

In the Matter of Arbitration Between:

UNION COUNTY PROSECUTOR'S OFFICE

"Public Employer,"

- and -

**UNION COUNTY PROSECUTOR'S
DETECTIVES, PBA LOCAL NO. 250**

"Union."

Docket No. IA-2001-50

**OPINION
AND
AWARD**

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the Company:

Kathryn V. Hatfield, Esq.
Schenck, Price, Smith & King LLP

For the Union:

Richard D. Loccke, Esq.
Loccke & Correia PA

I was appointed arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425, in this matter involving the Union County Prosecutor's Office [the "Prosecutor"] and Union County Prosecutor's Detectives, PBA Local No. 250 [the "PBA" or "Detective Unit"]. A pre-interest arbitration mediation was held on May 23, 2001. Because the impasse was not resolved, a formal interest arbitration hearing was held on December 5, 2001. Testimony was received from Detective James Russo, President of the PBA, Joseph L. Salemme, County Director of Administrative Services, and James F. Keefe, First Assistant Prosecutor. Post-hearing briefs were submitted by each party.

FINAL OFFERS OF THE PARTIES

The Prosecutor and the PBA submitted the following final offers:

THE PBA

1. **Wage Increase** - The PBA proposed a three year contract to succeed the former agreement with a 5% across the board increase effective on each successive January 1, across the wage schedule.
2. **Senior Officer Pay** - The PBA proposed a three tier senior officer pay benefit be implemented. The PBA proposed that effective with 10 years of service an annual benefit of \$1,365 be paid. Effective with 15 years of service said benefit would increase to \$2,365. Effective with 20 years of service the benefit would, in the first contract year, go to \$2,865 with

subsequent 20 year plateau benefits increasing in the same percent as the wage increase.

3. Clothing Allowance - The PBA proposed a \$100 per contract year increase in the clothing allowance.
4. PBA Time - The PBA proposed an amendment of Current Article XXIV contract language (Contract J-1, pg 42) so that two members may attend all meetings and conventions without loss of regular compensation.

THE PROSECUTOR

1. **Article XXII, Salaries, Section 1:**
 - Effective 1/1/01 -1.5%
 - Effective 6/23/01 -1.5%
 - Effective 1/1/02 -3.5% in guide
4.0% at max
 - Effective 1/1/03 -3.5% in guide
4.0% at max
 - Effective 1/1/04 -3.5% in guide
4.0% at max
2. **Article VII – Clothing Allowance**

Modify to increase the clothing allowance by \$25.00 in each of the first 3 years of the Agreement
3. **Article IX, Insurance:** Modify to incorporate the following provisions:
 - Section 3.
 - a) Prescription Company-Pay

Effective January 1, 2002: Co-pay to be adjusted from Mail Order: \$0; Generic: \$3, Single-Source: \$5; Multi-Source: \$10; To: Mail Order : \$3; Generic: \$5, Single-Source: \$15; Multi-Source: \$20 for all active employees.
 - Section 3.
 - a) Horizon PPO (Blue Select)

Employee in Horizon PPO (Blue Select) shall contribute towards the cost of doctor's office visit as follows:

2002 2003 2004
\$5 per visit \$10 per visit \$10 per visit

Out of Network cost share shall be changed from 80/20 to 70/30 (County/Employee respectively) for all employees effective upon execution of the Agreement. Deductible for any single benefit period effective January 1, 2003 shall be reduced to \$100 for each employee and an additional amount of \$200 for eligible dependents.

b) Contribution:

Effective January 1, 2002, incumbent Employee Health Benefit Contribution shall be as follows:

Employees earning under \$65,000 = \$10.00 per month
Employees earning over \$65,000 = \$25.00 per month
Employees earning over \$75,000 as follows:

2002 - \$35 per month
2003 - \$40 per month
2004 - \$40 per month

Contributions are made pre-tax.

c) Health Benefit Buyout Option (Available from January 1, 2002 – June 30, 2002)

Any employee with either Family or Husband/Wife Coverage in any of the available Health Benefits Plans may voluntarily opt out of that plan providing their spouse has either Family or Husband/Wife Coverage either through the County or through another employer. In return for opting out, the County shall pay to the employee the sum of \$2,500.00 annually to be paid in 26 installments over the next year.

Employees opting out shall retain the right to re-enter the County Health Benefit Plan on a monthly basis. Upon re-entering the plan, payments for opting out shall cease.

d) New Employee Health Benefit Contribution

Effective January 1, 2002, new employees shall receive PHS or Blue Choice coverage only. In addition, new employees shall contribute \$15 per month for single coverage and \$25 per month for family coverage. The contribution shall be increased by the

proportionate annual increase in the plan cost. Employees may opt for a different plan at their own expense (difference between PHS and Blue Choice and chosen plan). In the event these plans are changed during the term of this agreement, new employees shall receive the least expensive of the then available plans.

4. Retiree Health Benefits subsidy at Schedule D will be amended as follows:

Single, under 65	\$189.67
Single, over 65	\$138.39
H/W, under 65 PC Retiree Family, under 65	\$540.58
H/W, over 65	\$276.77
H/W Retiree, over 65 H/W Spouse, over 65	\$276.77
Family, over 65	\$442.88
Family Retiree, over 65 Family Spouse, over 65	\$477.85
PC Retiree, over 65	\$338.69

5. Article XXXI, Duration: January 1, 2001 to December 31, 2004

STIPULATIONS OF THE PARTIES

Stipulation No. 1

Article XI, Vacations: Section 1, Vacation Eligibility will be modified to reflect the following schedule:

Vacation Eligibility:

- (a) During the first calendar year of employment, employees shall earn one (1) vacation day for each month of service during the calendar year following the date of employment.

- (b) Employees with one to eight years of service shall be entitled to thirteen (13) working days vacation each year.
- (c) Employees with eight completed years to ten years of service will be entitled to fourteen (14) working days vacation each year.
- (d) Employees with ten completed years to fifteen years of service will be entitled to seventeen (17) working days vacation each year.
- (e) Employees with fifteen completed years to twenty years of service will be entitled to nineteen (19) working days vacation each year.
- (f) Employees with twenty completed years to twenty-five years of service will be entitled to twenty-two (22) working days vacation each year.
- (g) Employees with twenty-five to thirty or more completed years of service will be entitled to the following number of working days vacation each year.

Twenty-five years	-	twenty-seven (27) days
Twenty-six years	-	twenty-eight (28) days
Twenty-seven years	-	twenty-nine (29) days
Twenty-eight years	-	thirty (30) days
Twenty-nine years	-	thirty-one (31) days
Thirty or more years	-	thirty-two (32) days

Stipulation No. 2

Article XIII, Sick Leave, Section 6 and Schedule C: Modify to reflect the following schedule:

- 100-200 accumulated sick days - 50% of the daily rate to a maximum of \$10,000
- 201-300 accumulated sick days - 60% of the daily rate to a maximum of \$12,500
- 301-400 accumulated sick days - 70% of the daily rate to a maximum of \$15,000
- over 400 accumulated sick days - 80% of the daily rate to a maximum of \$18,000

The Prosecutor and the PBA have offered testimony and considerable documentary evidence in support of their final offers. Numerous Employer and PBA exhibits were received in evidence. I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g (1) through (8) which I find relevant to the resolution of these negotiations. I am also required to indicate which of these factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. These factors, commonly called the statutory criteria, are as follows:

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

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

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

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

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each

party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective

negotiations and collective bargaining between the parties in the public service and in private employment.

BACKGROUND

The Union County Prosecutor is the County's chief law enforcement officer and is appointed by the Governor. The County has 522,541 residents who live in a land area of 103 square miles. The jurisdiction of the Prosecutor extends throughout the County and the Prosecutor is responsible for the detection, investigation, arrest and conviction of criminals throughout the County. The Prosecutor, as well as the detectives, works closely with the County's local police departments as well as all law enforcement agencies such as the New Jersey Division of State Police. The Office of the Prosecutor has 222 budgeted positions, including 58 Assistant Prosecutors, 67 Detectives/Investigators, 55 clerical personnel and 42 support personnel.

There are 44 Detectives in the negotiating unit represented by PBA Local No. 250. There are 23 superior officers who are represented in a separate negotiating unit. The Office of the Prosecutor is funded by the County of Union who also negotiates collective negotiations agreements with other County law enforcement personnel including the Office of the Sheriff, the Corrections Department and the County Police.

THE PBA'S POSITION AND ARGUMENT

The PBA asserts that its final offer is justified by application of the statutory criteria to the evidence. Addressing N.J.S.A. 34:13A-16g (1), the interest and welfare of the public, the PBA asserts the public is well-served by the multi-faceted Detective Unit. The Prosecutor's Office provides its services through a number of primary units that include, but are not limited, to the following: Administrative, Appellate, Asset Forfeiture, Auto Theft Task Force, Bias, Child Abuse, Criminal Case Patrol, Domestic Violence, Family Court, General Investigations, Grand Jury, John Stamler Police Academy, Laboratory, Narcotics Strike Force, Organized Crime, Plainfield, Released Offenders, Pre-disposition Conference, S.A.L.T., Special Prosecutions, Trial, Victim/Witness, and Violent Crimes. The Prosecutor's Office has also added new services and units such as the "Anti-terrorist Task Force", the Hi-Tech Computer Unit, and has expanded its teaching services at the Police Academy.

