

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration Between:

NEW JERSEY TRANSIT

-and-

Docket No. IA-2017-004

PATROLMEN'S BENEVOLENT ASSOCIATION LOCAL 304

Before: Susan W. Osborn, Interest Arbitrator

Appearances:

For the Employer:

McElroy, Deutsch, Mulvaney & Carpenter, Attorneys
(By: John Peirano, of counsel)

For the PBA:

John McAusland, Attorney

Witnesses:

Ptl. Joseph Ragazzo, PBA Local 304 Vice President
Ptl. Gerald D'Alessio, PBA Local 304 Representative
Ptl. Daniel Whartenby, PBA Local 304 Representative
Ptl. Charles Phillips, PBA Local 304 President
Joseph Petrucelli, PBA Financial Expert

Deputy Chief Kevin Amberg, NJ Transit Police Department
Jaibala Patel, NJ Transit Deputy Chief Financial Officer

INTEREST ARBITRATION AWARD

BACKGROUND

On January 13, 2017, Patrolmen's Benevolent Association Local 304 ("PBA") filed a Petition with the Public Employment Relations Commission to initiate interest arbitration over its successor collective negotiations agreement with New Jersey Transit. The previous agreement expired on June 30, 2010.

On January 19, 2017, I was appointed to serve as interest arbitrator by a random selection procedure pursuant to N.J.S.A. 34:13A-16(e)(1). This statutory provision requires that an award be issued within 90 days of my appointment. By letter of January 25, I scheduled a mediation session for March 2, 2017, and directed each party to submit a final offer no later than February 17 in accordance with N.J.S.A. 34:13A-16(f)(1). On February 17, both parties submitted their respective Final Offers.

NJT submitted a list of unit employees for the 12-month period prior to June 30, 2010, together with their dates of hire, and their total base pay paid for that period. On February 22 and again on March 2 , NJ Transit submitted revised lists. However, the PBA disputed the accuracy of the list and the parties were directed to work together to resolve the discrepancies. By March 20, the parties had agreed upon a list of employees, together with base year costs to be used in the proceeding and upon which calculations would be based going forward. The parameters of the list and calculation methodology will be discussed below.

A mediation session was conducted on March 2 at which time the parties were able to significantly reduce the number of outstanding issues in dispute. However, an impasse persisted with regard to the four major issues in dispute.

On March 6, 20 and 29, 2017, I conducted an interest arbitration hearing at New Jersey Transit's Headquarters. NJT and the PBA each submitted extensive documentary evidence and testimony and stipulated to certain facts. The hearing record was held open until March 31 for the submission of two supplemental exhibits on medical premium costs and salary rates for the CWA unit. Post-hearing briefs were filed by both parties by April 7, 2017.

FINAL OFFERS OF THE PARTIES

N.J.A.C. 19:16-5.7(g) provides in relevant part as follows:

At least two days before the hearing, the parties shall submit to the arbitrator and to each other their final offers on each economic and non-economic issue in dispute. . . The arbitrator may accept a revision of such offer at any time before the arbitrator takes testimony or evidence or, if the parties agree to permit revisions and the arbitrator approves such an agreement, before the close of the hearing.

Both parties submitted a Final Offer on February 17. The PBA's Final Offer (P-1) consisted of proposals regarding twelve articles of the contract. The Employer's Final Offer (R-1) consisted of a more expansive set of proposals involving nine

articles of the contract. With regard to the wage proposal, the Employer's initial Final Offer proposed as follows¹:

Effective July 1, 2010, the base annual rate for Patrolmen shall remain \$82,722.87, and will continue at that rate for the duration of the Agreement. The base annual rate for Detectives shall remain at \$86,859.01, and will continue at that rate for the duration of the Agreement.

Section 2.

Except as provided below, the following wage progression shall apply. For Fiscal Year 17 (July 1, 2016 through June 30, 2017), no employee shall accrue months of service for purposes of the foregoing wage progression only. There shall be no step movement for any employee during that period.

On March 5, the Employer submitted an amendment to its Final Offer (R-2) which amended its wage proposal to provide a 1% across-the-board increase in base pay effective July 1, 2013, 2014, 2015 and 2016. At the opening of the hearing and prior to the taking of testimony, both parties further amended their Final Offers to delete all proposals except those involving the issues of wages, injury leave, health benefit contributions, the eye care plan, and free ridership. The Employer also amended its Final Offer as to wages by proposing a zero increase for FY 11, 12, 13 and 14; and a 1% raise for FY 15, 16, 17, and 18. Therefore, the Final Offers subject to this Interest Arbitration are as follows:

PBA'S FINAL OFFER

¹ Text with strikethroughs indicate proposed language the Employer proposes to delete; underlined text indicates proposed new language.

1. Term of Agreement: July 1, 2010 through June 30, 2018

2. Wages

a. Wage Increases to 100% Rate

i.	July 1, 2010	1.9%	\$84,294.60
ii.	July 1, 2011	1.9%	\$85,896.20
iii.	July 1, 2012	1.9%	\$87,528.23
iv.	July 1, 2013	1.9%	\$89,191.27
v.	July 1, 2014	1.9%	\$90,885.90
vi.	July 1, 2015	1.9%	\$92,612.73
vii.	July 1, 2016	1.9%	\$94,372.37
viii.	July 1, 2017	1.9%	\$96,165.45

b. Percentages for service time wage progression shall remain as set forth in Article IX, Section 2.

c. Retroactivity: Each active and retired member shall receive a retroactive adjustment for each payroll period back to each effective date in paragraph 2(a). Resigned or terminated members shall receive no retroactive payments.

3. Insurance Benefits: Members opting for health insurance coverage shall continue to pay \$40.00 per month towards the cost of medical benefits. Effective July 1, 2017, that amount shall be increased to \$169.00 per month.

4. Sick Leave: Article XIX shall remain unmodified except that for injuries occurring on or after July 1, 2017, Article XIX, Section 7's period of full salary coverage shall be reduced to one calendar year from the present one and a half years. Additionally, the final sentence of Section 7 shall be modified to read:

"The Employer shall have the right to require periodic medical examinations of employees on leave due to job-related injuries during any period when the Employer continues to pay the employee's full salary, at the expense of the Employer."

7. Article XXXII- Ridership Passes shall remain status quo.

NEW JERSEY TRANSIT'S FINAL OFFER

CONTRACT DURATION: July 1, 2010 through June 30, 2018.

ARTICLE IX - WAGES

Section 1.

~~Effective July 1, 2006, the base annual rate for Patrolmen shall be \$70,403.71. The annual rate of pay for Detectives shall be \$73,923.89, (5% higher than Patrolmen).~~

~~Effective July 1, 2007, the base annual rate for Patrolmen shall be \$73,043.84. The base annual rate of pay for Detectives shall be \$76,696.03, (5% higher than Patrolmen).~~

~~Effective July 1, 2008, the base annual rate for Patrolmen shall be \$75,965.59. The base annual rate of pay for Detectives shall be \$79,763.86, (5% higher than Patrolmen).~~

~~Effective January 1, 2009, the base annual rate, including the roll-in of holidays, for Patrolmen shall be \$79,617.78. The base annual rate of pay for Detectives shall be \$83,598.66, (5% higher than Patrolmen).~~

~~Effective July 1, 2009, the base annual rate for Patrolmen shall be \$82,722.87. The base annual rate of pay for Detectives shall be \$86,859.01, (5% higher than Patrolmen).~~

Effective July 1, 2014, the base annual rate for patrolmen and detectives shall be increased by one percent (1%) across-the-board.

