life of the contract.

N.J.S.A. 34:13A-16(g)(8) requires consideration of the continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

The final criterion requires this Arbitrator to consider the continuity and stability of employment under the terms of the Agreement. As the PBA correctly expresses, "The public relies upon the law enforcement officers in these units to enforce the laws, supervise the custody and control of inmates and parolees and insure the safety of the citizens of the State." It is consequently important that, in addition to the morale and job satisfaction, both corrections officers and other law enforcement officers within the unit be compensated at level which will permit them to retain job satisfaction. What is apparent to the PBA is that officers maintain an interest in continued job performance and do not fall behind the cost of living. The PBA maintained that the interest of the State, its residents, taxpayers and the public, all depend upon SLEC members for their protection and, therefore, compensation for law enforcement officers should remain at a measure which is cognizant of their work.

On the other hand, the State reiterated that the Arbitrator must, by law, take into consideration the priority given to the wages and benefits of public employees within an employer's overall budget. As Counsel noted:

The State budget is in compliance with commitments made to New Jersey taxpayers and the State is committed to reducing the tax burden on New Jersey residents. To effectuate this reduction, taxes were cut by 30% and a property tax deduction was created on state income tax. This resulted in a net reduction in revenues of 1.5 billion dollars.

The State maintained that the arbitrator received testimony to demonstrate that, despite specific budget cuts at the DOC and losses within civilian staffing levels, there were no layoffs of corrections officers. Perhaps of significance is the comment attributed to Budget Director Phil York, "We've never laid off a correction officer". (Tr.4 at 119).

As such, the State believed the "State Package" promoted the continuity and stability of employment for all law enforcement unit members.

Indeed, the SLEU members have performed their critical functions admirably and, as a well trained work force, promotes the well being of the State through maintaining the stability of the prison system. A well compensated, well trained and reasonably satisfied force of corrections officers is the most essential component in the assurance that the State's prison system will remain secure. Corrections is a stressful, demanding and often life-threatening job. The number of corrections officers has continued relatively unchanged, while the prison population has markedly expanded, and the duties and responsibilities imposed upon law enforcement officers continue to increase. Similar is the concern for parole officers and other members of the law enforcement unit. Indeed, the job has been well performed to benefit of the public. A fair compensation package is critical to the State's own aims and continuity is, in part, achieved by adequate compensation.

INTERIM PROCEDURAL ISSUES

As described above, PERC considered the PBA's request for interim relief (filed August 4, 1995), with an Interlocutory Decision and Order issued on June 28, 1996. Acting Chair Millicent A. Wasell, addressed the three issues in dispute (Uniform Allowance, Eye Care Plan, and Paid and Unpaid Union Leave). (see PERC I.R. No. 96-31). The Order of Acting Chair Wasell directed the State of New Jersey and Office of Employee Relations to (restore and) provide paid leaves during successor contract negotiations for the Association activity referred to in Article XXVI. The Order, however, limited any leaves during the period of negotiation to the amounts set by the predecessor contract. At the same time, the application for interim relief for restoration of Unpaid Union Leaves, Uniform Allowance (Article XXXIX) and Eye Care Plan (Article XIV) coverage was otherwise denied by PERC with the declaration that "the arbitrator has the authority to consider granting full relief on this monetary issue retroactively,..."

PERC considered the facts and law, then rationalized its decision by expressing the law in obtaining interim relief: ... the moving party must demonstrate both that it has a substantial likelihood of prevailing in a final Commission decision on its legal and factual allegations and that irreparable harm will occur if the requested relief is not granted. Further, the public interest must not be injured by an interim relief order and the relative hardship to the parties in granting or denying relief must be considered.

Specifically with respect to the Uniform Allowance, PERC referenced the OER representation that when previous contracts had expired, uniform allowances also ceased until the successor agreement was reached. Retroactive payments followed.

With respect to Eye Care coverage, PERC observed that contract language specifically addressed the expiration of coverage --- "This program ends on June 30, 1995" --- and doubted the likelihood of success on its merits.

Accordingly, PERC believed irreparable damage would not result where the parties were engaged in interest arbitration proceedings and the arbitrator could determine if uniform allowances and eye care coverage should be restored and continued.

In accordance with the PERC directive and with due regard to positions subsequently expressed by the parties, this Arbitrator regarded the merits of the three issues.

With respect to Unpaid Union Leave, there has been no opposition by the State to continue the contract language. While there was no remedy requested by the PBA, the decision herein is limited to restoring the contract language.

With respect to Eye Care coverage, there is no negotiable position raised by the parties. Contract language was not proposed nor was the issue raised by either party. As such, and accepting the expiration of coverage with the previous contract reference ("This program ends on June 30, 1995), this Arbitrator denies the PBA's request for restoration of the benefit.

With respect to the Uniform Allowance, the parties have expressed considerable opinion on continuing the issue. Analyzing the question, however, the distinction appears to be in the procedural means for restoring the allowance and not the substantive justification for the payment of the uniform allowance. While the issue was initially addressed the terms of withholding of the uniform allowance, it was based on the State's adherence to previous practice and to consider whether the procedure for payment would be changed to a voucher system. This proposal did not materialize. Again, there was no dispute to the justification of a uniform allowance. The officers within this unit require uniforms

in performance of their job whether by uniform or in civilian clothes. Accordingly, the uniform allowance shall be restored and continued through the term of the successor Agreement. Based on the authority granted by PERC, this Arbitrator shall direct the State to reinstate the force and effect of Article XXXIX (Uniform Allowance), continue the uniform maintenance and uniform allowance, and as provide the relief in accordance with **Paragraph 2 (A) through (C)** of the Interest Arbitration Award as follows:

2. A. In accordance with PERC Docket No. CO-96-40 and the Interlocutory Decision and Order in I.R. No. 96-31, State of New Jersey (Office of Employer Relations) -and- State Law Enforcement Conference of the New Jersey State Policemen's Benevolent Association, this Arbitrator ORDERS the State to reinstate the force and effect of Article XXXIX (Uniform Allowance) and continue the uniform maintenance and uniform allowance within the successor 1995-1999 Collective Bargaining Agreement, with the following amendments and modifications:

The State will provide a cash payment of \$1435 for uniform maintenance payment on January 1, 1996 to all employees in the unit who have one (1) year of service as of December 31, 1995; a cash payment of \$1435 for uniform maintenance payment on January 1, 1997 to all employees in the unit who have one (1) year of service as of December 31, 1996; a cash payment of \$1435 for uniform maintenance payment on January 1, 1998 to all employees in the unit who have one (1) year of service as of December 31, 1997; and a cash payment of \$1435 for uniform maintenance payment on January 1, 1999 to all employees in the unit who have one (1) year of service as of December 31, 1998.