The PBA provided examples of the work the Prosecutor's Office performed in calendar years 1999 and 2000:

Selected Activity Comparison 1999-2000

Asset Forfeiture	\$549,259 48 Motor Vehicles	\$637,885 42 motor vehicles
Child Abuse Referrals and Investigation	143	316
Domestic Violence Restraining Orders violations	545	548

Juvenile Unit	1619 cases	1495 cases
Police Academy – law enforcement officers attending	2150 officers	2350 officers
Major Crimes Unit	N/A	72 Comp
Hi Tech Crimes Forensic Computer Exam.	N/A	25
Computer Storage Drive Seizures	N/A	40
ISP Subpoenas	N/A	67

Addressing N.J.S.A. 34:13A-16g (2), the comparison of wage, salaries, hours, and conditions of employment, and N.J.S.A. 34:13A-16g (3), the overall compensation presently received by the employees, the PBA's position is three-fold. First, it maintains that employees in the Detective Unit are poorly compensated in comparison to law enforcement officers in comparable jurisdictions. Second, the average rate increases for comparable law enforcement agencies support an award in favor of the PBA's wage proposal. Lastly, the Employer has already established comparable rate increases in a collective negotiations agreement through voluntary settlement with a "parallel" bargaining unit.

The PBA refers to the prior and most recent collective negotiations agreements between the Prosecutor's Office and the Union County Detectives Superior Officers Association ["SOA"]. According to the PBA, when comparing the two agreements and the memorandum of agreement for the most recent agreement, two (2) principal changes occurred. First, Step 1 of the salary guide was removed from the agreement and SOA members were moved one step

higher. Second, the "First Class" designation, which required employees to acquire "salary points" before achieving the designation, was removed from the agreement and was replaced by the new Step 4 which did not require point accumulation. As a result of these changes, superior officers received greater wage rate increases than that reflected in the most recent agreement. The PBA provided a chart in its brief in which it examined the changes in the salary guide step system:

**Salary Guide Step Revisions in
Union County Prosecutor's Office SOA Agreement**

Column A Exhibit P-10A Prosecutor's contract (1998-2000)	Column B Exhibit P-10 New SOA contract (2001-2004)
Sergeants	
Step 1	Eliminated
Step 2	Step 1
Step 3	Step 2
Step 4	Step 3
First Class	Step 4
Lieutenants	
Step 1	Eliminated
Step 2	Step 1
Step 3	Step 2
Step 4	Step 3
First Class	Step 4
Captains	
Step 1	Eliminated
Step 2	Step 1
Step 3	Step 2
Step 4	Step 3
First Class	Step 4

The PBA also provided a chart which purports to reflect the actual wage rate increases due to the changes in the salary guide step system:

(A) P-10a SOA 2000 Contract pay Designation	(B) Position 2000	(C) New Rate for 2001 With new step Designation (Eff. 6/01)	(D) Difference Between Column (B) and Column (C)	(E) % value of range Revision at each Position
Sergeants				
Step 1	77,462	82,239	4777	6.17%
Step 2	78,645	83,456	4811	6.12%
Step 3	79,827	86,947	7120	8.91%
Step 4	81,008	86,947	5939	7.33%
First Class	84,396	86,947	2551	3.02%
Lieutenants				
Step 1	88,432	94,149	5,717	6.46%
Step 2	89,614	95,976	6,362	7.1%
Step 3	91,387	99,467	8,080	8.84%
Step 4	93,161	99,467	6,306	6.77%
First Class	96,549	99,467	2,918	3.02%
Captains				
Step 1	96,410	101,759	5,349	5.55%
Step 2	97,592	103,585	5,993	6.14%
Step 3	98,773	107,075	8,302	9.05%
Step 4	100,546	107,075	6,529	6.49%
First Class	102,910	107,075	4,165	4.05%
Average			\$5,661	6.334%

According to the Union, the actual average wage increase for the first contract year (2001) is 6.334% compared to what appeared to be an increase of 1.5% in January 2001 and an additional increase of 1.5% in June 2001. Based upon the Union's calculations, the total, uncompounded wage rate increase over the four years of the new agreement averaged 18.334%, or 4.584% per year for the maximum pay rates. The Deputy Chief position received 21.9% over the four year term of the agreement, or 5.48% per year.

The Union asserts there has always been a history of parallel bargaining action for the SOA and the PBA. The Union refers to County Administrator Joseph Salemme's testimony at hearing in which he "acknowledged that prior contracts had been handled in parallel fashion between the SOA and the PBA." The bargaining history includes "parallel, dual interest arbitration proceedings" which resulted in a single interest arbitration award that covered both units. The Union notes that Paragraph E of the SOA settlement agreement which addresses health benefits and contributions "is actually an attempt to reach into the PBA bargaining unit and affect new employees who would be hired into the rank and file unit." [Union's Brief, p. 19].

The PBA presented a chart of base rate increases for prosecutors in Essex, Camden, Mercer, Middlesex (Prosecutor and SOA), and Passaic Counties:

	2001	2002	2003	2004
Essex County Prosecutor	5%			
Camden County Prosecutor	4.5%			
Mercer County Prosecutor	4.5% (2/2.5)	4.5% (2/2.5)		
Middlesex County Prosecutor	3.75%	4.75%	4.75%	4.75%
Middlesex County Prosecutor SOA	3.75%	4.75%	4.75%	4.75%
Passaic County Prosecutor	3.5%			
Averages	4.17%	4.66%	4.75%	4.75%

The PBA notes that the increases listed above do not include benefits such as longevity and "senior investigator" pay. According to the Union, longevity does not exist at the Prosecutor's Office although it is common in the contracts of others. The PBA provided the following examples in its brief:

The senior investigator step in the Camden contract is worth almost \$5,000 (P-12, pg. 55). Mercer County Prosecutor's personnel received both standard longevity based upon \$400 for each 5 years of service and in addition they receive a "Law Enforcement Longevity" stipend of an additional \$400 upon completion of 10 years and \$650 annually upon completion of 15 years (P-13, pg. 33). Middlesex County Prosecutor's Detective Longevity has a maximum of 7% at 21 years (P-14, pg. 9). The same is true for the Middlesex County SOA (P-14, pg. 8). Bergen County longevity has a maximum of \$1,000 after 19 years of service for its Prosecutor's Investigators (P-17, pg. 14). Perhaps the best longevity program of all the Prosecutor's offices in evidence is the 10% maximum longevity benefit at 25 years of service which is afforded to the Passaic County Prosecutor's personnel (P-16, pg. 28). As has been stated above, this commonly known benefit of longevity is absent in the PBA contract at issue in this case.

The PBA seeks to have "Senior Officer Pay" included in their Agreement. The PBA indicates that Union County has voluntarily negotiated "Senior Officer Pay" with other bargaining units as a substitute for longevity. For example, the County agreed to give the following to rank and file and supervisors of the Sheriff's Department as well as to its corrections officers:

Ten year Senior Officer stipend - \$1365 not to be compounded

Fifteen Year Sr. Officer stipend - \$2,365 not to be compounded

Twenty Year Sr. Officer stipend - \$2,865 to be compounded

According to the PBA, it is the only rank and file unit in the County that does not have "Senior Officer Pay". The PBA asserts that the pattern of settlement for rank and file officers supports the awarding of "Senior Officer Pay".

The PBA compares its top step pay rate to the base compensation of base salary and maintenance allowance for New Jersey State Troopers for 2001. The PBA indicates that State Troopers earned a combined \$79,880 compared to a top step County detective who earned \$67,077. The PBA maintains that "in many ways the work load and nature of service are parallel." The PBA further indicates that the State Troopers' four (4) year contract which expires June 2004 includes a rate increase of four percent (4%) per contract year.

The PBA seeks to increase its clothing allowance from \$600 to \$700 annually. It compares its allowance to that received by the County Sheriffs who received \$1,025 for clothing purchase and maintenance for 2001 and will receive \$1,075 in the last year of their contract. The PBA listed the clothing allowances for other law enforcement agencies:

New Jersey State Police - \$900
Scotch Plains - \$700
Clark - \$850
Summit - \$1,150

Based upon the above, the PBA asserts that there is a need for an improvement in the clothing allowance for the County's detectives.

The PBA asserts that the parties have a long standing practice with respect to its proposal for Union leave. The PBA seeks to codify the parties' practice in order to guarantee organizational representation. It also acknowledges that the time off would be withheld during law enforcement emergencies.

With respect to comparison with the private sector, citing Arbitrator William Weinberg's award in Ridgewood, and Arbitrator Karl Kurtzman's award in Bor. of River Edge, the PBA suggests that it should be given limited weight because there are few private sector occupations which invite sound comparisons with law enforcement personnel.

As for the parties' stipulations, the PBA points out that the parties acknowledged at hearing that they have agreed upon the PBA's proposals for vacation and sick leave.