Effective July 1, 2015, the base annual rate for patrolmen and detectives shall be increased by one percent (1%) across-the -board.

Effective July 1, 2016, the base annual rate for patrolmen and detectives shall be increased by one percent (1%) across-the -board.

Effective July 1, 2017, the base annual rate for patrolmen and detectives shall be increased by one percent (1%) across-the -board.

ARTICLE XIX - SICK LEAVE

Section 7.

~~If the employee sustains any job-related injury which is recognized as such and covered by Worker's Compensation insurance, NJ TRANSIT shall insure payment of full salary for a period of up to one and one half (1 ½) years, or until such employee is placed on disability or retirement, whichever first occurs. Any such payments made by NJ TRANSIT shall be reduced by all benefits received or which could have been received if proper applications were made in connection with such job-related injury. Employees understand and agree that they may be required to make reimbursement to NJ TRANSIT and/or its insurance carrier in the event of a third-party action recovery of such lost wages and that any such reimbursement will be in addition to the obligation to pay over to NJ TRANSIT all such benefits. There shall be no charge to any employee's sick leave in the event of any bona fide job related injury. The Employer shall have~~

~~the right to require periodic medical examinations of employees on leave due to job related injuries, at the expense of the employer.~~

ARTICLE XXXII - INSURANCE BENEFITS

1.8 The above plan will be available to employees and their eligible dependents in accordance with the provisions of Section 1(b) below at no cost. Any other HMO Plans offered will require that the employee pay, in addition to the contributions set forth in Section 1(b) below, any premium in excess of the Blue Select Premium.

1.9 Effective January 1, 2009, all unit employees shall contribute \$40.00 per month toward the costs of health insurance premiums.

Section 1.b Contributions Towards Health and Prescription Benefits

<u>An employee who selects individual coverage and earns between:</u>	<u>Shall pay an amount equal to the percentage cost of coverage provided by NJ Transit</u>
<u>\$50,000 and \$54,999</u>	<u>20%</u>
<u>\$55,000 and \$59,999</u>	<u>23%</u>
<u>\$60,000 and \$64,999</u>	<u>27%</u>
<u>\$65,000 and \$69,999</u>	<u>29%</u>
<u>\$70,000 and \$74,999</u>	<u>32%</u>
<u>\$75,000 and \$79,999</u>	<u>33%</u>
<u>\$80,000 and \$94,999</u>	<u>34%</u>

<u>\$95,000 and above</u>	<u>35%</u>
<u>An employee who selects family coverage and earns between:</u>	<u>Shall pay an amount equal to the percentage cost of coverage provided by NJ Transit</u>
<u>\$50,000 and \$54,999</u>	<u>12%</u>
<u>\$55,000 and \$59,999</u>	<u>14%</u>
<u>\$60,000 and \$64,999</u>	<u>17%</u>
<u>\$65,000 and \$69,999</u>	<u>19%</u>
<u>\$70,000 and \$74,999</u>	<u>22%</u>
<u>\$75,000 and \$79,999</u>	<u>23%</u>
<u>\$80,000 and \$84,999</u>	<u>24%</u>
<u>\$85,000 – 89,999</u>	<u>26%</u>
<u>\$90,000 – 94,999</u>	<u>28%</u>
<u>\$95,000 – 100,000</u>	<u>29%</u>
<u>\$100,000 and 109,999</u>	<u>32%</u>
<u>110,000 and above</u>	<u>35%</u>
<u>An employee who selects spouse or child coverage with one dependent and earns between:</u>	<u>Shall pay an amount equal to the percentage cost of coverage provided by NJ Transit</u> <u>Such coverage to NJ Transit:</u>
<u>\$50,000 and \$54,999</u>	<u>15%</u>
<u>\$55,000 and \$59,999</u>	<u>17%</u>
<u>\$60,000 and \$64,999</u>	<u>21%</u>
<u>\$65,000 and \$69,999</u>	<u>23%</u>

<u>\$70,000 and \$74,999</u>	<u>26%</u>
<u>\$75,000 and \$79,999</u>	<u>27%</u>
<u>\$80,000 and \$84,999</u>	<u>28%</u>
<u>\$85,000 and \$99,999</u>	<u>30%</u>
<u>\$100,000 and above</u>	<u>35%</u>

1. Effective upon ratification or imposition of this Agreement, or as soon thereafter as NJ Transit completes the necessary administrative actions for collection, employees shall contribute, through the withholding of the contribution from the pay, salary, or other compensation, toward the cost of health care benefits provided in Section 1(a) above for the employee and any dependent as follows:

2. The amount payable by any employee as set forth above shall not under any circumstance be less than the 1.5 percent of base salary.

3. The parties agree that should an employee voluntarily waive all coverage provided for in Section 1(a) above, and provide a certification to NJ Transit that he/she has other health insurance coverage, NJ Transit will waive the contribution for that employee.

4. An employee on leave without pay who receives health and prescription benefits provided by NJ Transit shall be required to pay the above-outlined contributions, and shall be billed by NJ Transit for these contributions. Health and prescription benefit coverage will cease if the employee fails to make timely payment of these contributions.

Section 2.

Category

After full time students 23rd-26th birthday

ARTICLE XXXIII - RIDERSHIP PASSES

— NJ TRANSIT shall provide each full-time police officer a pass entitling him/her ~~only to ride on commuter lines in the NJ TRANSIT system.~~ The pass shall be issued annually and shall be valid only during the year in which it was issued. The pass will not be transferrable.

All amendments to the parties' final offers were accepted on the record.

* * *

STIPULATIONS OF THE PARTIES

At hearing, the parties entered into the following stipulations:

1. The term of the successor contract shall be from July 1, 2010 through June 30, 2018 -- an eight-year contract.
2. Unit members receive step increases as per the contract on their anniversary dates of service.
3. All eligible unit employees were paid their step increases each year when due since the contract expired 6/30/10.
4. The parties agree that any retroactive payments awarded to unit employees will apply to patrolmen who were promoted to the superior officers' unit since 6/30/2010, pro-rated for the period of time since that date that they served as a patrolman. The parties further agree that employees who resigned or were involuntarily separated from service since 6/30/2010 are ineligible for any retroactive payments. The parties do not agree that retroactive payments of any increases should be awarded to those members who have retired from the unit since 6/30/2010.

5. The parties agree that historically, unit employees who retired from the NJ Transit police department since the expiration of the last contract were eligible to be paid any retroactive increases agreed upon or awarded.
6. New Jersey Transit police officers are enrolled in the NJ Police and Fire Pension System and are eligible for retirement benefits under that plan. However, NJT police are not eligible for health care benefits upon retirement.
7. Holiday pay as a separate benefit was eliminated in 2009 and the then dollar value of the holiday pay was rolled into employees' base pay.

BACKGROUND FACTS

Organization of NJT

New Jersey Transit Corporation is a State corporate instrumentality and political subdivision of the State of New Jersey, under the supervision of the New Jersey Department of Transportation. The Commissioner of Transportation is the Chairman of the eight-member NJT corporate board. The NJT Corporation was created by the enactment of N.J.S.A. 27:25-4 in 1979.