Employees serving in the titles of Correction Officers Recruit and Senior Correction Officer, will be granted, in lieu of any uniform allowances other than the initial issues, the following cash payments: \$805. in July 1995 to those employees with at least one (1) year of service as of June 30, 1995; \$805. in January 1996 to those employees with at least one (1) year of service as of December 31, 1995; \$805. in July 1996 to those employees with at least one (1) year of service as of June 30, 1996; \$805. in January 1997 to those employees with at least one (1) year of service as of December 31, 1996; \$805. in July 1997 to those employees with at least one (1) year of service as of June 30, 1997; \$805. in January 1998 to those employees with at least one (1) year of service as of December 31, 1997; and \$805. in July 1998 to those employees with at least one (1) year of service as of June 30, 1998; \$805. in January 1999 to those employees with at least one (1) year of service as of December 31, 1998.

B. Recognizing the PBA's entitlement of a clothing allowance, the State shall restore the per hour dollar equivalent of the clothing allowance and reinstate the \$1.16 per hour to the base rate of each bargaining unit employee for purposes of calculating overtime, effective and retroactive to July 1, 1995 (or to the date which the \$1.16 was initially withheld).

C. Uniform allowance payments restored in accordance with paragraph 2(A) above shall be effective as of the date of this Award, effective retroactively to July 1, 1995, and retroactive payments shall be determined and paid to unit employees within a reasonable period of time.

EXHIBIT LIST

JOINT EXHIBITS

- J-1 Collective Bargaining Agreement (July 1992 - June 30, 1995)
- J-2 PERC Letter of Designation and Appointment of Arbitrator (September 1995).
- J-3 PERC Decision (Co-96-40) dated 6-28-96

PBA EXHIBITS

- PBA-1 1992-1995 SLEU/State Agreement
 - 1(a) additional exhibits 1-12 specific to Parole Officers
 - 1(b) additional exhibit specific to the State Park Police PBA
 - 1(c) additional exhibit specific to the State Weights & Measures PBA
 - 1(d) additional exhibit specific to the Conservation Officers PBA
 - 1(e) additional exhibit specific to the State Park Police PBA
 - 1(f) additional exhibit specific to the State Police ABC PBA
- PBA-2 1989-1992 SLEU/State Agreement
- PBA-3 1986-1989 SLEU/State Agreement
- PBA-4 1993-1996 State Trooper Agreement
- PBA-5 5/26/94 State Trooper/State Side Letter
- PBA-6 1995-1999 CWA/State Agreement (Summary)
- PBA-7 1995-1999 AFT/State Agreement
- PBA-8 1995-1999 Local 195 IFPTE/State Agreement
 - 8(a) Summary of 1995-1999 contract terms - IFPTE Local 196 & Parkway Authority
 - 8(b) Summary of 1995-1999 contract terms - IFPTE Local 194 & Parkway Authority
- PBA-9 Article, Sunday New York Times 11/26/95
- PBA-10 1997 Budget Excerpt of Dept. of Corrections
- PBA-11 Summary of Inmate Population, Assaults, etc. Dept. of Corrections 1992-1996

- PBA-12 Quarterly Statistics/Inmate Charges 1993-1996
- PBA-13 Assaults on Inmates & Staff 1993-1995
- PBA-14 Inmate Population/DOC 1981-1995
- PBA-15 Article, The Star Ledger 4/18/96
- PBA-16 Sept. 1995 Dept. of Labor Economic Indicators
- PBA-17 NJ Dept. of Labor Quarterly Report Feb. 1996
- PBA-18 NJ Dept. of Labor Quarterly Report Dec. 1995
- PBA-19 NJ Teacher Salary Guides (1994-1995 Edition) Excerpts
- PBA-20 NJ Teachers' Salaries (1994-1995 Edition) Excerpts
- PBA-21 Consumer Price Index (CPI-W) - New York - Northern New Jersey - Long Island
- PBA-22 Consumer Price Index (CPI-W) - Philadelphia - Wilmington - Trenton
- PBA-23 Job Description - Corrections Officers
- PBA-24 Corrections Officer Salary Compensation Schedule
- PBA-25 Uniform and Clothing Allowance Costs (Corrections)
- PBA-26 Videotape
- PBA-27 Resume of Daniel H. Levine
- PBA-28 Sept. 3, 1996 Star Ledger Article on Tax-Amnesty Collections
- PBA-29 CPI/Compensation Comparisons for State Troopers from 1980 through 1995
- PBA-30 Resume of Francis M. McEnerney, C.P.A.
- PBA-31 Salary and Bonus Cost Outs for NJ SLEU during the contract term
- PBA-32 Cost Comparison of the PBA and State Proposals
- PBA-33 Chart of Percentage Increases (for Corrections and Parole) based upon the State Proposal

- PBA-34 Salaries of PBA Corrections Units throughout New Jersey (State and County)
- PBA-35 Top Step Salary, with Longevity, of PBA Corrections Units throughout New Jersey (State and County)
- PBA-36 Break down of Salary Information for the above noted units
- PBA-37 Break down of Leave and other Benefits for the above noted units.

STATE EXHIBITS

- S-1A Agreement between the State and CWA/Professional Unit (July 1995 - June 1999)
- S-1B Agreement between the State and CWA/Higher Level Supervisors Unit (July 1995 - June 1999)
- S-1C Agreement between the State and CWA/Primary Level Supervisors Unit (July 1995-June 1999)
- S-1D Agreement between the State and CWA/Administrative and Clerical Services Unit (July 1995-June 1999)
- S-2 Agreement between the State and AFSME/Health Care and Rehabilitation Services Unit (July 1995 - June 1999)
- S-3 Agreement between the State and IFTE Locals 195 (Operations, Maintenance and Services and Crafts) and 518 (Inspection and Security Unit) (July 1995 - June 1999)
- S-4 Synopsis of Economic Changes on AFT contract
- S-5 Summary of key provisions re: NJ Highway Authority and Local 196
- S-6 Memo of key elements re: contract with NJ Turnpike Local 194
- S-7 Confirmation of Agreement with UMDNJ and EMS Supervisors Association (1995-1999 contract)
- S-8 Summary of NJIT & AFSME 2282 Agreement (1995-1999)
- S-9 Memorandum of Agreement between NJIT and Local 23, Office and Professional Employees (1995 - 1999)