Addressing the lawful authority of the Prosecutor, specifically with respect to the Cap law, the PBA asserts that the Cap law does not apply to the Prosecutor's office because the office of a county prosecutor is not mentioned. The PBA distinguishes between employees of a New Jersey State Constitutional

officer as here, and employees of a county, who are directly covered and governed by the Cap law. The PBA also notes that the funding of prosecutors' offices is controlled by a statute other than the Cap law, and that law specifically addresses the prosecutors' offices' need for budgetary flexibility and autonomy. The PBA, citing In re: Application of Begley, 55 N.J. 53 (1969), argues that the County Freeholders do not have authority over the Prosecutor's Office's expenditures. Rather, at the county level, only the Assignment Judge has authority to review the Prosecutor's budget.

The PBA notes that although the County Freeholders do not have authority over the Prosecutor's budget, the revenue for the Prosecutor's Office flows through the County. Therefore, in assessing the financial impact of its proposal, the PBA relies on the County budgets in evidence. The PBA maintains that its entire package "will have a virtually imperceptible impact on the taxpayers and residents." According to the PBA, even assuming all of its forty-eight (48) members to be at the maximum pay rate, the total bargaining unit cost would equal \$3,219,696 and a percent point increase would equal \$32,196. The County's budget for last year was \$314,689,922. Thus, the budgetary impact of one (1) percentage point, even assuming the maximum pay rate for each unit member, would only be .00003 or 1.2 cents. The PBA notes that the impact will be offset by various grants, funds and reimbursements available to the County.

According to the PBA, the County's tax rate has not increased in approximately six (6) years. The County's services, however, have expanded and increased. The PBA observed the following in the County's budget documents:

- The results of operations indicating the amount of surplus generated during the year is extremely important. In the most recent year reported the amount for 2000 was \$18,643,483. Over the last 6 years the average has been \$21.9 million per year in regenerating surplus. This indicates a very positive and very stable process. (Source Annual Financial Statement, Sheet 19, P-32).
- The unexpended balance of appropriation reserves is substantial. The amount canceled in the year 2000 from the year 1999 was \$9,819,821. The County is averaging 10.3 million dollars per year of budget flexibility over the last 5 years reported. (Source: AFS, Sheet 19, P-32).
- The Schedule of fund balances, current fund, has shown substantial surplus with balances available for utilization in successive years. In the most recent year reported, 2000, the balance was \$27,896,585. The surplus has averaged 29.8 million per year for the last 8 years. (Source: AFS, Sheet 21).
- The County tax rate has remained flat for the past 3 years and decreased by 10% since 1994. (Source: Official Statement dated June 15, 1999)
- The reliance on property tax has decreased by 4.3% since 1996. (Source: 2001 Executive Budget, P-33, pg. 14)
- The assessed values in Union County have increased by 2.7 billion dollars since 1993. (Source: Report of Audit)
- The borrowing power is under utilized. Using the 2% equalized valuation basis the County's debt ceiling is \$671,107,739. The actual net debt is only \$258,180,542. The remaining borrowing power is \$412,927,196. While

the PBA is not suggesting borrowing to pay salaries, this is a valid barometer of fiscal stability.

- The Moody's Credit Rating is "AAA". This is the best one can get. It is an excellent credit rating.
- The interest on investments alone for 2000 was \$5,454,501. (Source: AFS, Sheet 9, P-32)

Based on all of the above, the PBA maintains that the five percent (5%) increase it seeks has an "essentially imperceptible impact" upon the County. Further, given the reduced costs to the County as a result of the pension abatements included in Senate Bills 1127 and 1961, the impact of the cost of the bargaining unit is lessened.

Addressing the cost of living, the PBA refers to a 2001 publication of the Public Employment Relations Commission. According to the PBA, average annual wages in New Jersey increased 6.4% from 1999 to 2000, the most recent years which are reported. The annual wages for the private sector during the same time period increased 6.9% statewide. The PBA acknowledges that Union County increased by 4.7%. Nevertheless, it contends that the data supports an award in favor of the PBA's wage proposal.

With respect to the criteria for the continuity and stability of employment, the PBA refers to the concepts of area standards and prevailing rates from the private sector. According to the PBA, the County "has established internal standards for co-employees working for the same employer, specifically the

Prosecutor's Office SOA, with respect to pay rates." [Union Brief, p. 39]. As discussed earlier, the County established Senior Officer stipends for every rank and file unit except for this unit. In sum, "the PBA has carefully fashioned its last offer position to match precisely the benefit that the County of Union has voluntarily designated as appropriate for all other rank and file law enforcement personnel." [Union's Brief, p. 40].

For all the reasons above, and the testimony and evidence submitted at hearing, the PBA's last offer must be awarded.

THE PROSECUTOR'S POSITION AND ARGUMENT

The Prosecutor asserts that the Union County detectives unit is highly respected, possesses high morale, and has low turnover. The Prosecutor contends that its proposal is most reasonable when considered in light of the statutory criteria.

With respect to the comparison of the detectives unit to similarly situated employees in comparable jurisdictions, the Prosecutor contends that the most valuable comparisons are those to "other Prosecutor's Offices which share common traits to Union County" such as Bergen, Camden, Essex, Hudson, Middlesex, and Morris. [Prosecutor's Brief, p. 21]. The Prosecutor is best compared to prosecutor's offices within these counties because the counties

share similar demographics and business areas. The Prosecutor refers to its exhibits which compare the following characteristics of the counties above: population, population density, per capita income, persons in poverty, median value of a single family home, real property tax rates, residential, commercial/industrial and vacant percentages of real property valuation, the crime rate per 1,000 citizens and the violent crime rate per 1,000 citizens. [See Exs. C-5 through C-11]. Based upon its exhibits, the Prosecutor makes the following observations of Union County:

The Prosecutor's Exhibits reveal that Union County has the fifth lowest population out of the six (6) comparable counties. (Exhibit C-6). Despite this fact, it is the third most densely populated county and has the third highest number of residents in poverty. (Exhibit No. C-6). Moreover, Union County has the fourth highest per capita income but the third highest tax rate among the comparable counties. (Exhibit Nos. C-6 and C-8). The value of the average single family home in Union County is \$180,500, placing the County in the bottom of the comparable counties. (Exhibit No. C-7). Nearly one hundred percent of Union County's tax base is derived from its residential (71.31%) and commercial/industrial (12.70%) property owners. (Exhibit Nos. C-9 and C-10). Significantly, less than one percent (1%) of Union County's property is vacant. (Exhibit No. C-11). Thus, these figures patently reveal that the burden of future tax increases will unquestionably be borne by the citizens of the County.

Finally, the Prosecutor's office has approximately 64 Detectives, placing it at the bottom among comparable counties. (Exhibit No. C-24). However, Union County's Crime Rate per 1,000 citizens is 45.8 and its Violent Crime Rate per 1,000 citizens is 5.0. (Exhibit No. C-12). These crime rates are the median among the comparable counties, with Essex County

having the highest crime rates and Morris County having the lowest.

According to the Prosecutor, the PBA failed to present evidence that supports a comparison of the detectives unit to either municipal police departments or the State Police. The Prosecutor maintains that its office performs different functions than municipal police departments and thus any comparison requires careful analysis.

The Prosecutor presented a base year comparison for year 2000 to establish the PBA's relative ranking in the last year of the expired Agreement. It asserts that PBA members "are extremely well compensated". [Prosecutor's Brief, p. 22]. Assuming the Prosecutor's wage proposal is awarded, the Prosecutor maintains that starting salaries will improve to the top of the rankings, and top step salaries will maintain their current position. According to the Prosecutor, the mean salary for County detectives ranks as third highest among 22 counties. County detectives also rank third in highest average length of service which is an indication that turnover is low. For all these reasons, the Prosecutor asserts that its wage proposal is a competitive package that permits it to "remain within the established wage pattern". [Prosecutor's Brief, p. 23].

The Prosecutor maintains that PBA members receive competitive fringe benefits. Combined with the Prosecutor's proposal, PBA members are and will be "well compensated". The Prosecutor notes the following:

Among its benefits, the County offers very competitive sick leave. (Exhibit No. C-19). Each SOA member receives fifteen (15) sick days per year. Id. In addition, each PBA member will receive pay for any remaining accumulated sick days based on a generous schedule to a maximum of \$18,000. Furthermore, currently, the County pays the entire health insurance premium for every PBA member and their dependents. This is a benefit equal to approximately \$8,300 per employee with family coverage. significantly, the Prosecutor permits PBA members to use three (3) personal days each year. (Exhibit C-19). The Prosecutor also offers competitive bereavement and vacation leave benefits. (Exhibit Nos. C-20 and C-21 respectively). Finally, the Prosecutor provides all PBA members with a clothing maintenance and allowance. Currently, PBA members receive \$700 and under the Prosecutor's proposal this figure will increase to \$825 by the 2003. This clothing maintenance and allowance is greater than that received by all of the comparable counties. (Exhibit No. C-23).