New Jersey Transit's corporate mission is to provide safe, reliable, convenient and cost-effective transit service to the residents of the State of New Jersey. NJT is a public corporation operated on behalf of the residents of the State of New Jersey and not for profit. It is not a state agency and has independent and separate authority under law to act in its corporate capacity.

Jaibala Patel, NJT's Deputy Chief Financial Officer (CFO), testified that NJT is the third largest transportation provider of bus, rail and light rail services in the country. NJT's system covers a service area of 5,325 square miles, through 12 rail lines and 236 bus routes statewide and in neighboring states. It operates a transportation fleet of 2,027 buses, 711 trains and 45 light rail vehicles; and, provides nearly 223 million passenger trips each year. The Corporation also administers several publicly funded transit programs for passengers with disabilities, senior citizens and passengers living in the State's rural areas who have no other means of transportation.

New Jersey Transit operates trains and buses throughout the northeast corridor. It also operates and maintains the train stations and bus terminals in New Jersey. Patel noted that the NJT employs an estimated 11,000 people between its rail operations, bus operations, para-transit operations, non-operational police units and police.² Of that total, 300 of its employees work in the NJT Police Department; and, 173 of the employees are members of the PBA Local 304 bargaining unit. (3T-106-107)

Structure of NJT's Police Department

² Patel explained that the para-transit operations are governed by an eight-member board of directors; those directors delegate the day-to-day operations of the unit to the NJT Executive Director, Steve Santoro.

The New Jersey Transit Police Department is established by State law and must be staffed by sworn law enforcement personnel meeting statutory requirements to be certified as police officers. This Department has statewide jurisdiction.

As of March, 2016, the New Jersey Transit Police Department consisted of 264 highly trained sworn officers -- 173 patrolmen, 14 detectives (of which 1 is assigned to the Joint Terrorism Task Force (JTTF) with the FBI, 52 sergeants, 23 lieutenants, 2 captains, the Deputy Chief and the Chief (U-119). The police department also employs civilian dispatchers and fare enforcement officers which are represented in a separate bargaining unit by the CWA.

Patrolman Joseph Ragazzo has been employed by the NJT Police Department for 13 and one-half years. He testified that the Transit Police provide police support in seven Districts, along with its Central Communications Center (CCC). Ragazzo stated that District 2 is the Newark Penn Station where all of the department's road patrols are assigned; District 3 is the Hoboken Terminal which covers Jersey City, Bayonne and outwards toward Union City; District 4 is the Secaucus Junction, a light rail system covering the major terminal and the Bergen County Raritan Valley line; Districts 5, 6 and 7 (respectively Trenton, Camden Bus Terminal and Atlantic City Bus Terminal), are grouped together since they share a

light rail system in which they divide its support at the Burlington site. (1T-57; U-112)

Ragazzo testified that all officers are certified by the State Training Commission after approximately six months of academy training. Officers also receive training on use of the RAD -- a device worn by all NJT police to detect radioactive materials. He stated that officers also receive training on BASS -- Behavioral Assessment -- giving the officers the ability to assess a person's actions and behavior and be alerted to any suspicious activity. In addition, the officers receive "Active Shooter" training designed to educate the officers on how to respond to an active shooter situation. Ragazzo added that its officers are also trained in the use of NARCAN -- an opioid antidote administered to a person through the nose passages, and CPR.

Ragazzo stated that NJT's Patrolmen work a regular ten-hour shift which is non-rotating. In addition to the Patrol Division, there are specialty units including a SWAT team, a K-9 unit, Anti-Crime Unit, Emergency Services Unit (ESU), and a Condition Tactical Unit (CTU).

Ragazzo testified that the NJT police consider the main component of their jobs to be counter-terrorism measures. He explained that the majority of the patrols are focused on the Transit's major hubs. Ragazzo noted that there are 47 officers assigned to and out of Penn Station. He explained that on the day tour of

6:00 a.m. to 4:00 p.m., four officers are assigned inside the main terminal and four are assigned to the road patrol to "ride the lines"; those lines being the Northeast Corridor line³, the Raritan Valley line, the North Jersey Coast line and the Essex line.

Ragazzo testified that officers out of the Penn Station also patrol the Newark City Subway and the Irvington Bus Terminal. He explained that up on the train platforms at Penn Station, NJT officers work hand-in-hand with Port Authority Police Department's officers who are responsible for the PATH train platform, just opposite the Transit line from New York. Ragazzo stated that patrol officers work four days on, three days off – ten hour shifts (1T-60).

Ragazzo stated that District 3 is a patrol assigned to the Hoboken Terminal, which interconnects the trains, light rail and the PATH lines. He explained that Newport Station in Jersey City is also a part of District 3 and has a patrol assigned to it because a mall located there creates much activity. He noted that 95% of the Department's manpower is allocated towards the light rail system (1T-68).

Detective Responsibilities

Detective Gerald D'Alessio has been a detective with the New Jersey Transit Police Department for ten of the last 13 and 1/2 years' employment with the NJT.

³ The Northeast Corridor (NEC) is the Transit's most utilized rail line and its fare box covers a significant portion of the Transit's operating expenses (U-P)

D'Alessio testified that he was stationed out of the Trenton Command and assigned to the South Region which encompasses Trenton, Camden and Atlantic City. He explained that as a detective, he is responsible for the handling of all major incidents and crimes including fatalities, homicides, suicides, accidental deaths, unattended deaths or overdoses. D'Alessio noted that he is also responsible for the handling of shootings, burglaries, robberies, fraudulent activities and confidential investigations. He stated that he works the normal patrol schedule of four days on, Sunday through Wednesday, 6:00 a.m. to 4:00 p.m.

D'Alessio testified that the NJT Detective Bureau currently has 14 detectives assigned between the north and south areas. D'Alessio is assigned to the Trenton Command and two detectives are assigned to the Camden Command; the remaining 10 detectives are assigned to Newark with one detective assigned to the Joint Terror Task Force (JTTF) with the FBI (2T-10). He explained that the detectives are not compensated for being on call; however, detectives are compensated with overtime or compensatory time if they are called out. He testified that the Transit Police Department designates which detectives will be on call. D'Alessio noted that the lieutenants make the schedule for the detectives in the north. According to D'Alessio, the detectives in the south work out the schedule amongst the three of them.

D'Alessio testified that the NJT police officers staff the NJT River Line; a light rail system that travels from Trenton down to Camden, New Jersey. He explained that the Trenton Command patrols the Trenton area; in addition, they are responsible for monitoring three stations, as well as conducting patrols from Trenton down to the Burlington Town Center, which is the geographical end point for its patrols. Moreover, D'Alessio testified that the Camden Command patrols the south line from the WRTC, the Camden Aquarium Station and the city's entertainment center. He noted that the detectives travel south from Pennsauken to Burlington to patrol those main stations.

D'Alessio testified that he also interacts with other municipal and state police departments in the performance of his position. He stated that the NJT's Anti-Crime Unit interacts with the Trenton Police Department as well as the State Police with crime suppression in the area, either targeting guns or drugs.

D'Alessio testified that the Transit detectives receive a detective stipend of approximately \$4500.00 a year, or a 5% increase over base salary. Moreover, he explained that he was not required to take any course to qualify to become a detective. He testified that the Chief of Police makes the final determination in the selection of a detective.