- S-10 Highlights of Local 97 Agreement with UMDNJ
- S-11 Comparison of Bargaining Units
- S-12 Salary & Number of Employees at each step
- S-13 Chart relating to Incremental System
- S-14 CPI Chart
- S-15A CWA Contract & CPI comparisons
- S-15B IFTE Contract & CPI comparisons
- S-15C AFSCME Contract & CPI comparisons
- S-15D PBA Contract & CPI comparisons
- S-16 Comparison of pay scales and increases for Senior Corrections officers and State Employees with similar Hay scale ratings.
- S-17A Job Description for Senior Corrections Officer
- S-17B Job Description for Senior Medical Corrections Officer
- S-17C Job Description for Operating Engineer Heating & Air
- S-17D Job Description for Division Instructor Two/ Civil Service
- S-18 Corrections Yearbook
- S-19 Printout of Hay Comparisons
- S-20 Document relating to Overtime (with summary)
- S-21 Training Manual for the Hay System
- S-22 Enlarged Copies of pages from S-21
 - S-22A Know How, technical page
 - S-22B Know How, managerial problem solving
 - S-22C Human Relations

- S-23 Evaluation of Different Job Titles
- S-24 Cost of State's Offer
- S-25 PBA's Current Level of Benefits for calendar year ending 12/31/95
- S-26 Resume of George M. Camp
- S-27 1996 Corrections Yearbook (copy of draft sent to publisher)
- S-28 1996 Corrections Yearbook questionnaire
- S-29 p. 114 of S-27 (Correctional Officer Salaries)
- S-30 Changes in Line Officers (during probationary period)
- S-31 Changes in Line Officers
- S-32 Inmates Per Uniformed Staff (Sorted)
- S-33 Inmates Per Staff Member (Sorted)
- S-34 Compilation of Long Term/Serious Inmates
- S-35 Inmates per Correctional Officer (Sorted)
- S-36 Highlights of the State's current settlement with UMDNJ Nurses

See also: State Submissions (under cover letter dated October 28, 1996)
In accordance with Arbitrator's request of October 8, 1996. (see Tr.4).

Siegel Company Report
Buck Consultants Report
Job Description of Senior Medical Security Officer
1997 Budget in Brief
Hay Point System for the Title Trooper I

OPINION

Extensive review of evidence and statutory considerations have contributed to the formulation of this Arbitrator's final Award. It is important to note that the parties have provided a record of pertinent evidence⁴² and, in this Arbitrator's belief, have met their obligations imposed in Fox v. Morris County Policemen's Association, PBA 151, 266 N.J. Super. 501, 517 (App. Div. 1993), cert. denied, 137 N.J. 311 (1994). Likewise, this Arbitrator has endeavored to comply with relevant statutory guidelines by identifying and commenting on the criteria. Indeed, this Arbitrator has found each of the criteria to be relevant and offered separate analyses under each criterion. Final comment illustrates how each of the criteria weighed in the final analysis and decision.

Perhaps the most logical point of review begins with a description of the work environment and job performance of the bargaining unit. Each of the law enforcement units were permitted the opportunity to define their jobs through testimony and submissions (see Tr.1 and Tr.2; and PBA-1(a) through(f)). In addition, the parties arranged and conducted tours of the state prison facilities⁴³, at which time this Arbitrator viewed the conditions under which the Corrections Officers performed⁴⁴

42. There were five (5) hearings, with transcripts; eleven (11) witnesses; in excess of ninety (90) exhibits; and post hearing briefs. There was also one graphic and provocative videotape (see PBA-26), which provoked the thought and sensibilities of the viewers, irrespective of their party affiliation

43. Facilities toured included Northern State Prison (Newark); Eastern State Prison (Rahway), Trenton State Prison (Trenton) and Wagner Correctional Facility (Bordentown/Yardville). In addition, for purposes of comparing the facility and the work of the Senior Medical Officer, a tour of the Forensic Center (West Trenton) was undertaken.

44. There must be one obvious disclaimer. This Arbitrator is neither trained nor qualified to offer professional comment on the functioning of a correction facility or evaluate the performance of a correction officer. However, with an attempt to be objective in recollections, the observations of those tours will be recalled with detached consciousness.

What conclusions can be reached concerning the jobs of the State law enforcement units? First, all units have encountered increased work. Second, for most of the units, they have experienced decreased personnel.

With respect to the Parole Officers' unit, the workload has become more complex with respect to the number of "serious" offenders being paroled to make room for the increased number of criminals being sentenced. There have been significant changes in their duties and are now given police officer power and specialized assignments.⁴⁵ Parole officers go through "PTC" training, have power to make arrests and are able to enforce warrants. Parole officers also carry weapons. There is a conspicuous presence of danger.⁴⁶

There was a contention that parole officers work seven days a week ("... anywhere from eight o'clock in the morning until -- depends upon what unit"), although they are responsible to work thirty-five (35) hour weeks on eight hour shifts. Apparently, parole officers on special units work around the clock. The average salary for parole officers is about \$34,000. per year, with a maximum of approximately \$58,000. with overtime. (Tr. 1 at 68-71). Formerly members of the CWA, the parole made the changeover to the PBA in 1993.

45. The "Specialized Programs" include an Electronic Monitoring Program; the Intensive Supervision Surveillance Program ("a program which requires a parole officer to work basically seven days a week around the clock"); High Impact Parole Cases (for " individuals that have violated conditions of their parole.... Instead of them being placed back into the institution after the 14th day hearing that we have ... probable cause hearing ... they put them back out into this high impact program); Sex Offenders Surveillance Unit. (see Tr.1 at 52-56).

46. The incidence of danger includes domestic violence, drunk driving, assaults, finding a gun. (see Tr.1 at 82-83).

Parole Officer Sgro testified that case loads that were "upwards of 130" and, even with additional parole officers, the hires were from replacement after retirements. One parole officer handles eighty-four (84) cases.

Ed Murphy, a Senior Correction Officer and Vice President of Local 105, is exceptionally qualified to testify on behalf of the SLEU.⁴⁷ Officer Murphy presented an expansive and informative description of the State prison facilities, beginning with his assignment at the Vroom Building:

The Vroom Building, originated as the incorrigible unit for disruptive assaultive inmates throughout the state system... Currently, the incorrigible have been moved out to the two newest AD-SEG units⁴⁸, one at Rahway and the other at Northern State Prison, and they built one in Wagner, which is in Bordentown. Right now, currently, the VRU is holding...approximately --[VRU is Vroom]...They're currently holding high protective-custody inmates. We also now are a prereception unit of inmates coming into the system under Garden State Preadmission Unit.

In addition, Mr. Murphy described the prison facilities within the State prison system:

Currently, we have **16 facilities**, not counting all the satellites...A satellite is an institution that is run -- well, take like Trenton State Prison. The Vroom

47. Ed Murphy is a twenty-six year veteran of the Department of Corrections and experienced as a Senior Corrections Officer in the New Jersey State Prison system. Officer Murphy is presently the Executive Vice President of P.B.A. 105...since 1991 From 1980 to '86 I was the president of the 105. He returned as an institutional vice president back at Vroom Readjustment Unit.(Tr.1 at 102).