According to the Prosecutor, its wage package remains the most reasonable even when the detectives are compared to the PBA's comparables. Assuming the Prosecutor's wage package is awarded, first year detectives and top step detectives will earn \$33,761 and \$68,083 respectively for 2001. Disregarding the State Troopers in its comparison, the Prosecutor maintains that its wage package will rank its top step detectives as third highest among the PBA's comparables.

The Prosecutor compares its offer to the salaries and benefits received by other County employees. The Prosecutor asserts that its wage proposal was

derived from, and is consistent with, the established pattern of settlements with other County bargaining units that were based upon the following: 1.5% effective January 1, 2001, 1.5% effective June 23, 2001, 4% at max and 3.5% in guide effective January 1, 2002, January 1, 2003 and January 1, 2004. The Prosecutor cites to several interest arbitration awards in support of pattern settlement. According to the Prosecutor, "[i]t is patently unwarranted for the PBA to receive increases greater than those received by the Sheriff's Officers or, especially the Prosecutor's Superior Officers. Similarly, the County's settlements with its non-law enforcement units demonstrate that the salary increases offered by the Prosecutor to the PBA are more than reasonable." [Prosecutor's Brief, p. 26].

The Prosecutor notes that the law enforcement agencies the PBA presents as comparables received higher increases than the Prosecutor proposed. The Prosecutor points out, however, that the PBA is already the County's highest paid and the State's third highest paid rank and file unit. The Prosecutor asserts that the PBA will maintain its standing with the Prosecutor's wage proposal. Therefore, even a wage increase that splits the parties' proposals is unwarranted.

The Prosecutor asserts that the overall economic packages it provided to its other law enforcement units do not justify a wage increase beyond the Prosecutor's proposal. The only difference between the Prosecutor's proposed package to the PBA and that agreed to with the Superior Officers is that Step 1

was eliminated and First Class was converted to Step 4 for the Superior Officers. Despite the PBA's argument to the contrary, these changes saved the County money. The Prosecutor explained as follows:

Specifically, under the 1998-2000 Superior Officers' agreement, a Detective promoted to the rank of Sergeant with 10 years of service with the Prosecutor's Office would automatically be placed at the First Class Sergeant step. At 2000 salary rates, this promotion would garner a wage increase of over \$15,000. By eliminating the First Class step, newly promoted detectives now must proceed through the salary guide. Thus, assuming a First Class Detective were to receive a 4% increase in 2001, the raise for a newly promoted Sergeant would be approximately \$7700, a 50% savings to the County. [Prosecutor's Brief, p. 28].

The Prosecutor maintains that the PBA is not entitled to the Senior Officer Stipends received by the Sheriff's Officers, Sheriff's Superior Officers and Corrections Officers. Those units, unlike the PBA, "agreed to certain give-backs in order to fund the Stipends." [Prosecutor's Brief, p. 28]. According to the Prosecutor, the Corrections Officers agreed to lower salary increases, from 3.5% to 2.0%, in order to fund a ten (10) year Senior Officer Stipend. The Sheriff's Officers and the Sheriff's Superior Officers funded their stipends through givebacks and reductions in the guide.

The Prosecutor notes that PBA members already receive a Senior Officer Stipend called "First Class Status" which is based upon "salary points". The Prosecutor explain how members earn "First Class Status":

[B]argaining unit member are entitled to First Class pay status upon achieving 30 "salary points." An employee earns one (1) point for each year as a law enforcement officer prior to joining the Prosecutor's Office and three (3) points for each year in the Prosecutor's Office. Thus, after (10) years in the Prosecutor's Office an employee attains First Class status. [Prosecutor's Brief, p. 28].

The Prosecutor indicates that the First Class salary for 2000 was approximately \$2,218 above the top step detective salary. For these reasons, an additional stipend of \$1,365 for ten (10) years of service is not supported by the record.

With respect to comparison with the private sector, the Prosecutor provided an overview of private sector economic indicators. The Prosecutor maintains that its offer is reasonable given the following facts: (1) a national recession; (2) the County raised taxes for the first time in six (6) years; (3) unemployment "is at its highest in years"; and, (4) the increases sought by the PBA conflict with the pattern of settlement established by the County. [See Prosecutor's Brief, p. 29]. Assuming the Prosecutor's wage proposal is awarded, top step detectives and First Class Detectives will earn \$68,083 and \$70,334 respectively for 2001. According to the Prosecutor, 30 of the 44 detectives in 2001 are at the maximum step or First Class. The number increases to 36 in 2002. Compared to the average annual salary for 2000 in the private sector (\$43,638) and government employees in New Jersey (\$43,867), and given the average salary for local government employees increased 2.7% to \$42,612 in

2000, PBA members are well paid. The Prosecutor indicates that its wage proposal is higher than the average wage increase negotiated for private sector labor unions of 3.2% in 1999. For these reasons, the Prosecutor's offer is reasonable when compared to private sector considerations.

Addressing the interest and welfare of the public, the Prosecutor urges me to consider, among other factors, the total cost of the parties' packages, "the Prosecutor's genuine concern for morale and the County's pattern of settlement with its other law enforcement units." [Prosecutor's Brief, p. 32]. In this context, the Prosecutor maintains that the PBA's wage proposal is unreasonable.

With respect to the cost of living, the Prosecutor's refers to the Consumer Price Index ("CPI"). The Prosecutor indicates that the CPI for urban wage earners and clerical workers in the New York-Northeastern New Jersey region for November 2001 was 1.8%. When compared to this indicator, and the County's absorption of increased medical costs, the Prosecutor's proposal clearly provides PBA members with greater than average benefits.

Considering the continuity and stability of employment, the Prosecutor notes the low turnover rate for its Detectives. The Prosecutor does not dispute that the PBA's proposal for a 5% increase would provide continued stability within their unit. However, "it would have a devastating effect on the morale and stability of employment among members of other law enforcement units,

including within the Prosecutor's Office itself." [Prosecutor's Brief, p. 34]. The Prosecutor asserts that its wage proposal will provide stability among all of the bargaining units within the County.

The Prosecutor's health care proposals are as follows:

1. Adjust Prescription Co-Pay from Mail Order: \$0; Generic: \$3, Single-Source: \$5; Multi-Source: \$10; to: Mail Order : \$3; Generic: \$5, Single-Source: \$10; Multi-Source: \$15 for all active employees;
2. Implement Doctor's office visit co-pays of \$5.00 per visit for 2002 and \$10.00 per visit for 2003 and 2004. Change out of network cost share from 80/20 to 70/30 but reduce deductible to \$100/\$200 (employee/dependent);
3. Implement Contribution towards health care premium as follows:

Employees earning under \$65,000 = \$10.00 per month
Employees earning over \$65,000 = \$25.00 per month
Employees earning over \$75,000 as follows:

2002 - \$35 per month
2003 - \$40 per month
2004 - \$40 per month

Contributions are made pre-tax.
4. Health Benefit Buyout Option (1/1/02 – 6/30/02)

According to the Prosecutor, it proposes increases, though minimal, because of a dramatic the increase in health care premiums. The Prosecutor cannot determine with certainty the amount of cost savings it would obtain through its proposals. Nevertheless, the Prosecutor indicates that health care premiums increased by 10% over the past year and anticipates future increases

as well. While employees may view health care as an entitlement, the cost of health care must be considered in an overall wage package. The Prosecutor asserts that rising health care costs without employee contribution could result in the reduction of services and an increase in taxes for County residents. According to the Prosecutor, PBA members earning over \$75,000 in 2004 would only contribute \$480 to the annual premium cost. The Prosecutor anticipates the annual premium for family coverage in 2004 to be approximately \$10,049. Therefore, those members would be responsible for less than five percent (5%) of the annual premium cost. Given the anticipated increase in health care premiums, the County maintains that the concessions it seeks are warranted.

With respect to its remaining proposals, the Prosecutor seeks consistency in all of the collective negotiations agreements to which it is a party. For instance, it seeks a four (4) year agreement for two (2) reasons. First, a three (3) year agreement would expire December 31, 2003 and thus negotiations for the next agreement would commence in September 2003. Second, a four (4) year agreement would allow it to expire the same time as the agreements for the Sheriff's Officers, Sheriff's Superior Officers and Prosecutor's Superior Officers. The Prosecutor has similarly proposed December 31, 2004 expiration dates for the agreements for the Corrections Officers and Police Superior Officers. According to the Prosecutor, having one expiration date for all of its agreements will "encourage uniformity in bargaining".

The Prosecutor seeks to increase the amount it contributes to retiree's monthly health care premium. The Prosecutor proposes to increase its contribution for a single retiree under age 65 from \$57.18 to \$189.67, an amount that covers most of the retiree's monthly premium. According to the Prosecutor, the proposed increase in employee contribution was "an attempt to soften the impact of [its] health care proposals" and is offered in conjunction with its economic package. [Prosecutor's Brief, p. 41]. The Prosecutor indicates that the bargaining units which accepted the County's health care proposals received the increase in employee contribution in exchange for the giveback.