Emergency Services Unit (ESU)

Officer Danial Whartnaby has been a Police Officer with the NJT Police Department for 12 years. Whartnaby testified that he is presently assigned to Hoboken, District 3. Prior to his current assignment, Whartnaby was assigned to the Emergency Services Unit (ESU) (formerly known as the "Justice Team") for approximately 10 years. He testified that the unit transitioned their focus from a high-enforcement impact team to a counterterrorism ESU. Whartnaby stated that the ESU provides a visual presence to the commuters coming on and off the trains in its efforts to deter terrorism. Whartnaby explained that the ESU responds to everything to include train and light rail fatalities.

Whartnaby stated that the ESU's north area consists of ten officers who are supervised by two superiors and a lieutenant; whereas the south unit consists of a Condition Tactical Unit (CTU) staffed with three officers and a sergeant. Whartnaby noted that at one time the CTU was funded by federal grant monies; however, he was not sure if it that funding was still available.

Whartnaby noted that NJT's ESU interacts with other police departments that deploy ESUs. Some of these departments include the Newark ESU, the Jersey City ESU and the Port Authority ESU. According to Whartnaby, the NJT's ESU also trains with municipal entities such as the Kearny Fire Department and the Middlesex Hazmat Team.

Whartnaby testified that he had attended many training courses as a member of the ESU. His instruction included firefighting training, hazmat training, vehicle extrication, advanced rail rescue operations, structural collapse training, mass destruction and training in advanced SWAT operations. In addition, Whartnaby testified that he also participated in domestic preparedness and heavy weapons training, along with biological and radiological training. He explained that the majority of his training lasted 40 hours for each course; however, he noted that there was a five-week firefighter course he attended.

In addition to patrol, Ragazzo testified that there are specialist units such as K-9, the Detective Bureau, the Anti-Crime Unit (aka plainclothes), along with administrative functions, radio dispatch and intelligence responsibilities (1T-62). Ragazzo added that the K-9 Unit are bomb-sniffing dogs used as part of its counter-terrorism mission. Whartnaby testified that K9 police officers have similar day-to-day operations as the ESU and usually at the same locations. He explained that they respond to the major rail hubs such as Newark, Penn Station, Hoboken Terminal and Secaucus Junction. Whartnaby noted that its 13 to 15 K9 officers are trained in explosives detection and also work with schools if they are exposed to possible bomb threats and things of that nature.

According to Whartnaby, the K9 training school is around four to five months in length. He stated that as far as he knew, K9 officers are paid from

the time they leave their residence in the morning, whereas regular patrol officers are not.

Overtime

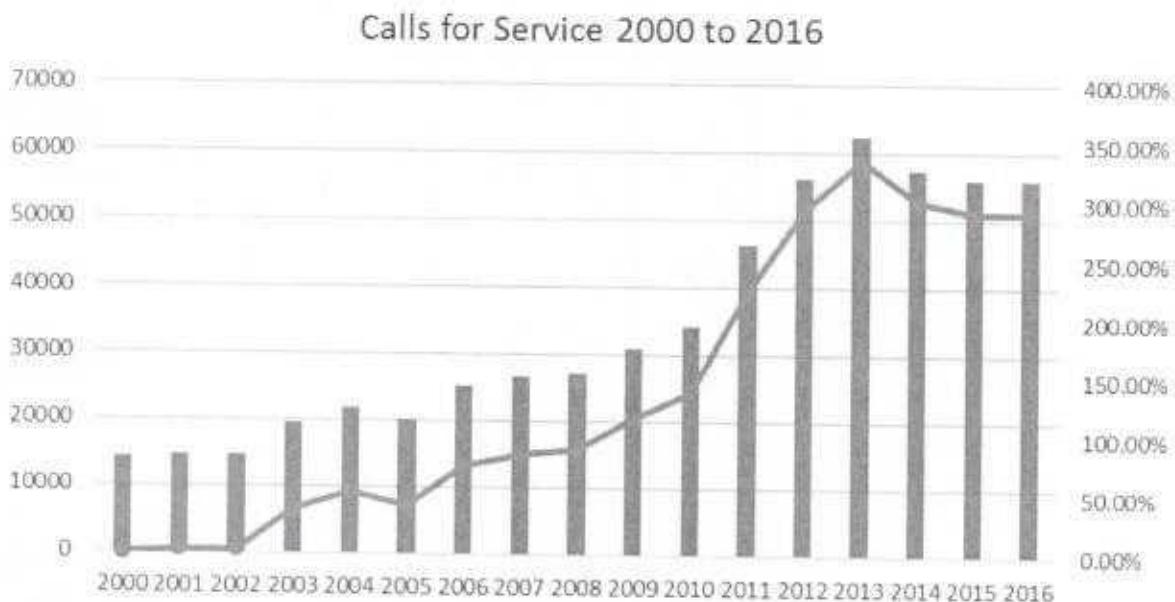
Overtime is apparently frequent among the Department's patrolmen. Ragazzo testified that last year he earned \$30,000 in overtime compensation, along with some compensatory time earned. D'Alessio noted that he made around \$17,000 in overtime last year while performing patrols in Trenton. Whartnaby testified that he made between \$65,000 - \$80,000 last year in overtime. He explained that he had no role in determining whether or not he was going to get an overtime assignment. According to Patel, the total overtime expenditures for 2016 was \$4,218,288.

Calls for Service

The following charts illustrates a continuous rise in department service calls from 2005 through 2013; calls had slightly decreased in 2014 and have remained fairly consistent from 2014 through 2016: (U-66)

NJT PD	
Year	Calls for Svc
2000	14,308
2001	14,663
2002	14,712
2003	19,616
2004	21,941

2005	20,037
2006	25,111
2007	26,497
2008	27,179
2009	30,977
2010	34,213
2011	46,506
2012	56,379
2013	62,494
2014	57,584
2015	56,056
2016	56,094



Uniform Crime Statistics

Ragazzo testified that the majority of the patrols are focused on the major hubs. He stated that arrests are frequent at the Penn Station hub and attributed

to a significant homeless population, emotionally disturbed persons, and drug and alcohol users. Moreover, Ragazzo noted that there sometimes are gang-related issues and robberies because many of the high school students ride the Newark City Subway which goes from Penn Station to the Belleville/Bloomfield border.

Ragazzo testified that a week earlier than the hearing in this matter, he was alerted by a passenger that a gun was being passed between kids at the Norfolk Street Station. As a result, Ragazzo investigated the surveillance tape and together with the Newark Police, an arrest was made. He noted that most street criminals use the subway system or trains to make a getaway. Moreover, because the NJT and the PATH lines share common ticketing machines, the use of stolen credit cards is a common problem impacting both entities.

Ragazzo testified that the Irvington Bus Terminal is a magnet for gang members, vagrants and drug users. He stated that Transit officers on road patrol are very reliant on the municipal police departments up and down the line as the NJT police are single-man patrols and occasionally require backup. According to Ragazzo, the Newport Station, part of District 3, also has a patrol because it is a heavily-used line and is near the mall, a gathering place, especially for teens. He noted that there is frequent interaction with the Hoboken City and Jersey City Police as street crime occurs. In addition, mutual assistance is provided to and by Weehawken and Union City.