48. "Administrative Segregation" or **AD-SEG** is an inmate classification, issued to inmates who are "given time" for violations of discipline within the prison institution. Those infractions include assaults, disruptions or disorderly types of behavior within the institution. According to the witness, "The inmate can get up to 365 days in AD-SEG where they're isolated from the main population... AD-SEG is a more controlled situation where they're locked -- due to the overcrowding right now, they have expanded... for example, at Rahway State Prison, due to the amount of people waiting to be in the AD-SEG, they have doubled up the inmates within AD-SEG and they have two to a cell. They're controlled. Like I say, two officers on one inmate if they have to move. The inmates in that area are prone to be assaultive and very disruptive. On a daily occasion, there are incidents of assaults on staff and/or other inmates". (Tr.1 at 101-102).

Readjustment is a satellite, like **Jones Farm** is, so there's two additional satellite units under Trenton State Prison. Garden State also has **Bordentown**, an institution for young male inmates, and also is the Prison Reception Unit where everyone sentenced is classified through **Yardville**. They have a **PRU Kearny unit**, and they're also now utilizing part of VRU for that type of transition inmate.

Prison Reception Unit for the new inmates coming in waiting to be sent to an institution that they've been classified for. We also have **Trenton State Prison's maximum security**. **East Jersey State Prison is also being utilized in the capacity of more or less a maximum also**. Then you have the newer institution, which is Northern, which is also holding big-time inmates.

Then we have our southern facilities, **Bayside, Southern State**. They're more in the medium and minimum. Southern State houses inmates that are housed in trailers. They have no permanent-type housing units. They're all trailer units. Bayside has a combination of housing units, also trailers and also tents. That's how bad the overcrowding got in the state of New Jersey. We house inmates in tents now.

Wagner is the younger inmates in Bordentown. We have **Mid-State Correctional Facility** located in Fort Dix, which is a medium. We've **Riverfront State Prison**, which is more of a medium. Then we have the one female institution in the state, **Edna Mahan**. We have **Mountainview**, which is another setting for a young adult inmate. **ADTC**, which is strictly inmates sentenced through the courts through the Sex Offender Act. And presently, or prior to the new legislation with the Juvenile Justice Commission, we have **Jamesburg** for juveniles and Juvenile Medium. Juvenile Medium was used as an aggressive-type juvenile, more or less like the adult for Vroom Readjustment, for disruptive juveniles. (Tr. 1 at 103-105). (*emphasis added by this Arbitrator*).

Officer Murphy also testified that the prison population has also increased within the last six years. While, in 1989, the State housed approximately 18,000 inmates, in 1992 the inmate population grew to 22,000. In 1995, the State now houses 25,000 inmates, not including juveniles. The increase in inmate population causes the facilities to "double-bunk" inmates.⁴⁹ The State now houses inmates in dormitories and hold two AD-SEG inmates in one cell.

49. Two people to a cell that was built to hold the one individual.

According to Mr. Murphy, the nature of inmates has also changed, with "younger, aggressive" inmates having an "attitude towards authority ... they have no respect whatsoever."

You take inmates now that come in at a younger age doing 20, 25 years, possible, before they're eligible for parole, there's nothing you can really do to them other than their saying: What are you going to do, give me a charge? I'm doing 20 years. (Tr. 1 at 110).

With the increase of inmates, confinement of living space and the nature of inmate, tensions rise. Likewise, Officers have increased their responsibilities:

(Responsibilities have) increased. You take a unit such as Trenton State Prison which has two wings, that could house anywhere from 200 inmates with two officers. Now with the increase and the possibly double-bunking of those facilities, there is a great impact as far as the responsibilities and the security with the shortage or the reduction in the coverage of the officers.

(With double bunking) you have to be concerned what is happening in every cell that you have on that cell block because now there is two inmates and at any given time something could occur within that cell.

(Dormitories hold) in the neighborhood of 100 to 150 inmates...an officer working a dormitory, number one, it's very hard to observe the area where the dorms are, where the actual beds and the inmates are, due to having that many double-bunks. They're all double-bunked...in a dormitory, like I said, it could be anywhere from 100 to 150 inmates to that officer...His responsibility is the same as someone that would have an actual housing unit with cells. I mean, he has the -- he has to go down, he has to take counts, he has to observe that everyone is there and that it's running orderly and no one is insulting each other or other possible things. (Tr. 1 at 115-117).

There is little question that there are opportunities for Corrections Officer to be assaulted, but what are the occasions? Thomas Little, President of Local 105, testified to assaults on Corrections Officers.⁵⁰

50. Thomas Little is assigned to the Lock-up Unit at Trenton State Prison. He is a fifteen (15) veteran and President of PBA 105 since 1991.

Officers are constantly assaulted by inmates. It's not anything that is uncommon in regard to seeing officer assaults. Now, the range of those examples can go anywhere from an inmate throwing feces on you, urine on you, an inmate attempting to stab you, inmate punching you, you have some sexual assaults on staff members also. (Tr.2 at 70-72).

Referring to the nature of the physical assaults, Officer Little stated that, over the last several years, officers had been assaulted with weapons ("shanks, which is a instrument used as a knife and devised by an inmate); deck brushes ("...We had two officers over the course I've been in the office that had their faces reconstructed based on assaults with the deck brushes"); hot water thrown at officers (scalded by inmates). As Mr. Little pointed out, anything that can be utilized as a weapon "will be utilized as a weapon" --- from weight bars, weights, table legs, anything they can be used against staff. (Tr.2 at 70-72).

In 1993, there were 815 assaults on staff. In one circumstance, an assault was extremely severe. In that instance, a correction officer captain was stabbed approximately six times. The officer also had his head bashed open with a five-pound weight. The other officers in the area were beaten with table legs. (Tr.2 at 74-75).

Officers are also subjected to communicable diseases, considering that many inmates are infected with HIV, AIDS, TB, hepatitis 1, straight hepatitis, chicken pox. According to Officer Little,

They spit on you, throw anything on you when they get the opportunity to throw anything on you. Some of those are transmitted through excrement. That is not an uncommon occurrence inside of a prison system to have an inmate spit in your face or throw urine in your face or throw feces in your face. (Tr.2 at 79).

One of the most dangerous aspects of a correction officer's job is a "cell extraction".⁵¹ But there are other concerns --- stress. As Officer Little related, Corrections Officers have a high rate of divorce:

.... We have one of the highest suicide rates. ... there's a problem with alcoholism. there's drug addiction problems. The level of injuries that result from this go anywhere from cancer to heart attack, all stress related. This is across the country..the average life expectancy for a corrections officer is 59 years old. (Tr.2 at 110).