The Prosecutor offers an \$25 increase in clothing maintenance and allowance for the first three (3) years of the proposed agreement. Thus, the allowance would be raised to \$825 in the third year of the agreement. The Prosecutor notes that detectives in comparable Prosecutor's officers do not receive allowances. Even the County's Sheriff's Officers who, unlike the detectives, are required to wear uniforms receive only \$575 after accepting the County's \$25 increase per year.

The Prosecutor asserts that the PBA failed to present evidence in support of its proposals. According to the Prosecutor, "[i]t is a well established rule that, in interest arbitration, the party seeking any change bears the burden of proving that that change is necessary and that the change is supported by the evidence at hearing." [Prosecutor's Brief, p. 43]. For all of the above reasons, the

Prosecutor maintains that its proposals are reasonable in light of the statutory factors and should be awarded in their entirety.

DISCUSSION

I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Prosecutor and the PBA have fully and skillfully articulated their positions on the issues and have submitted evidence and argument on each issue in dispute in support of their respective positions. The evidence and arguments have been carefully reviewed, considered and weighed.

Initially, I incorporate the parties' stipulations into this Award as contemplated by N.J.S.A. 34:13A-16g(4). They include stipulations No. 1 and No. 2 which represent improvements in vacation eligibility and payments for accumulated sick leave upon retirement:

Stipulation No. 1

Article XI, Vacations: Section 1, Vacation Eligibility will be modified to reflect the following schedule:

Vacation Eligibility:

- (a) During the first calendar year of employment, employees shall earn one (1) vacation day for each month of service during the calendar year following the date of employment.

- (b) Employees with one to eight years of service shall be entitled to thirteen (13) working days vacation each year.
- (c) Employees with eight completed years to ten years of service will be entitled to fourteen (14) working days vacation each year.
- (d) Employees with ten completed years to fifteen years of service will be entitled to seventeen (17) working days vacation each year.
- (e) Employees with fifteen completed years to twenty years of service will be entitled to nineteen (19) working days vacation each year.
- (f) Employees with twenty completed years to twenty-five years of service will be entitled to twenty-two (22) working days vacation each year.
- (g) Employees with twenty-five to thirty or more completed years of service will be entitled to the following number of working days vacation each year.

Twenty-five years	-	twenty-seven (27) days
Twenty-six years	-	twenty-eight (28) days
Twenty-seven years	-	twenty-nine (29) days
Twenty-eight years	-	thirty (30) days
Twenty-nine years	-	thirty-one (31) days
Thirty or more years	-	thirty-two (32) days

Stipulation No. 2

Article XIII, Sick Leave, Section 6 and Schedule C: Modify to reflect the following schedule:

- 100-200 accumulated sick days - 50% of the daily rate to a maximum of \$10,000
- 201-300 accumulated sick days - 60% of the daily rate to a maximum of \$12,500
- 301-400 accumulated sick days - 70% of the daily rate to a maximum of \$15,000
- over 400 accumulated sick days - 80% of the daily rate to a maximum of \$18,000

The first issue in dispute concerns the duration of the Agreement. The Prosecutor proposes a four year term while the PBA proposes a three year term. The Prosecutor's proposal for a four (4) year agreement with an expiration date of December 31, 2004 is awarded. This will cause an agreement for the same duration as with other law enforcement units within the County including the Prosecutor's Detectives Superior Officers Association [SOA], the Union County Police Superior Officers Association, PBA Local 73, the Union County Sheriff's Officers Association, PBA Local 108, the Union County Sheriff's Superior Officers, FOP Local No. 103, as well as the non-law enforcement county-wide blue and white collar unit represented by Council No. 8. One unit, the Union County Corrections Officers, PBA Local No. 199, received an Interest Arbitration Award directing an expiration date of December 31, 2003. There is simply no basis to support a shorter contract duration for the Prosecutor's Detectives unit in light of all of these agreements which, with one exception, provide a duration through December 31, 2004. Of special significance is the agreement with the Prosecutor's Detectives SOA unit which expires on December 31, 2004. Uniformity of contract duration, especially in the Prosecutor's Office, will allow for more effective budget projections in relation to salary and benefit costs and a higher degree of certainty among employees as to their terms and conditions of employment in the future. This, in addition to the stability created by an agreement which will run through December 31, 2004, will serve the interests and welfare of the public and promote more harmonious labor relations between the County and all of its law enforcement units.

The second issue in dispute concerns the amount of increase in the clothing allowance. The PBA has proposed a \$100 increase per each contract year while the Prosecutor has proposed a \$25 increase per each contract year. The record provides adequate support for an increase in the clothing allowance. The Sheriff's Officers will be receiving a combined clothing and maintenance allowance of \$1,075 by the end of their agreement with the County and many municipalities within Union County provide higher clothing allowances than currently enjoyed by the PBA. I have considered the Prosecutor's argument that the detectives are not required to wear a uniform to work and instead wear civilian or street clothes on a daily basis. While this may be so, the daily requirements of the detectives duties reflect that they bear a direct cost in maintaining the necessary attire to perform their jobs as recognized by the already established existing clothing allowance. I sustain the Union's proposal for a \$300 increase in the clothing allowance over the life of the agreement but due to the duration of four years, the increase shall be spread equally by an additional \$75 per year effective January 1 of each contract year.

The PBA has also proposed to amend Article XXIV to allow two members to attend Union meetings and conventions without loss of regular compensation. The record reflects that there is currently an established practice to allow for such participation, although this practice has not been codified into the Agreement. The PBA acknowledges that the Prosecutor could withhold granting time off

during law enforcement emergencies. Because this proposal does not alter the established practice and would promote bargaining unit organizational stability, this proposal is awarded.

The foundation of the Prosecutor's final offer rests upon aligning terms of this Agreement with an asserted "County established pattern of settlement" with the County's other law enforcement units and non-law enforcement units addressing salary and health insurance. These include Sheriff's Officers (PBA Local 108), Sheriff's Superior Officers (FOP Local 103), Union County Police Superior Officers Association, PBA Local 73, Prosecutor's Detectives Superior Officers Association, Union Council No. 8, representing a county-wide blue and white collar unit and the Union County Park Foreman's Association. The "pattern" provides increases of 1.5% effective January 1, 2001, 1.5% effective July 1, 2001, 4.0% at maximum step effective January 1, 2002, 4.0% at maximum effective January 1, 2003 and 4.0% at maximum effective January 1, 2004. In guide step increases below 4.0% have been included in the rank and file between 2.0% and 3.5% in consideration for the extension of senior officer stipend. An interest arbitration award for the Union County Correction Officers, PBA Local No. 199 directed a different result providing 4% increases effective January 1, 2001, January 1, 2002, January 1, 2003.

The County proposes health insurance modifications which it asserts is consistent with a pattern involving all of the aforementioned employee

organizations, including the Prosecutor's Detectives SOA, whose members combine to include 1700 of the County's 2700 employees. The sole exception is the Union County Correction's Officers unit who received an interest arbitration award which did not grant the health insurance modification. The health care proposal involves employee contributions towards the cost of premiums of \$10 per month for employees earning under \$65,000, \$25 per month for employees earning between \$65,000 and \$75,000 and \$35 per month for 2002 and \$40 per month for 2003 and 2004 for employees earning over \$75,000. These contributions would be made on a pre-tax basis which allows for a reduction in the amount of an employee's actual contributions. For those employees who opt for Horizon PPO (Blue Select), a contribution is proposed towards the cost of a doctor's visit at \$5 per visit in 2002, rising to \$10 per visit in 2003. For employees who select an out-of-network, physician the cost share would change from 80/20 to 70/30 upon execution of the agreement although the deductible for any single benefit period would be reduced to \$100 for each employee and an additional amount of \$200 for eligible dependents. The proposal includes a health benefit buyout option providing for a \$2,500 payment for any employee who opts out of the County plan in the event that the employee can demonstrate that his or her spouse has coverage either through the County or another employer. The County proposes to improve its retiree health benefits subsidy in specific dollar amounts which would approximate an increase in the existing subsidy for retirees from approximately 25% to 75% of premium cost as expressed in dollars. The final point of the health care proposal requires that

new employees receive PHS or Blue Choice coverage only with contributions of \$15 per month for single coverage and \$25 per month for family coverage. Contributions would increase by their proportionate annual increase in plan cost. New employees would have the option to elect a different and more expensive plan at a cost difference between the chosen plan and PHS or Blue Choice.

The County contends that its salary proposals and the improvements proposed in its health care package are reasonable tradeoffs for the contributions required by the health care proposal. It argues that these proposals should be awarded because of the pattern of settlement with other law enforcement and non-law enforcement units as well as because of recent dramatic increases in its health insurance premiums which in 2002 represented an overall annual increase of 10.5% at a cost of \$21,083,477.