Ragazzo explained that interaction with the New Jersey State Police is required because NJT's rail line runs from Secaucus to MetLife Stadium, a frequently-visited arena. Ragazzo stated that every time there is a football game, NJT police provide extra patrols for that line, usually on overtime. During the SuperBowl, NJT police worked in conjunction with the State Police to screen passengers.

Union Exhibit U-127 provides the following Command-wide Uniform Crime Statistics for the Transit Police Department for years 2015 through 2016:

NJT Police Crime Statistics						
Incidents	2015	CLA	CLR	2016	CLA	CLR
Part 1						
Aggravated Assault	7	4	57%	13	12	92%
Burglary	2	0	0%	0	0	0%
Robbery	14	8	57%	7	4	57%
Theft	67	22	33%	75	42	56%
Vehicle Theft	0	0	0%	0	0	0%
Arson	0	0	0%	0	0	0%
Total	90	34	38%	95	58	61%
Part 2						
Assault	25	13	52%	0	0	0%
CDS	80	71	89%	78	74	95%
Criminal Mischief	26	7	27%	0	0	0%
Disorderly Conduct	794	433	55%	685	425	62%
Forgery/Counterfeiting	1	1	100%	0	0	0%
Fraud	2	0	0%	0	0	0%
Graffiti	27	3	11%	0	0	0%
Other	24	18	75%	0	0	0%
Sex Offenses	10	3	30%	5	0	0%

Thefts of Service	359	348	97%	480	453	94%
Trespass	218	98	45%	0	0	0%
Total	1566	995	64%	1248	952	76%
CLA = Number of Incidents Cleared by Arrest						
CLR = Percentage of Incidents that were Cleared by Arrest						

NJT Police Department's Use of Force

The NJT Police Department recorded 193 applications of physical and/or mechanical force for the calendar year 2016. Of the 193 applications, 110 force applications were cases that involved multiple officers employing force in order to gain control of a single suspect. The remaining 83 applications involved a police officer utilizing force without the assistance of additional officers. (U-130)

The department recorded no applications of deadly force for the calendar year 2016. Additionally, the department did not experience any situation in which death or serious bodily injury occurred as a result of the use of force application, nor did any NJT police officer discharge his or her firearm in performance of their duties in a use of force application. (U-130)

* * *

STATUTORY CRITERIA

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 (9) that I find relevant to the resolution of these negotiations. 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.
- (9) Statutory restrictions imposed on 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 section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

In arriving at the terms of this award, I conclude that most of the statutory factors are relevant, but not all are entitled to equal weight. The statutory factor number five need not be considered in this matter because the parties have stipulated that neither party's proposal would cause the Employer to exceed its lawful authority. Additionally, New Jersey Transit is not covered by Chapter 68 capping municipal appropriations. Additionally, criteria number nine need not be considered as the Employer has stipulated that there are no statutory restrictions imposed on New Jersey Transit that are relevant to this proceeding. Further, New Jersey Transit is not subject to tax levy caps under Chapter 62, P.L. 2007.

I note that N.J.S.A. 34:13A-16g (8) also requires consideration of those factors "ordinarily or traditionally considered" in the determination of wages, benefits, and employment conditions. One such consideration is that the party proposing a change in an employment condition bears the burden of justifying the proposed change. Another consideration is that any decision to award or deny any individual issue in dispute, especially those having economic impact, will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. I am also required to determine the total net economic cost of the terms required by the Award.

It is widely acknowledged that in most interest arbitration proceedings, no single factor can be determinative when fashioning the terms of an award. In this matter, the interests and welfare of the public must be given the most weight. It is a criterion that embraces many other factors and recognizes the interrelationships among all of the statutory criteria.

Among the other factors that interrelate and require the greatest scrutiny in this proceeding are the financial impact of the award on the Employer's budget; the stipulations of the parties; and the comparison of wages, other compensation and benefits of the New Jersey Transit's police officers to other New Jersey Transit employees (internal comparables); municipal police and other transit agencies, and, to a lesser extent, New Jersey State law enforcement officers (external comparables). Another important factor here is the consideration of continuity of employment. This factor encompasses the rate of employee turnover which tends to disrupt the Department's retention of highly qualified, skilled police officers and impacts on their ability to work cooperatively to accomplish the Employer's mission.

DISCUSSION - ISSUES IN DISPUTE

Contract Duration

Both parties have proposed an eight-year contract covering the period July 1, 2010 through June 30, 2018. This contract term is awarded.

Wages

The PBA seeks a 1.9% across-the-board wage increase for each year of the contract effective July 1, 2010 through June 30, 2018. The Employer offers a wage freeze for the first four years of the contract followed by 1.0% annual across-the-board wage increases effective July 1, 2014, July 1, 2015, July 1, 2016 and July 1, 2017. The Union proposes that any retroactive payments be made to active employees as well as to those that have retired or were promoted out of the unit since July 1, 2010. The Employer agrees to make retroactive payments to those that were promoted out of the unit but not to those who have retired. Both parties agree that no retroactive payment will be made to any employee who resigned or was involuntarily terminated since July 1, 2010.

PBA's Arguments

In its brief the PBA argues as follows:

The PBA asserts that the increases it seeks represents an approximate average of the across-the-board increases awarded to NJ Transit's other negotiations units: FOP, ATU and UTU, during the period. In contrast, PBA argues Transit's offer of zero percent increases in 2010, 2011, 2012 and 2013 is less than those units' increases yet it offered no explanation for this discrepancy. Moreover, PBA argues the 1% increases offered by NJT in 2014, 2015, 2016 and 2017 lag every other internal contract in evidence for the years in question.

Further, it contends the Company's proposal will exacerbate the competitive issues causing high turnover among NJT's police officers, citing the salaries of external and comparable police agencies. In 2009, for example, NJT ranked 20th of 29 comparable police departments and the PBA contends NJT's proposal of zero percent increases will lower NJT's police to 26th of 29 departments in base salary. It will be \$12,000 behind the average base of the 28 contracts available in that period. Transit will not keep pace with the Port Authority, even if the Port Authority police receive zero increases for those years. Beginning in 2014, the base salary is increased by 1% annually under the Transit proposal. Of the 27 contracts available in 2014, Transit's police would rank 25th. Transit will eventually be ahead of only one municipal police department - East Orange - in maximum base salary.

PBA contends in both maximum base salary and longevity, Transit was 25th of 29 comparable departments, and after zero increases in 2010, 2011, 2012 and 2013, it will be last in 2017, or \$18,000 behind the average of the other contracts placed in evidence. Under NJT's proposal, the unit's longevity discrepancy will worsen: from \$9,062 in 2009 to \$24,264 in 2017. The PBA's proposal, on the other hand, maintains the differential. The PBA asserts its proposal will at least maintain its ranking in that it will rank 14th of 18 contracts for 2017 or \$8,000 below the average maximum base salary and longevity. The Union contends its offer is, therefore, demonstrably better crafted to maintain or improve its

position relative to comparable police agencies. This, in turn, will encourage retention and foster the public interest in a qualified, stable workforce familiar with NJT's unique environment and protocols.

The PBA also contends adopting its offer will have a relatively small impact on the overall operations of the agency. Under the PERC formula, the total differential between the two proposals is about \$1.8 million. As a total cost, including the new hires since the expiration of the contract, PBA argues the overall differential is about \$8.99 million over the 7 years of the contract. This amount represents less than a half percent of Transit's \$2.1 billion operating budget or about .03 cents per each of the 276 million passengers in 2015. Even using NJT's higher calculation, inclusive of overtime, fringe costs, increases in leave time and FICA, the \$12.9 million differential is about 4.5 cents per passenger, based on 2015 passenger figures.