We have a very high turnover rate. We had classes that came in after they were hired, they're in the building say two days, they quit on the job. The average if you're there after five years you're sort of locked in the prison. Prior to that the turnover is unreal. (Tr.2 at 111).

The PBA representatives gave an excellent account of their job duties and facility environment within the Department of Corrections. Again, what was extremely thought provoking to this Arbitrator was the video tape (PBA-26) which, while described within the transcript of the hearing, is too graphic to include herein. It is better to conclude that the correction officers have a difficult job --- physically, mentally and emotionally. It is now an appropriate time to address the economic concerns of the parties and consider the financial questions.

Officer Murphy turned to a discussion of Overtime, described the distinctions in the overtime referred to in testimony and responded to various questions regarding overtime. Why is this issue of such importance? Because the State of New Jersey spends tens of millions of dollars in budgeted and emergency overtime payments and, with efforts, the savings of money could impact directly on

51. A "cell extraction" occurs when an inmate refuses to come out of the cell. Five or six officers form in a group to enter the cell and remove the inmate from the cell. The first man enters with a shield and attempts to subdue the inmate. The officers try to cause as minimal damage as possible. There are inmates who refuse to come out on a common occurrence. (Tr.2 at 85-86). The officers wear protective equipment, high impact vests and helmets.

the State budget.⁵² With the goal of finding a balance between the need for overtime (to secure the facilities) with the target of reducing unnecessary costs, it is important to seek means by which those goals can be reached.

The PBA is aware that the State was contemplating the removal of between 15 minutes and 30 minutes a day of the "guaranteed overtime of 30 minutes per day". This form of overtime is referred to as "**Shift Overlap**" and addressed through Article XXVIII. Under the Agreement, the clause provides for a guarantee of 30 minutes of overtime each day after the employee has completed 8 hours work. The correction officer's normal workday is 8½ hours. Officer Murphy described the provision:

(In the course of a shift change) you stand in a lineup, a lieutenant roll calls all the officers that are there, the positions...After the lineup of the officers present, names are read, if there is any information to be read at lineup...or any possible things they want you to look out for that particular day, they also will read those memos. The lineup takes anywhere from five to ten minutes. Once the lineup is done, every officer then goes to his particular post in the wings, which are the main areas...(the) officer then has to go down and take a personal head count of each body in each cell...That consists of another ten minutes. He then has to come down, there is a count sheet made out...he will verify the count...The officer that's just being relieved will take that count slip and bring it up to the lieutenant...The whole process in that area is roughly 25 minutes, maybe 22 minutes. That lieutenant then has to go over every count slip for every wing that had inmates in it. He has to match them count slips with the count book to come up with the total inmates locked in that particular prison...Then all the officers are then picked back up, brought back, and once the lieutenant is satisfied everybody is in there, he then clears the count. That takes the entire 30 minutes or perhaps sometimes it even goes over the 30 minutes.

Officers receive overtime pay for any portion of that eight and a half hours that they work after the correction officer completes the 40 hour workweek. Time over and above is calculated at

52. The State's report on the "PBS's Current Level of Benefits" reveals that, for calendar year ending December 31, 1995, the average overtime payment to correction officers was \$11,042.37. (see S-25)

the time and a half. There is two and a half hours of overtime built into the average week. If the parties were to reduce the half hour per day (to eight hours), the employee would lose two and a half hours of overtime per pay week which is built into their workweek now.

When questioned about reducing the Shift Overlap (see Tr.2 at 25 - 26), Mr. Murphy responded:

Q. In the course of these proceedings you have indicated that the correction officers would be willing to reduce that period of time by ten minutes per day?

A. That's correct.

Q. Then it would be up to the Department of Corrections to determine how the work will be assigned within that more limited period, right?

A. That's correct.

Q. If the State's proposal was modified just ten minutes during the second year of the contract, we already completed the first year, they offer you a zero percent increase that year, would you then suffer a net loss, although you worked 50 minutes less a week, of approximately \$1,500.00 a year?

A. That's correct.

In addition, the issue of Incidental Overtime arises within the contract since, any overtime of 15 minutes or less is considered "incidental overtime" and accumulated (but not paid) at the time it is worked.

Q. Now if there was a cut in your workday from eight hours and 30 minutes to something less than that, is there any concern that incidental overtime might be assigned and yet not properly recorded?

A. Well,...there's no possible way with a reduction in the current 8 hour 30 minute workday that ...an officer would get out there when he's entitled to get out of there without that 30 minutes in there.

Q. Any concerns that if you are required to stay over and beyond whatever the scheduled day will be, that it will not be calculated properly...are you comfortable that the procedures in place right now will ensure that all of that time would be captured?

A. No, that current incidental provision would have to be rewritten more in the strict compliance with overtime rules.

This Arbitrator understands that the PBA proposal (in response to the State's original proposal) incorporates significant cost savings as a result of the ten minute reduction in guaranteed daily overtime. According to the PBA, each five minutes of overtime reduction results in a savings of approximately \$8.5 million for a four year period. As indicated in the PBA's cost analysis, this concession represents a savings of over \$17 million over the life of the contract (PBA 32). Certainly, this savings is a consideration to deviate from the State's Package and allow a portion of the savings to fund the distinction in the costs of the proposals.

David Collins was questioned concerning his knowledge of the Shift Overtime Overlap.⁵³ (see Tr.3 at 121-122). According to Mr. Collins, the total number of overtime dollars earned by corrections officers for the last calendar year, based on W2 payouts, was sixty (\$60) million. The amount of per employee payment for the title of Senior Correction Officer was \$13,252. This amount was compared to Senior Medical Security Officers, with overtime payments an average of \$5,943. (Tr.3 at 140-143).

When questioned, Mr. Collins expressed his belief that scheduling of overtime is a managerial prerogative. According to the witness,

I do believe that scheduling overtime is a managerial prerogative to contract drives, approximately, 20 million of that overtime over the shift overlap. Plus the fact that we pay to any other employee on a three shift operation also drives the overtime to an extent.

53. As previously referenced, Mr. Collins leads the OER in negotiating contracts on behalf of the Executive Branch with public employee unions. Gifted with the knowledge of the State's settlements reached through the present round of negotiations, Mr. Collins was questioned with regard to the State's consideration of the shift overlap and its partial reduction.

Q. The overtime budget...does that include, for example, the budget for the state troopers?

A. Right.

Q. Do you have the figures on what their overtime is?

A. Eight million.

Accordingly, this Arbitrator concludes that, with respect to the **overtime** shift overlap, the State shall have the right to amend Article XXVIII (H) (Hours of Work) as follows:

★. (A) Effective July 1, 1997, Article XXVIII (H) (Hours of Work) shall be amended as follows:

H. Senior Correction Officers shall be employed on a normal work schedule of eight (8) hours and twenty-five (25) minutes per day (forty-two (42) hours and five (5) minutes per five (5) day week). Each officer shall have thirty (30) minutes for meal time within each work shift which shall be duty status.