The PBA responds that the pattern of settlement argument of the County with respect to salary is deficient and should be rejected in favor of awarding the PBA's proposals. The PBA contends that the County's proposal fails to take into account other salary improvements for other units which the County has not proposed in this proceeding. These include a revision of the salary guide for the Prosecutor's Detectives Superior Officers Association and the extension of senior officer stipends. This revision for the Prosecutor's Detective's SOA removes the old "First Class" designation, substitutes a new Step 4 while eliminating the old Step 1 and substituting a new Step 1. This, according to the PBA, allows for a

"double jump" through the guide thereby augmenting the salary terms of the Prosecutor's Office SOA settlement. Another point mentioned by the PBA is the elimination of the requirement for a superior officer to achieve 30 "salary points" as a condition for achievement in the guide. Points were obtained by awarding three for each year of employment in the Prosecutor's Office and 1 salary point for each year in law enforcement prior to joining the Prosecutor's office. Instead, the "first class" status has been eliminated and only normal step movement, rather than points, is required to achieve the new salary schedule Step 4. The PBA points out that the additional value provided by these changes was in addition to the percentage increases and that this additional value is absent from the County's proposal to the Prosecutor's Detectives. With respect to its relationship between the Prosecutor's Detectives and Superior Officers, the PBA makes the following arguments in its post-hearing brief:

One of the key considerations in comparing the SOA settlement with the Union County Prosecutor's Office and the PBA position is the history of collective bargaining between these parties. The history has always been of parallel action. This subject was a key area of examination of county administrator Joseph Salemme at hearing. Mr. Salemme acknowledged that prior contracts had been handled in parallel fashion between the SOA and the PBA. Contracts between the employer and these two bargaining units had historically been coterminus. Prior collective bargaining experience included parallel, dual Interest Arbitration proceedings. When Interest Arbitrator, Carl Kurtzman rules on the prior contract (P-10a) he made a single arbitration award under a dual docket number covering both bargaining units. The parties have always been considered it would seem as near identical for collective bargaining

purposes. For some reason the public employer appears to now be taking a different road and attempting to create division where there had been none.

The PBA also seeks greater reliance upon law enforcement settlements in other jurisdictions, including the State Police which provided for greater percentage increases than offered by the County in this proceeding. In particular, the State Police settlement was for 4% in each of the contract years.

The PBA also discounts the County's pattern argument when comparing the County's health insurance proposal and its effect on the Detectives unit compared to its impact on the Prosecutor's Detectives Superior Officers unit. Because employees are generally not hired into a superior officer positions, the PBA contends that the new hire aspect of the County's proposal more heavily impacts upon its bargaining unit than it does on the Prosecutor's Detectives SOA.

The PBA also points out that the Prosecutor's Detective unit has neither longevity nor "senior officers pay" which the PBA sees as a substitute for an absent longevity benefit. The PBA seeks the inclusion of a senior officer stipend at intervals of 10, 15 and 20 years on a similar basis to the senior officer benefit which either pre-existed or was extended in the recent settlements for Sheriff's Officers, Sheriff's Office Supervisors and/or Correction Officers.

In evaluating these remaining issues I rely upon the record developed at hearing. I will, in addition, take arbitral notice of two interest arbitration awards received by the County of Union and two law enforcement units issued subsequent to close of hearing. Each of these cases dealt with similar issues raised in this proceeding based upon similar arguments presented in this proceeding. These include an award governing the Union County Police Superior Officers Association, PBA Local 73 (PERC Docket # IA-2001-80, April 1, 2002, *Frank Mason, Arbitrator*) and an award governing the Union County Correction Officers, PBA Local No. 199 (PERC Docket # IA-2001-46, May 15, 2002, *Robert E. Light, Arbitrator*). This latter award has been vacated and remanded to the arbitrator for re-issuance.

In the *Mason* award, the following wage increases were awarded covering the years which are in dispute in this proceeding.

January 1, 2001	1.5%	& July 1, 2001	1.5%
January 1, 2002	4%		
January 1, 2003	4%		
January 1, 2004	4%		

Mason also awarded a senior officer stipend provision for Police Superiors to be the same as was provided to the Union County Correction Officers (PBA Local 199), effective January 1, 2000. *Mason* also awarded the County's health insurance proposal with a minor exception not relevant here. On the health insurance issue, *Mason* held:

In addition to the two elements of income addressed above the county has proposed several substantial changes which affect the health benefits afforded to employees. These are specific above and do not require further definition here. The issue presented is whether the shifting of costs of the various elements affected to the employees represented is justified. The County has presented convincing evidence of the rapidly rising costs of the health benefits plan and has been successful in gaining the support of all of the negotiations units of its employees in reaching accord with them as to the changes proposed. There can be no doubt as to the claim of sharply rising costs of such program elements. The shifting of some of those increases to the employees is warranted on the basis of the prior concept of share costs which is contained in the past Agreement. The increases in those costs have been borne by the County during the last few years resulting in a reduction of the pro rata share paid by employees. The adjustments sought tend to bring the balance of costs somewhat nearer to what existed in the prior Agreement. There are also movements to improve certain elements of the plans, in particular the improvement in sick leave buyout and the health benefit buyout [two items I include because of their relativity] as well as the greatly improved County subsidization of health benefits for those in retirement. This latter is a substantial benefit and one which for many may very well have more actual value in future years of retirement than the sum of the increased costs they will have had to shoulder whilst employed.

Another and possibly positive effect of the shifting of costs is to make employees more aware of the overall costs of the plans by accepting a larger co-payment with the twin objectives of relieving the County of some direct burden and encouraging employees to become more judicious and not to abuse the plans by unwarranted use. These objectives have been subscribed to in many jurisdictions and in consideration of the sharply rising costs of health benefits seem to be entirely appropriate. As the County has indicated, if these plan costs cannot be contained there will be an inevitable pressure to reduce them by plan benefits reductions or the control of other related costs such as salaries to offset those increased premiums.

It is apparent that all of the unions representing employees of Union County have considered these proposals and have concluded they have a part to play in holding down the County share by accepting responsibility for a reasonable proportion of the costs. I conclude that in these negotiations there is both a demonstrated need for the

County proposals to be confirmed on the basis of the escalating costs as well as avoidance of deviations from County-wide plans which would be administratively burdensome and costly. This is an area where the norm has been to provide uniform benefits and there has been no evidence introduced as to an alternative. In fact the PBA did not offer any substantial protest to the changes. It seemed likely that there was no agreement on this issue because of the lack of an accord concerning another benefit, the Senior Officer stipend. I therefore conclude that the County proposal as to modification of the health benefits program should be awarded as set forth, including all conditions incorporated therein. I do not think this decision need be predicated on examination of the statutory standards but do see this as supporting the concern for comparability with other County employees and thus also in the public interest as maintaining a single plan will avoid any of the divisiveness which would attend imposition of a plan with substantial variation.

Light issued an award for three years of duration with the following salary increases:

Effective and retroactive to January 1, 2001 - 4.0%
Effective and retroactive to January 1, 2002 - 4.0%
Effective January 1, 2003 - 4%

Light rejected the County's proposal with respect to health care. *Light* held:

The County has proposed a series of changes in the health benefit plan provided to bargaining unit employees. The County contends that it has offered various other economic improvements to the Union as an inducement to accept these changes. The full description of these proposals is set forth above. In brief, the County seeks to implement employee contributions to health insurance, increases in co-payments and employee payments for prescriptions and other changes.

The County argues that these changes in the health care plan are necessary because of the significant and steady increases of about 10% per year in cost that the County has been required to assume

to pay for employee health benefits. It argues that without changes in this system, the County will eventually have to reduce services or increase taxes. It notes that 1700 of the County's 2700 employees have accepted these changes. The County asserts that the changes would have a small impact on unit employees, pointing out that in the year 2004 most unit employees would earn \$65,000 per year and only contribute \$300 per year toward health insurance.

The County's health care proposal seeks significant changes in the provision of employee health insurance. It would for the first time require employee contributions to health insurance, along with a variety of other changes. Although it is claimed that the costs would be minimal to employees, the County seeks these changes because it complains of major increases in the cost of providing health insurance. Given the significance of these changes and the fact that the current health benefits enjoyed by employees are the result of past collective bargaining between the parties, any effort to accomplish this through interest arbitration carries a substantial burden of showing that the proposal is the more reasonable offer - by a significant margin. See generally *Township of Randolph and Randolph FOP Lodge 25*, PERC Docket Nos. IA-95-073, 079 (Light 1996).

A careful review of the evidence presented does not persuade me that the County has met its burden of establishing the necessity for its health care proposal. The County has demonstrated that the cost of health insurance is rising at a rate higher than the cost of living and that this results in steadily increasing costs to the County. It has also shown that a majority of the County's employees have accepted its proposed changes in health insurance. These facts are obviously significant and make the matter one appropriate for collective bargaining. The PBA, of course, has not accepted these proposals. It was not shown that correction officers in other jurisdictions have accepted such changes to their health insurance coverage.

Several of the criteria set forth in the statute are not directly relevant to this proposal. There is no CAP law issue concerning the County's health care proposal, although the County obviously considers the proposal to be a cost saving which would have a financial impact on the governing unit and favor the County's proposal. The cost of living can only be applied to present costs and is not directly relevant to an issue of future savings. It has not been shown that the failure to make these changes to employee health insurance will have an effect on the continuity and stability of employment. I consider most important the interest and welfare of

the public criterion. An award in favor of the County would cause a major change in an important employee benefit through arbitration, rather than negotiation. This would be a detriment to the public given its likely negative effect on the bargaining unit and the morale of its employees. The County's proposal is far reaching and, as such, is most appropriately dealt with by the parties through the process of collective bargaining. It would not be appropriate to direct such changes through the issuance of an interest arbitration award, absent more of a showing for their necessity than was made in this case.