The PBA argues NJ Transit absorbed significantly higher costs in the raises it gave both rail and bus units covering 9,000 employees. It argues Transit must not now be permitted to refuse to give 173 police officers salary increases based on selective arbitrary budget numbers that show an alleged deficit. PBA argues that according to NJT's logic, its own proposal will cause a deficit. Nevertheless, Transit's own witness stated NJ Transit's proposal would be affordable. The

Association argues the evidence clearly supports its wage package as the more reasonable and affordable one.

Employer's Argument

NJT argues its final wage offer should be adopted and the PBA's should be rejected, contending NJT's offer is fair to the PBA's members and comparable to other government employees' wages and benefits, especially police. It asserts its offer is also affordable for NJT, and fair to taxpayers and customers of NJT. NJT contends it has demonstrated that unit members were and will continue to be fairly compensated in comparison to a wide variety of public and private sector employees. NJT asserts its wage proposal is consistent with wage increases negotiated and awarded throughout the State. Moreover, it argues its wage proposal is equivalent to the wages awarded in a 2016 interest arbitration proceeding involving NJT's unit of sergeants and lieutenants. NJ Transit argues the PBA's wage proposal is out of line with comparable jurisdictions' wages, and only comparable with a small handful of selectively-chosen municipal police who experienced atypically high wage growth in the relevant years. It argues that comparing these municipalities with it is inappropriate, contravenes PERC rules, and is contrary to past comparisons with corresponding State police units.

NJT argues in favor of using the 2% interest arbitration cap principles which it asserts support the adoption of NJT's wage proposal. NJT argues PERC's

analytical methodology for determining compliance with the statutory cap is useful, while acknowledging the 2% cap does not technically apply in this case. It asserts applying the scattergram analysis reveals over the course of an 8-year proposed contract, unit members' step increases amount to about 7.4%. Adding NJT's proposed 4% across-the-board wage increases would make the total award in this case 11.4%. NJT asserts that figure is within the 2% cap. However, it contends the PBA's proposed 15.2% across-the-board wage increases added to the 7.4% step cost will be beyond the 2% cap.

Cap Limitations

N.J.S.A. 34:13A-16.9 provides as follows:

This act shall take effect January 1, 2011; provided however, section 2 of P.L.2010, c.105 (C.34:13A-16.7) [the "cap" provision] shall apply only to collective negotiations between a public employer and the exclusive representative of a public police department or public fire department that relate to negotiated agreements expiring on that effective date or any date thereafter until or on December 31, 2017, whereupon, after December 31, 2017, the provisions of section 2 of P.L.2010, c.105 (C.34:13A-16.7) shall become inoperative for all parties except those whose collective negotiations agreements expired prior to or on December 31, 2017 but for whom a final settlement has not been reached. (emphasis added)

The prior contact between these parties expired June 30, 2010; therefore, the 2% arbitration cap is inapplicable to the dispute in this matter. Further, New Jersey Transit is not subject to the municipal appropriations cap as set forth in Chapter

62 nor the tax levy cap as set forth in Chapter 68.

Calculation Methodologies

By letter of January 25, I instructed the Employer to submit a list of the names, dates of hire and step guide placement as of the last day of the expired contract (June 30, 2010). I then instructed the Union to advise me of any dispute it had with the Employer's list. By the first day of hearing in this matter on March 6, each party had submitted a list of the employees together with their dates of hire, guide step placement as of June 30, 2010 and the dollar value of that step. However, the lists submitted by the parties were not in agreement, even as to the pool of employees to be considered. By the second day of hearing on March 20, the parties represented on the record that they had agreed upon the list provided by the Union. I accept the parties' stipulation as to the names, dates of hire, and step guide placement as of June 30, 2010, as shown on this document. However, I note that the dollar value pinned to each assigned step is actually one step off the true number as shown in the expired contract. For example: Employees at step nine on the salary guide are listed on the spreadsheet as having a dollar value of \$85,204.56 as opposed to the actual dollar value assigned to step nine which is \$86,031.78. The corrected dollar values have been used in my calculations of the cost of this award.

The appropriate methodology for costing out an award is set forth by the

Public Employment Relations Commission in the matter of Borough of New Milford, P.E.R.C. No. 2012-53, 38 NJPER 340 (¶116 2012). In that matter, the Commission stated that the arbitrator must first determine the total cost of base salaries paid in the base year. This may be done by stipulation of the parties or by the arbitrator's own calculations. Next, the arbitrator must calculate the costs of the award. The Commission stated,

...the arbitrator must review the scattergram of the employees' placement on the guide to determine the incremental costs in addition to the across-the-board raises awarded. The arbitrator must then determine the costs of any other economic benefit to the employees that was included in base salary, but at a minimum this calculation must include a determination of the employer's cost of longevity.

PERC continued its discussion of base salary:

The Commission believes that the better model to achieve compliance with P.L. 2010 c. 105 is to utilize the scattergram demonstrating the placement on the guide of all of the employees in the bargaining unit as of the end of the year preceding the initiation of the new contract, and to simply move those employees forward through the newly awarded salary scales and longevity entitlements. Thus, both reductions in costs resulting from retirements or otherwise, as well as any increases in costs stemming from promotions or additional new hires would not affect the costing out of the award required by the new amendments to the Interest Arbitration Reform Act.
(emphasis added)

Thus, while the 2% arbitration cap does not apply in this matter, the requirement imposed on the arbitrator to cost out the award is still present.

Here, the parties agreed that the total of all base salaries paid to unit

members in the 12-month period prior to the expiration of the prior agreement, was \$12,664,757.93. The parties agree that there are 155 patrolmen (including detectives) who were on the active payroll as of June 30, 2010. It is this group of employees that will be moved forward through each year of the awarded contract and increment and across-the-board increase costs will be tracked for each year. No consideration will be given to employees hired after this date or no consideration will be given to patrolmen promoted out of the unit, retired, terminated or resigned since that date.

Cost of Increments

As previously noted, all increments have been paid when due since the expiration of the 2006 – 2010 contract. The cost of these increments, before any across-the-board increases are applied, and including projected increment costs for FY 2018, are as follows:

Cost of Increments		
Fiscal Year	Incr. Paid	%
2011	297,849.49	2.36%
2012	231,624.02	1.81%
2013	162,964.01	1.25%
2014	87,686.26	0.66%
2015	57,906.05	0.44%
2016	37,225.35	0.28%
2017	31,434.74	0.23%
2018	23,834.54	0.18%
Total	930,524.46	7.21%

It must be emphasized that these increment costs, except for fiscal year 18 were already budgeted for and paid out.