The overtime provisions of this Agreement shall pertain to all time worked beyond these normal work schedules. However, it is understood that officers who work at least forty (40) hours in any work week shall be compensated at the premium rate (one and one-half (1½) times) for all of the time accumulated as a result of working the daily twenty-five (25) minutes beyond the basic eight (8) hours in the work shift. It is further understood that this assignment of twenty-five (25) minutes is in exception to the provision of Article XXIX, Section B.

(B) Effective July 1, 1998, Article XXVIII (H) (Hours of Work) shall be amended as follows:

H. Senior Correction Officers shall be employed on a normal work schedule of eight (8) hours and twenty (20) minutes per day (forty-one (41) hours and forty (40) minutes per five (5) day week). Each officer shall have thirty (30) minutes for meal time within each work shift which shall be duty status.

The overtime provisions of this Agreement shall pertain to all time worked beyond these normal work schedules. However, it is understood that officers who work at least forty (40) hours in any work week shall be compensated at the premium rate (one and one-half (1½) times) for all of the time accumulated as a result of working the daily twenty (20) minutes beyond the basic eight (8) hours in the work shift. It is further understood that this assignment of twenty (20) minutes is in exception to the provision of Article XXIX, Section B.

★With respect to the duration of the Agreement, the parties stipulated that the term of the Agreement would be four (4) years, effective July 1st, 1995 through June 30, 1999 and Article XLVII, entitled "Term of Agreement" shall be amended to read:

"This contract shall become effective on July 1, 1995, and shall remain in full force and effect until June 30, 1999."

With respect to **health and welfare benefits**, and relying on the Buck Consultant's study⁵⁴, this Arbitrator agreed that the State was "was extremely generous" in that employee contributions are generally not required for member coverage, family coverage nor retiree coverage. Only twenty-three (23) states provide for no member contributions for single employee coverage, only eight (8) states provide for no member contributions for family coverage. In those states where state government plans require contributions, the average monthly contribution are about \$28.00 per single and \$140.00 for family coverage. Keeping in mind that these figures were analyzed in 1994, those figures may be somewhat inaccurate since recent trends indicate that levels of member contributions have increased. There is little doubt, however, that the State has attempted to offer a uniform program of health benefits to State employees, including PBA members within the law enforcement unit.

★Therefore, effective with the date of this Award, Article XXXVIII shall be modified in accordance with the State's offer for a uniform program of health benefits to State employees and amended to include the PBA within the Health Insurance coverage heretofore referred to as the "State Plan".

54. Buck analyzed types of programs (medical/dental) offered, member contribution levels (medical/dental); deductible amount medical only and maximum out-of-pocket limits (medical only). (see Section 3 of the report).

The State shall pay full cost of employee and eligible dependent coverage to those employees electing New Jersey Plus or approved HMO's. Employees with a base salary plus maintenance of more than \$50,000.00 who elect the Traditional Plan will pay the difference between the cost of the Traditional Plan and the average of the cost to the State of the Managed Care and approved HMO's. Employees with a base salary of less than \$50,000 shall pay 1% of their annual base pay, but not less than \$20.00 per month if they elect to stay in the Traditional Plan. All new hires hired after July 1, 1996 who elect the Traditional Plan shall pay the difference between the cost of the Traditional Plan and the average cost to the State of the Managed Care and approved HMO's. If both spouses are active State employees and eligible to participate in the State Health Benefits Program, the couple may choose only one HMO family policy.

Also considered herein is the PBA's position that this Arbitrator may be without authority to address this issue through an award. That argument may be accurate, although it does not address the issue of uniform coverage and the State's attempt to reduce health care costs. Therefore, this Arbitrator shall direct the modification and effect of Article XXXVIII as outlined above and, upon acceptance of this amendment by the PBA state law enforcement unit and without the PBA's appeal of the Arbitrator's award, the State shall make (within ninety (90) days of PBA acquiescence to this modification) a one-time cash payment of Five Hundred (\$500.) Dollars to each Member of the SLEU-PBA on the payroll of the State at that time.

With respect to **Wages**, Mr. Collins again testified to State's position during negotiations for pattern settlement. (Tr.3 at 108-110).

[There were] numerous meetings...the meetings included the governor's office, the outside officer, the attorney general's office and the office of management and budget. What we did was a study of, basically, state employees, including PBA people, various other employees in the public sector and the private sector vis-a-vis across the boards over the years and vis-a-vis, basically benefits. And this administration takes the position that the taxpayer comes first, ...the taxpayer pays the bill. And, therefore, any benefits that the state employees have should be something in the same ball park as the taxpayers in general get.

And, basically, what came out is with respect to salaries civilian and non-civilian we were way ahead of other jurisdictions in the public sector and the private sector for many of our titles... **Basically, with benefits we were far in advance of what was going on in other public sector areas, as well as private sector areas, fully paid health benefits, 13 paid holidays, 15 paid sick days, vacation, usually, averages 3 weeks but could go from 2 to 5 weeks.** (*emphasis added by this Arbitrator*).

When we did our analysis we were so far ahead, especially in benefits of what they pay in other public sector jurisdictions and the private sectors that the administration just felt that we had to get back into the pattern of what was going on in the real world. And, well we didn't want to have massive give backs, the position of the administration was the most out of whack was the health benefits were both eh public and private sector was headed in one direction... manage care co-payment type... we were doing full family payment on a very high scale traditional plan.

The other problem was the wages and what the administration felt was best in that increment were still being paid was a two year wage freeze to get us back into what other private and public sector employers were paying under the circumstances of what we had given out as raises in the 1980's.

SLI which, basically doesn't exist in any other state int eh nation and doesn't exist in the private sector where you are injured on the job you get full pay for a year, it doesn't exist anywhere else. (Tr.3 at 108-110).

The PBA presented the economic cost of each year of its proposal, totaling \$54,885,080.00 over the life of the contract (PBA-31). The total cost of the State's proposal was \$26,562,334.00. The difference over the four years between the two proposals was \$28,322,746.00.

The PBA believed its proposal incorporated significant savings as a result of the ten minute reduction in **guaranteed daily overtime**. According to the PBA, each five minutes of overtime reduction results in a savings of approximately \$8.5 million for a four year period. As indicated in the PBA's cost analysis, this concession represents a savings of over \$17 million over the life of the contract (PBA-32).