In sum, I have considered the County's health insurance proposal and concluded that it has not met its substantial burden of showing the necessity for making the extensive changes sought in this proposal. Accordingly, I reject the County's Final Offer on this issue.

These remaining issues, compensation and health care, must be considered and decided not only on an individual basis, but also on a package basis because there are interrelationships between the issues, especially in terms of cost to the County, value to the employees and consideration of the internal comparability factor which embraces both issues. It is also necessary for me to consider the totality of these issues because the evidence and the arguments which have been presented by both parties directly reflect reference to resolved issues and considerations of pattern involving other County bargaining units and particularly those in law enforcement.

Initially, I note that there is not an exact or precise pattern of settlement among all of the County's bargaining units. However, the key components of all the Agreements among the bargaining units, with the exception of the *Light* award, are substantially similar and support a strong presumption that a

compatible result is warranted here. Any such inquiry must also recognize any valid or unique considerations which are present concerning the Prosecutor's Detectives.

On the health care issue, the reasoning expressed in *Mason* is also applicable to the health care issue in this proceeding. A majority of County employees, law enforcement and non-law enforcement, have accepted or have been awarded the County's health care proposal as a key component in the overall terms of their recent agreements. The main arguments and the evidence advanced in support of the County's proposal are entitled to substantial weight in this proceeding. They include 1) the incorporation of the health care plan in several County agreements which include law enforcement and the Detective's Superior Officers in the Prosecutor's Office; 2) the minimizing of administrative burdens and divisiveness among employees arising from implementing substantially different health insurance programs; 3) the demonstrated substantial increases in the County's health insurance costs; 4) the reasonableness of the proposed dollar amount rather than percentage amount of employee participation in relation to the overall economic improvements contained in the terms of this award; 5) the substantial increase in the County's subsidy of payments towards retiree health benefits; and 6) consistency in the analysis of all disputed issues including the PBA's proposals for additional compensation which it advances based upon pattern and internal comparability. I also note that the *Light* award rejecting the County's health care proposal

stands alone but specifically acknowledges that the “steadily increasing costs to the County” and the fact “that a majority of County employees have accepted its proposed changes in health insurance” are “obviously significant” considerations.

This is not a case where the issue is whether new ground on health care should be broken by a single or lead unit but rather whether sufficient evidence exists to exempt this negotiating unit from a countywide program already accepted or received by a majority of County employees in both law enforcement and non-law enforcement units, including the unit of Detectives Superior Officers within the Prosecutor’s Office. I rely principally upon the interests and welfare of the public, internal comparability and the financial impact on the governing body as key considerations in support of this conclusion.

Another major consideration is consistency in the disposition of the remaining financial issues which include salary and the PBA’s proposals for a Senior Officer Stipend based upon, and supported by, the PBA’s claim that internal comparability considerations warrant inclusion of this benefit in this Award.

Based upon all of the foregoing, I award the County’s health care proposal as set forth its final offer but with modifications as to the commencement date of the program. Implementation of the plan as to these employees should be timed in a manner to allow for adequate consideration by the employees of the choices

present and to prepare for whatever changes might impact upon their receipt of current benefits and costs. Accordingly, the date of implementation shall be no earlier than January 1, 2004 at levels which are set in accordance with the timing sequences contained in the County's proposals. There shall be no retroactivity for any terms which are contemplated in the County's proposal.

I also award the across-the-board increases received by the Prosecutor's SOA, the Sheriff's Officers, the Sheriff's Superior Officers, Corrections Superior Officers and non-law enforcement units. I note that 30 of the 44 detectives were at salary maximum in 2001 and that this number rose to 36 out of 44 in 2002. The Prosecutor will realize little, if any, savings from in-guide steps receiving one-half of one percent less than the maximum step, but nevertheless, the record reflects that lesser in-guide amounts were part of Sheriffs and Corrections Officers settlements which granted or extended senior officer stipends. I have awarded a senior officer stipend program for the Prosecutor's Detectives set forth below. Thus, I award the across-the-board percentages. These increases shall be 1.5% effective January 1, 2002, an additional 1.5% effective July 1, 2001, an additional 4.0% effective January 1, 2002, an additional 4.0% effective January 1, 2003 and an additional 4.0% effective January 1, 2004. In guide steps shall receive increases of 3.5% from Step one (1) through Step eight (8) on January 1, of 2002, 2003 and 2004. Step nine (9) and the First Class Step (to become Step 10 on January 1, 2002) shall receive 4% on January 1, 2002, 2003 and 2004.

I next consider the PBA's proposal for a senior officer stipend. The PBA's arguments in support of this concept are persuasive. They are supportable based upon its presence in the rank and file and superior units in the Sheriff's Department and Correction's Department. The reasoning in *Mason* on this issue is also applicable here. I also give substantial weight to newly modified salary step structure for the Prosecutor's Superior Officers which recognizes additional compensation based upon length of service in addition to the pattern of settlement considerations. Thus, I award the PBA proposal for senior officer pay but with certain modifications set forth below. In the prior Agreement, Prosecutor's Detectives in first class (1st Class) pay status received an additional \$2,218 in base pay over a detective on the maximum step of Step 9. This is based upon the achievement of 30 "salary points". An employee earns one (1) point for each year as a law enforcement officer prior to joining the County's Prosecutor's Office and three (3) points for each year in the County's Prosecutor's Office. When a Detective has accumulated 30 "salary points" then that Detective shall be entitled to first class pay status thereafter.

Based upon the record evidence reflecting the history of the senior officer stipend in the Sheriff's Office and Correction's Department and the expansion of that stipend to fifteen (15) and/or twenty (20) years, I conclude that the senior officer stipend at 10 years in those departments represents similar consideration for the additional compensation Prosecutor's detectives currently receive based

upon ten years of service or upon the accumulation of thirty (30) points and the achievement of First Class status. I do not award compensation for the ten year level of service. However, for the future and retroactive to January 1, 2002, I award an elimination of First Class step in this salary guide as well as the "salary points" system and provide in its place, a Step 10. This result will achieve consistency with the elimination of the thirty (30) points standard in the Detectives SOA agreement as well as the First Class designation therein. Movement to Step 10 shall be on the same earned basis as movement from Step 8 to Step 9 and need not require ten years of service due to the hiring of Detectives beyond Step 1. This shall be effective January 1, 2002. The compensation level for Step 10 shall be identical to what the compensation level would be for the First Class Step without the need to accumulate the longevity points previously required.

I also award a senior officer's stipend for Prosecutor's detectives at the 15 and 20 year levels in the equivalent amounts provided in the other units above and beyond what is currently received Step 10. I award a 15 year senior officer stipend at \$2,365 effective January 1, 2002. This figure, as in the other agreements, is not to be compounded. I also award a 20 year senior officer stipend at \$2,865 effective January 1, 2003. This stipend, as in the other units, shall be compounded by the percentage increase negotiated in the subsequent contract years. These stipends shall be effective and retroactive to January 1, 2002, the same effective date as provided for in the agreement for the Sheriff's

Office Superior Officers Association. Based upon application of the across-the-board increases, this figure shall be \$2,980 in 2003 and \$3,099 in 2004.

Based upon the above, the salary guide for unit employees will read as follows:

	Effective 01/01/01 1.5%	Effective 07/01/01 1.5%		Effective 01/01/02	Effective 01/01/03	Effective 01/01/04
Minimum	\$33,760	\$34,267	Minimum (3.5%)	\$35,466	\$36,708	\$37,992
Step 1	\$41,075	\$41,691	Step 1 (3.5%)	\$43,150	\$44,660	\$46,224
Step 2	\$45,014	\$45,689	Step 2 (3.5%)	\$47,288	\$48,943	\$50,656
Step 3	\$49,515	\$50,258	Step 3 (3.5%)	\$52,017	\$53,838	\$55,722
Step 4	\$54,016	\$54,826	Step 4 (3.5%)	\$56,745	\$58,731	\$60,787
Step 5	\$59,643	\$60,538	Step 5 (3.5%)	\$62,657	\$64,850	\$67,120
Step 6	\$61,893	\$62,822	Step 6 (3.5%)	\$65,021	\$67,296	\$69,652
Step 7	\$64,144	\$65,107	Step 7 (3.5%)	\$67,386	\$69,744	\$72,185
Step 8	\$65,270	\$66,249	Step 8 (3.5%)	\$68,568	\$70,968	\$73,451
Step 9	\$68,083	\$69,104	Step 9 (4%)	\$71,868	\$74,743	\$77,733
First Class	\$70,334	\$71,389	Step 10 (4%)	\$74,245	\$77,214	\$80,303

The terms of the Award will not compel the County to exceed its statutory spending limitations and will fall within its spending CAP. In addition, although the terms of the Award will require higher appropriations to fund salary and benefit improvements, the terms of the Award will not have adverse financial impact on the County. The record reflects that the County is well managed and financially healthy. The County's tax rate at 0.4254 for 2001 has steadily decreased since 1997 and is 0.047 below the County tax rate in 1994. The County's tax levy of \$150,132,767 for the year 2000 is the lowest amount of

revenue collected since 1995 although assessed values have increased from \$31,666,052,411 in 1993 to \$34,373,427,395 in 2000. The County continues to regenerate surplus, although the amount of surplus generated has decreased from \$25,757,196 in 1997 to \$18,642,483 in 2000. Related to this development is a reduction in budget revenues realized in relation to revenues anticipated. In year 2000, the County anticipated \$314,689,922 but realized \$311,862,849. In short, the County remains financially healthy but must continue to monitor recent trends. The terms of the award represent a careful balance between the costs of improvements in the Detectives' terms and conditions of employment with some cost offsets created by modest financial participation by employees in the County's health insurance program. The net cost of the clothing allowance increase will be an additional \$3,300 per year rising to \$13,200 in 2004. The additional salary costs will be \$44,270 on January 1, 2001, \$44,935 on July 1, 2001, \$121,624 on January 1, 2002, \$126,488 on January 1, 2003, and \$131,549 on January 1, 2004. The additional cost of the senior officer stipend will be dependent on the precise roster data at the times of implementation.