Existing Terms and Conditions of Employment

Patrolmen are paid on a salary scale depending upon their length of service as a patrolman, as follows:

NJT Police Officers					
Wage Progression Chart					
Step #	Months of Svc.	Years of Svc.	% of Base Pay	Step Value	Increment Value
0	Training	0	65%	53,769.87	
1	0-12	1	75%	62,042.15	8,272.29
2	13-24	2	85%	70,314.44	8,272.29
3	25-36	3	90%	74,450.58	4,136.14
4	37-48	4	95%	78,586.73	4,136.14
5	49-60	5	100%	82,722.87	4,136.14
6	61-72	6	101%	83,550.10	827.23
7	73-84	7	102%	84,377.33	827.23
8	85-96	8	103%	85,204.56	827.23
9	97-108	9	104%	86,031.78	827.23
10	109-120	10	105%	86,859.01	827.23
2007 - 2010 Contract					

As is apparent from the chart, patrolmen paid at the 100% mark are considered at "top base pay", while the additional steps above 100% might be considered a form of longevity. Patrolmen no longer receive holiday pay as this additional compensation was rolled into base pay in 2009. Patrolmen assigned as detectives receive an extra 5% stipend above their regular base pay.

Patrolmen work fixed, ten-hour shifts with four days on and three days off duty. Tours of duty and posts are bidded annually.

Detectives rotate "on-call duty" among the detectives in each region. Detectives are on call from 9 p.m. to 6 a.m. which restricts their personal lives in that they cannot be too far out the geographic area or drink any alcoholic beverages because they may be called out to duty. Detectives receive no extra compensation for being on call, but if they are called out, they get paid for the time.

Officers receive an annual clothing allowance of \$300.

NJ Transit provides police officers and their dependents with health care under the Blue Select Plan (Horizon PPO) or an HMO plan. Patel noted that the PPO plan is a more expensive plan and that its network is slightly different in comparison than the HMO network. Of the two plans, Patel testified that 139 members are enrolled in the PPO plan versus 27 in the HMO plan. Patel identified 108 of its PBA employees as enrolled in family coverage; 33 employees are enrolled in single coverage; 16 employees are enrolled in the employee/spouse coverage; and nine employees are enrolled in the parent/child coverage.

Also provided are a prescription plan, a dental plan and a vision care plan. Members of this bargaining unit presently contribute \$40 per month for health care coverage.

They are members of the New Jersey Police and Fire Pension Fund through which they receive pensions when eligible. Employees are required to contribute 10% of base salary to the pension fund. Transit police do not have paid health benefits upon retirement. In addition, patrolmen may participate in a Tax Deferred Savings Plan. New Jersey Transit matches the employee's contribution to the plan at the rate of 50% up to a maximum of 3% of the employee's salary.

Officers earn 100 hours of sick leave per year, which may be accumulated from year to year. This equates to 10 days per year on 10-hour shifts. In addition, patrolmen are currently eligible for paid injury leave at 100% of salary if injured on duty, up to a maximum of 18 months.

Officers are afforded vacation leave commensurate with their length of service as follows:

<u>Length of Service</u>	<u>Vacation Allowance</u>
7 months but less than 1 year	40 hours
After completion of 1 year	80 hours
After completion of 5 years	120 hours
After completion of 15 years	160 hours
After completion of 22 years	200 hours

Vacation leave may not be carried over into subsequent years.

Local 304 is afforded 20 paid days annually for union business. This is in

addition to time off to attend PBA meetings and conventions.

Comparables

Comparability relates to the statutory factor as set forth in N.J.S.A. 34:13A-16(3) which requires a comparison among employees in private employment, in public employment in general, including similar jurisdictions; and among employees of the same employer.

Private Sector

I give almost no weight to the component of comparability with the private sector, other than to observe the private sector wage increases. There is no particular occupation in the private sector that is an equitable comparison to police officers. Police officers are unique in a variety of ways, including the potential to be called upon to respond to their assigned mission areas, constantly monitoring the commuting public for suspicious activities or behavior, conducting investigations and making arrests, conducting searches for possible hazardous materials, taking actions to protect against terrorism, and related duties as assigned, along with the stress and dangers of the job. Moreover, they are regularly required to work evenings, nights, weekends and holidays and are often on call. Unlike the private sector, they do not compete in a global economy, which tends to depress wages.

PERC annually distributes a private sector wage survey (U-108; U-109) for use in

interest arbitration proceedings. This wage survey is developed by the New Jersey Department of Labor and Workforce Development, with the most recent version of this wage survey being distributed on July 12, 2016.

The total net change in private sector annual wages for the State of New Jersey was a 3.1% increase from 2014 to 2015. That same figure for the change from 2013 to 2014 was a 1.9% increase. The same wage survey data also provides general comparisons in the public sector as well. Between 2014 and 2015, the average annual wage for all state, county, and municipal government workers increased by 2.3%. During the same period, average wages for state government workers increased by 5.4%. Total wage increases between 2014 and 2015 for all employees, public and private, amounted to 2.9%.

PERC Settlement Rates

The most recent salary increase analysis for interest arbitration on PERC's website shows that the average increase for awards issued in 2015 on post-2011 filings was 1.71% where the 2% cap did apply. Over the same time period, reported voluntary settlements averaged 1.73%.

The PERC analysis indicates that the average 2014 award for post-2011 with a 2% cap was 1.69%, and an average of 1.74% for awards with no 2% cap. Settlement for the same time period (based upon 29 contracts settled) averaged 1.82%. Overall,

PERC's data over the past few years shows that there is a downward trend in salary increases received through voluntary settlement or an award.⁴

External Comparables

In this matter, the Union offers that the most relevant external comparator is the 25 largest municipal police departments in New Jersey as well as other transit agencies in the immediate New York/New Jersey area. It points out that the top 25 municipalities are nearly all in urban areas where New Jersey Transit hubs/train stations/bus terminals are located. These municipal police departments are also comparable in size to New Jersey Transit's police force. And, the Union makes the case that these law enforcement personnel, as well as those employed by other transit agencies, are the same police officers that Local 304 members interface with on a daily basis while performing their duties.

New Jersey Transit maintains that the most relevant set of external comparable data in "similar jurisdictions" are the several law enforcement bargaining units employed by the State of New Jersey. NJT argues that, like State law enforcement personnel, NJT police officers have statewide jurisdiction. This is in contrast to municipal police officers who only have jurisdiction within their own municipality and only report to the taxpayers within that municipality. PBA Local

⁴ Source of data is the Public Employment Relations Commission Website, "Interest Arbitration Salary Increase Analysis".

304 counters that NJT police have no commonality of job function nor interface with most of the State law enforcement groups cited by the Employer, with the exception of the State Police. I will give some consideration to all of the comparable data presented.