The State presented evidence that its proposal herein paralleled the "State Package". In this Arbitrator's opinion, the consideration of a wage increase must exceed the state package as settled

by other State bargaining units in light of the significant concession of Shift Overlap. While the State will recognize a real savings in overtime payments, a portion of those savings should be allocated back to expand the PBA salary increases as generated by those savings. Therefore:

★ With respect to Wages:

a). Effective July 1, 1995 through June 30, 1996, there will be no increase applied to the base wage rates of bargaining unit employees, however, each bargaining unit employee shall receive reimbursement of their clothing allowance payment in the amount of \$1,610. for the July 1995 and January 1996 payments in accordance with Paragraph 2(A) and (C) above;

b). Effective July 1, 1996 through June 30, 1997, there would be no increase applied to the base wage rates of bargaining unit employees however, each bargaining unit employee shall receive a cash payment in the amount of Two Hundred Fifty (\$250.) Dollars, plus reimbursement of their clothing allowance payment in the amount of \$1,610. for the July 1996 and January 1997 payments in accordance with Paragraph 2 (A) and (C) above;

c). Effective July 1, 1997 (through June 30, 1998), there shall be a three and one-half (3½%) per cent increase applied to the base wage schedule rates for the bargaining unit employees; and,

d). Effective July 1, 1998 (through June 30, 1999), there shall be a three and one-half (3½%) per cent increase applied to the base wage schedule rates for the bargaining unit employees.

As the State's Counsel argued with respect to the Clothing allowance (see Tr.3 at 128-129), the State proposed that there should be no change in the amounts of the clothing allowance but, upon receipt of the arbitrator's award, the State would reinstate the amounts set forth in the contract and restore the lump sum portion of the payment into the base --- going forward but not retroactively

As the reader will note by following Paragraph (a) of Wages above, the clothing allowance will be restored to the date it ceased in July 1995, in accordance with the determination of the "Interim Procedural Issues" specifically referenced at Paragraph (B) at page 53 above, and the dollar equivalent of the clothing allowance will be reinstated as of the date of the original cessation. The

State shall calculate the overtime as of the date that the clothing allowance was halted and make retroactive payment in accordance with the Award below.

With respect to the **PBA Non-Economic Proposals**, this Arbitrator has reviewed the record and determined that items

I. The PBA request that all overtime checks be paid on a supplemental check separate from the bi-weekly paychecks shall be granted. This is consistent with the prior practice of the parties, and further is consistent with the agreement recently reached by the State with other bargaining units, including AFSCME.

II. The PBA request for amendment to Article XII shall be granted and shall provide that all disciplinary charges shall be brought within 30 days of the appointing authority reasonably becoming aware of the offense or, in the absence of the institution of the charge within that time, the charge shall be considered dismissed.

III. The PBA request for amendment to Article XII(F) to dismiss disciplinary matters in the absence of conducting a hearing within 20 days of the disciplinary appeal or issuing a decision within 20 days thereafter, shall be denied.

IV. The PBA request for amendment to Article XI(H) Step Three (2) shall be granted and shall provide that PBA Local 105 may request an immediate appointment from the permanent panel of arbitrators in the event immediate review of a purported contract violation is required.

Having considered the exhibits offered in the context of the relevant statutory criteria, this Arbitrator is convinced that a reasonable determination has been reached on the issues presented.

Based on a review of the evidence submitted, inclusive of testimony, documents and post-hearing briefs and after due consideration of the offers of the parties taken together with the statutory criteria of N.J.S.A. 34:13a-16, this Arbitrator hereby renders the following:

AWARD

PERC DOCKET IA-96-013 STATE OF NEW JERSEY -and- STATE LAW ENFORCEMENT UNIT

1. As stipulated by the parties, the term of the Agreement would be four (4) years, effective July 1st, 1995 through June 30, 1999 and Article XLVII, entitled "Term of Agreement" shall be amended to read:

"This contract shall become effective on July 1, 1995, and shall remain in full force and effect until June 30, 1999."

2. A. In accordance with PERC Docket No. CO-96-40 and the Interlocutory Decision and Order in I.R. No. 96-31, State of New Jersey (Office of Employer Relations) -and- State Law Enforcement Conference of the New Jersey State Policemen's Benevolent Association, this Arbitrator **ORDERS** the State to reinstate the force and effect of Article XXXIX (Uniform Allowance) and continue the uniform maintenance and uniform allowance within the successor 1995-1999 Collective Bargaining Agreement, with the following amendments and modifications:

The State will provide a cash payment of \$1435 for uniform maintenance payment on January 1, 1996 to all employees in the unit who have one (1) year of service as of December 31, 1995; a cash payment of \$1435 for uniform maintenance payment on January 1, 1997 to all employees in the unit who have one (1) year of service as of December 31, 1996; a cash payment of \$1435 for uniform maintenance payment on January 1, 1998 to all employees in the unit who have one (1) year of service as of December 31, 1997; and a cash payment of \$1435 for uniform maintenance payment on January 1, 1999 to all employees in the unit who have one (1) year of service as of December 31, 1998.

Employees serving in the titles of Correction Officers Recruit and Senior Correction Officer, will be **granted**, in lieu of any uniform allowances other than the initial issues, the following cash payments: \$805. in July 1995 to those employees with at least one (1) year of service as of June 30, 1995; \$805. in January 1996 to those employees with at least one (1) year of service as of December 31, 1995; \$805. in July 1996 to those employees with at least one (1) year of service as of June 30, 1996; \$805. in January 1997 to those employees with at least one (1) year of service as of December 31, 1996; \$805. in July 1997 to those employees with at least one (1) year of service as of June 30, 1997; \$805. in January 1998 to those employees with at least one (1) year of service as of December 31, 1997; and \$805. in July 1998 to those employees with at least one (1) year of service as of June 30, 1998; \$805. in January 1999 to those employees with at least one (1) year of service as of December 31, 1998.

INTEREST ARBITRATION AWARD - PERC DOCKET IA-96-013

B. Recognizing the PBA's entitlement of a clothing allowance, the State shall restore the per hour dollar equivalent of the clothing allowance and reinstate the \$1.16 per hour to the base rate of each bargaining unit employee for purposes of calculating overtime, effective and retroactive to July 1, 1995 (or to the date which the \$1.16 was initially withheld).

C. Uniform allowance payments restored in accordance with paragraph 2(A) above shall be effective as of the date of this Award, effective retroactively to July 1, 1995, and retroactive payments shall be determined and paid to unit employees within a reasonable period of time.

3. In accordance with PERC Docket No. CO-96-40 and the Interlocutory Decision and Order in I.R. No. 96-31, State of New Jersey (Office of Employer Relations) -and- State Law Enforcement Conference of the New Jersey State Policemen's Benevolent Association, this Arbitrator ORDERS the State to continue the force and effect of Article XXV (Leave of Absence Without Pay) and Article XXVI (Leave for Association Activity) within the successor 1995-1999 Collective Bargaining Agreement.