The continuity and stability of employment for detectives is not a significant consideration in weighing the offers of the parties. The record reflects high morale among detectives, low turnover and significant interest among applicants for detective positions. Neither party's final offer, if granted in its totality, would cause an interruption in the continuity or stability of employment. The terms of this award on a total package basis will result in substantial

improvements in the net value of salaries and benefits. While employees will now have cost participation in health insurance, the improvements in salary, clothing allowance and the granting of senior officer stipends will enhance employment in the Prosecutor's office.

The cost of living criterion, while relevant, is not a factor entitled to substantial weight in this proceeding given the respective last offers of the parties. There are a number of settlements which the County has achieved with other negotiations units all of which exceed the cost of living. To the extent that this factor is relevant, the County's position is more compatible with the cost of living data inasmuch as the PBA's last offer is well in excess of the Prosecutor's and well above the CPI data. This data does not support the offer of 5% across-the-board, plus other salary and benefit increases sought by the PBA.

As set forth above, I have given substantial weight to internal comparability factors with respect to salary, senior officer stipend and health insurance issues but note that the total net annual economic changes caused by the Award are consistent with and supported by record evidence dealing with law enforcement comparability.

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

AWARD

1. **Article XXXI - Duration**

There shall be a four-year agreement effective January 1, 2001 through December 31, 2004.

2. All proposals by the County and the PBA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this Award.

3. **Stipulations of the Parties**

Stipulation No. 1

Article XI, Vacations: Section 1, Vacation Eligibility will be modified to reflect the following schedule:

Vacation Eligibility:

- (a) During the first calendar year of employment, employees shall earn one (1) vacation day for each month of service during the calendar year following the date of employment.
- (b) Employees with one to eight years of service shall be entitled to thirteen (13) working days vacation each year.
- (c) Employees with eight completed years to ten years of service will be entitled to fourteen (14) working days vacation each year.
- (d) Employees with ten completed years to fifteen years of service will be entitled to seventeen (17) working days vacation each year.
- (e) Employees with fifteen completed years to twenty years of service will be entitled to nineteen (19) working days vacation each year.

(f) Employees with twenty completed years to twenty-five years of service will be entitled to twenty-two (22) working days vacation each year.

(g) Employees with twenty-five to thirty or more completed years of service will be entitled to the following number of working days vacation each year.

Twenty-five years	-	twenty-seven (27) days
Twenty-six years	-	twenty-eight (28) days
Twenty-seven years	-	twenty-nine (29) days
Twenty-eight years	-	thirty (30) days
Twenty-nine years	-	thirty-one (31) days
Thirty or more years	-	thirty-two (32) days

Stipulation No. 2

Article XIII, Sick Leave, Section 6 and Schedule C: Modify to reflect the following schedule:

100-200 accumulated sick days - 50% of the daily rate to a maximum of \$10,000

201-300 accumulated sick days - 60% of the daily rate to a maximum of \$12,500

301-400 accumulated sick days - 70% of the daily rate to a maximum of \$15,000

over 400 accumulated sick days - 80% of the daily rate to a maximum of \$18,000

4. Article VII - Clothing Allowance

The existing clothing allowance shall be increased by \$75.00 on January 1, 2001, an additional \$75.00 on January 1, 2002, an additional \$75.00 on January 1, 2003, and an additional \$75.00 on January 1, 2004, representing a total increase of \$300.00. Payments shall be retroactive.

5. **Article XXIV - Union Leave**

Article XXIV shall be amended to allow two members to attend union meetings and conventions without loss of regular compensation.

6. **Senior Officer Stipend**

To be implemented retroactive to the effective dates. Effective with 15 years of service there shall be a senior officer stipend in the amount of \$2,365. Effective January 1, 2002, with 20 years of service the stipend shall be \$2,865 with subsequent stipends increasing by the same percent as wage increases in the following contract years, January 1, 2003 and January 1, 2004.

7. **Article IX - Insurance**

Effective July 1, 2004, this article shall be modified to incorporate the following provisions and shall not be retroactive. All effective dates specified herein shall be revised to January 1, 2004 at levels specified on January 1, 2004. The Health Benefit Byout Option shall be available through December 31, 2004.

Section 3.

a) Prescription Company-Pay

Effective January 1, 2002: Co-pay to be adjusted from Mail Order: \$0; Generic: \$3, Single-Source: \$5; Multi-Source: \$10; To: Mail Order : \$3; Generic: \$5, Single-Source: \$15; Multi-Source: \$20 for all active employees.

Section 3.

a) Horizon PPO (Blue Select)

Employee in Horizon PPO (Blue Select) shall contribute towards the cost of doctor's office visit as follows:

<u>2002</u>	<u>2003</u>	<u>2004</u>
\$5 per visit	\$10 per visit	\$10 per visit

Out of Network cost share shall be changed from 80/20 to 70/30 (County/Employee respectively) for all employees effective upon execution of the Agreement. Deductible for any single benefit period effective January 1, 2003 shall be reduced to \$100 for each employee and an additional amount of \$200 for eligible dependents.

b) Contribution:

Effective January 1, 2002, incumbent Employee Health Benefit Contribution shall be as follows:

Employees earning under \$65,000 = \$10.00 per month
Employees earning over \$65,000 = \$25.00 per month
Employees earning over \$75,000 as follows:

2002 - \$35 per month
2003 - \$40 per month
2004 - \$40 per month

Contributions are made pre-tax.

c) Health Benefit Buyout Option (Available from January 1, 2002 – June 30, 2002)

Any employee with either Family or Husband/Wife Coverage in any of the available Health Benefits Plans may voluntarily opt out of that plan providing their spouse has either Family or Husband/Wife Coverage either through the County or through another employer. In return for opting out, the County shall pay to the employee the sum of \$2,500.00 annually to be paid in 26 installments over the next year.

Employees opting out shall retain the right to re-enter the County Health Benefit Plan on a monthly basis. Upon re-entering the plan, payments for opting out shall cease.

d) New Employee Health Benefit Contribution

Effective January 1, 2002, new employees shall receive PHS or Blue Choice coverage only. In addition, new employees shall contribute \$15 per month for single coverage and \$25 per month for family coverage. The contribution shall be increased by the proportionate annual increase in the plan cost. Employees may opt for a different plan at their own expense (difference between PHS and Blue Choice and chosen plan). In the event these plans are changed during the term of this agreement, new employees shall receive the least expensive of the then available plans.

Schedule D - Retiree Health Benefits Subsidy will be amended as follows:

Single, under 65	\$189.67
Single, over 65	\$138.39
H/W, under 65 PC Retiree Family, under 65	\$540.58
H/W, over 65	\$276.77
H/W Retiree, over 65 H/W Spouse, over 65	\$276.77
Family, over 65	\$442.88
Family Retiree, over 65 Family Spouse, over 65	\$477.85
PC Retiree, over 65	\$338.69


8. **Article XXII - Salaries** [for salary guide refer back to page 50]

Effective 1/1/01	-	1.5% on all steps
Effective 7/01/01	-	1.5% on all steps
Effective 1/1/02	-	3.5% in guide (steps 1 through 8) 4.0% (steps 9 and 10)
Effective 1/1/03	-	3.5% in guide (steps 1 through 8) 4.0% (steps 9 and 10)
Effective 1/1/04	-	3.5% in guide (steps 1 through 8) 4.0% (steps 9 and 10)

Effective and retroactive to January 1, 2002, I award an elimination of First Class step in this salary guide as well as the "salary points"

system and provide in its place, a Step 10. Movement to Step 10 shall be on the same earned basis as movement from Step 8 to Step 9 and need not require ten years of service. The compensation level for Step 10 shall be without the need to accumulate the longevity points previously required.


Dated: January 20, 2003
Sea Girt, New Jersey



James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 20th day of January, 2003, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



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