4. In accordance with PERC Docket No. CO-96-40 and the Interlocutory Decision and Order in I.R. No. 96-31, State of New Jersey (Office of Employer Relations) -and- State Law Enforcement Conference of the New Jersey State Policemen's Benevolent Association, this Arbitrator DENIES the PBA's request to restore Article XIV, Section E (Eye Care Plan).

5. Effective with the date of this Award, Article XXXVIII shall be modified in accordance with the State's attempt to offer a uniform program of health benefits to State employees and amended to include the PBA within the Health Insurance coverage heretofore referred to as the "State Plan".

The State shall pay full cost of employee and eligible dependent coverage to those employees electing New Jersey Plus or approved HMO's. Employees with a base salary plus maintenance of more than \$50,000.00 who elect the Traditional Plan will pay the difference between the cost of the Traditional Plan and the average of the cost to the State of the Managed Care and approved HMO's. Employees with a base salary of less than \$50,000 shall pay 1% of their annual base pay, but not less than \$20.00 per month if they elect to stay in the Traditional Plan. All new hires hired after July 1, 1996 who elect the Traditional Plan shall pay the difference between the cost of the Traditional Plan and the average cost to the State of the Managed Care and approved HMO's. If both spouses are active State employees and eligible to participate in the State Health Benefits Program, the couple may choose only one HMO family policy.

Upon amendment, modification and effect of Article XXXVIII as outlined above (or within ninety (90) days, whichever occurs first), the State shall make a one-time cash payment of Five Hundred (\$500.) Dollars to each Member of the SLEU-PBA on the payroll of the State at that time

INTEREST ARBITRATION AWARD - PERC DOCKET IA-96-013

6. With respect to Wages and Retroactive Compensation

a). Effective July 1, 1995 through June 30, 1996, there will be no increase applied to the base wage rates of bargaining unit employees, however, each bargaining unit employee shall receive reimbursement of their uniform maintenance payment in the amount of \$1,435. or clothing allowance payment in the amount of \$1,610. (whichever is applicable under Article XXXIX) for the July 1995 and January 1996 payments in accordance with Paragraph 2(A) and (C) above;

b). Effective July 1, 1996 through June 30, 1997, there would be no increase applied to the base wage rates of bargaining unit employees however, each bargaining unit employee shall receive a cash payment in the amount of Two Hundred Fifty (\$250.) Dollars, plus reimbursement of their uniform maintenance payment in the amount of \$1,435. or clothing allowance payment in the amount of \$1,610. (whichever is applicable under Article XXXIX) for the July 1996 and January 1997 payments in accordance with Paragraph 2 (A) and (C) above;

c). Effective July 1, 1997 (through June 30, 1998), there shall be a three and one-half (3½%) per cent increase applied to the base wage schedule rates for the bargaining unit employees; and,

d). Effective July 1, 1998 (through June 30, 1999), there shall be a three and one-half (3½%) per cent increase applied to the base wage schedule rates for the bargaining unit employees.

7. The State shall have the right to modify the Agreement as follows:

(A) Effective July 1, 1997, Article XXVIII (H) (Hours of Work) shall be amended as follows:

H. Senior Correction Officers shall be employed on a normal work schedule of eight (8) hours and twenty-five (25) minutes per day (forty-two (42) hours and five (5) minutes per five (5) day week). Each officer shall have thirty (30) minutes for meal time within each work shift which shall be duty status.

The overtime provisions of this Agreement shall pertain to all time worked beyond these normal work schedules. However, it is understood that officers who work at least forty (40) hours in any work week shall be compensated at the premium rate (one and one-half (1½) times) for all of the time accumulated as a result of working the daily twenty-five (25) minutes beyond the basic eight (8) hours in the work shift. It is further understood that this assignment of twenty-five (25) minutes is in exception to the provision of Article XXIX, Section B.

INTEREST ARBITRATION AWARD - PERC DOCKET IA-96-013

(B) Effective July 1, 1998, Article XXVIII(H) (Hours of Work) shall be amended:

H. Senior Corrections Officers shall be employed on a normal work schedule of eight (8) hours and twenty (20) minutes per day (forty-one (41) hours and forty (40) minutes per five (5) day week). Each officer shall have thirty (30) minutes for meal time within each work shift which shall be duty status.

The overtime provisions of this Agreement shall pertain to all time worked beyond these normal work schedules. However, it is understood that officers who work at least forty (40) hours in any work week shall be compensated at the premium rate (one and one-half (1½) times) for all of the time accumulated as a result of working the daily twenty (20) minutes beyond the basic eight (8) hours in the work shift. It is further understood that this assignment of twenty (20) minutes is in exception to the provision of Article XXIX, Section B.

8. Article XXIX, B3 shall be amended to provide:

"Where incidental overtime assignments are made, records of all such time worked shall be kept on a daily basis, and shall be paid in cash at time and one-half in the pay period that the incidental overtime is performed".

9. **PBA Non-Economic Proposals**

I. The PBA request that all overtime checks be paid on a supplemental check separate from the bi-weekly paychecks shall be granted. This is consistent with the prior practice of the parties, and further is consistent with the agreement recently reached by the State with other bargaining units, including AFSCME (see attached).

II. The PBA request for amendment to Article XII shall be granted and shall provide that all disciplinary charges shall be brought within 30 days of the appointment authority reasonably becoming aware of the offense or, in the absence of the institution of the charge within that time, the charge shall be considered dismissed.

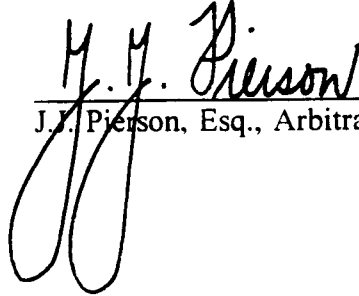
III. The PBA request for amendment to Article XII(F) to dismiss disciplinary matters in the absence of conducting a hearing within 20 days of the disciplinary appeal or issuing a decision within 20 days thereafter, shall be denied.

IV. The PBA request for amendment to Article XI(H) Step Three (2) shall be granted and shall provide that PBA Local 105 may request an immediate appointment from the permanent panel of arbitrators in the event immediate review of a purported contract violation is required.

INTEREST ARBITRATION AWARD - PERC DOCKET IA-96-013


10. All other terms and conditions of the Agreement which expired on June 30, 1995 shall remain in full force and effect, without modification or amendment, and become terms and conditions of the successor July 1, 1995 through June 30, 1999 Collective Bargaining Agreement.

Dated: January 31, 1997



J.J. Pierson, Esq., Arbitrator

Sworn and subscribed to
before me this 31st day
of January 1997



CAROL A. DeANNI
A Notary Public of New Jersey
My Commission Expires 8/2/98