Comparable Police Departments						
Maximum Base Salary						
Rank	Municipality	2012	Municipality	2013	Municipality	2014
1	Toms River	113,852	Toms River	116,129	Toms River	119,545
2	Hamilton Twp	109,806	Clifton Cty	115,000	Clifton Cty	115,000
3	Clifton Cty	107,565	Hamilton Twp	109,806	Hamilton Twp	111,453
4	Edison Twp	104,438	Edison Twp	107,049	Lakewood Twp	107,117
5	Woodbridge Twp	101,390	Lakewood Twp	104,128	Edison Twp	107,049
6	Lakewood Twp	101,223	Woodbridge Twp	103,026	Woodbridge Twp	105,486
7	Union Cty	98,013	New Brunswick Cty	99,785	New Brunswick Cty	101,282
8	New Brunswick Cty	97,191	Union Cty	98,013	Linden Cty	99,036
9	Passaic Cty	95,386	Linden Cty	97,231	Passaic Cty	98,027
10	Union Twp	95,245	Passaic Cty	96,578	Union Cty	98,013
11	Atlantic Cty	95,231	Union Twp	95,721	Vineland Cty	97,000
12	N.J. State Police	95,198	N.J. State Police	95,198	Union Twp	96,678
13	Linden Cty	93,627	Bayonne Cty	94,503	Bayonne Cty	96,393
14	Bayonne Cty	92,650	Jersey Cty	94,049	Jersey Cty	96,212
15	Irvington Twp	91,780	Irvington Twp	93,615	Irvington Twp	95,488
16	Jersey Cty	91,755	Hoboken Cty	93,299	N.J. State Police	95,198
17	Hoboken Cty	91,515	Vineland Cty	92,500	Hoboken Cty	95,165
18	Newark Cty	89,866	Elizabeth Cty	91,375	MTA PD	92,728
19	Elizabeth Cty	88,499	MTA PD	90,027	Newark Cty	91,664
20	Vineland Cty	88,400	Atlantic Cty	90,000	Atlantic Cty	90,000
21	MTA PD	88,261	Newark Cty	89,866	Bloomfield Twp	89,972
22	Bloomfield Twp	87,332	Bloomfield Twp	88,642	Cherry Hill Twp	87,462
23	Cherry Hill Twp	85,602	Cherry Hill Twp	87,314	Paterson Cty	87,340
24	Paterson Cty	85,462	Plainfield Cty	85,925	Plainfield Cty	87,214
25	Plainfield Cty	84,864	Paterson Cty	85,462	East Orange Cty	79,823
26	Trenton Cty	79,311	Trenton Cty	79,311	Trenton Cty	79,311
27	East Orange Cty	78,033	East Orange Cty	79,033	Elizabeth Cty	N/A

28	New Jersey Transit	N/A	New Jersey Transit	N/A	New Jersey Transit	N/A
	Average Base	93,759		95,281		96,910
	Median Base	92,650		94,049		96,302
	# of Contracts	26		26		25

Rank	Comparable Police Departments					
	Maximum Base Salary					
	Municipality	2015	Municipality	2016	Municipality	2017
1	Toms River	122,833	Toms River	126,210	Toms River	129,681
2	Clifton Cty	115,000	Clifton Cty	116,477	Edison Twp	112,356
3	Hamilton Twp	113,125	Hamilton Twp	115,388	Woodbridge Twp	111,405
4	Woodbridge Twp	107,068	Woodbridge Twp	109,220	New Brunswick Cty	106,954
5	Edison Twp	107,049	Edison Twp	109,190	Linden Cty	104,686
6	New Brunswick Cty	103,308	New Brunswick Cty	104,857	Irvington Twp	103,832
7	Linden Cty	100,875	Linden Cty	102,936	Union Cty	102,490
8	Passaic Cty	99,988	Bayonne Cty	102,263	Bayonne Cty	102,263
9	Irvington Twp	99,897	Irvington Twp	101,845	Hoboken Cty	100,990
10	Union Cty	99,483	Union Cty	100,976	MTA PD	99,368
11	Bayonne Cty	99,284	Jersey Cty	100,295	Cherry Hill Twp	98,348
12	Union Twp	98,612	Hoboken Cty	99,010	Bloomfield Twp	94,546
13	Jersey Cty	98,377	MTA PD	96,474	Newark City	94,432
14	Hoboken Cty	97,068	Cherry Hill Twp	96,420	Paterson Cty	92,785
15	N.J. State Police	95,198	N.J. State Police	95,198	Trenton Cty	91,995
16	MTA PD	94,582	Newark City	94,432	Plainfield Cty	91,198
17	Cherry Hill Twp	94,529	Bloomfield Twp	92,692	East Orange Cty	83,879
18	Newark City	93,497	Paterson Cty	91,005	Atlantic Cty	N/A
19	Bloomfield Twp	91,321	Trenton Cty	90,860	Clifton Cty	N/A
20	Atlantic Cty	90,000	Plainfield Cty	89,850	Elizabeth Cty	N/A
21	Trenton Cty	89,738	East Orange Cty	82,234	Hamilton Twp	N/A
22	Paterson Cty	89,260	Atlantic Cty	N/A	Jersey Cty	N/A
23	Plainfield Cty	88,522	Elizabeth Cty	N/A	Lakewood Twp	N/A
24	East Orange Cty	80,621	Lakewood Twp	N/A	Passaic Cty	N/A
25	Elizabeth Cty	N/A	Passaic Cty	N/A	Union Twp	N/A
26	Lakewood Twp	N/A	Union Twp	N/A	Vineland Cty	N/A
27	Vineland Cty	N/A	Vineland Cty	N/A	N.J. State Police	N/A
28	New Jersey Transit	N/A	New Jersey Transit	N/A	New Jersey Transit	N/A

	Average Base	98,718	100,849	101,248
	Median Base	98,495	100,295	100,990
	# of Contracts	23	20	16

Comparable Police Departments
Maximum Base Salary and Longevity

Rank	Municipality	2012	Municipality	2013	Municipality	2014
1	Toms River	125,238	Toms River	127,742	Toms River	131,500
2	Edison Twp	121,409	Edison Twp	124,444	Edison Twp	124,444
3	Union Cty	118,596	Union Cty	118,596	Lakewood Twp	115,686
4	Hamilton Twp	113,649	Clifton Cty	115,000	Woodbridge Twp	115,507
5	Woodbridge Twp	111,022	Woodbridge Twp	112,813	Clifton Cty	115,000
6	Bayonne Cty	109,327	Lakewood Twp	112,458	Hamilton Twp	113,253
7	Lakewood Twp	109,321	Hamilton Twp	111,606	Hoboken Cty	110,392
8	N.J. State Police	108,847	Bayonne Cty	111,513	Passaic Cty	109,790
9	Clifton Cty	107,565	New Brunswick Cty	109,764	New Brunswick Cty	109,385
10	New Brunswick Cty	106,910	N.J. State Police	108,847	N.J. State Police	108,847
11	Passaic Cty	106,832	Hoboken Cty	108,227	Union Cty	107,814
12	Jersey Cty	106,436	Passaic Cty	108,167	Jersey Cty	107,757
13	Hoboken Cty	106,157	Jersey Cty	105,335	Bayonne Cty	105,393
14	Atlantic Cty	104,754	Union Twp	103,379	Irvington Twp	105,036
15	Union Twp	102,865	Irvington Twp	102,977	Newark Cty	104,496
16	Newark Cty	102,448	Newark Cty	102,448	Union Twp	104,412
17	Irvington Twp	100,958	Elizabeth Cty	102,340	Paterson Cty	103,061
18	Paterson Cty	100,845	Paterson Cty	100,845	MTA PD	102,538
19	Elizabeth Cty	99,119	MTA PD	99,837	Linden Cty	100,236
20	MTA PD	98,071	Atlantic Cty	99,000	Atlantic Cty	99,000
21	Bloomfield Twp	96,065	Linden Cty	98,431	Bloomfield Twp	98,969
22	Linden Cty	94,827	Bloomfield Twp	97,506	Vineland Cty	97,000
23	Plainfield Cty	89,319	Vineland Cty	92,500	East Orange Cty	92,595
24	East Orange Cty	88,957	Plainfield Cty	90,436	Plainfield Cty	88,814
25	Vineland Cty	88,400	East Orange Cty	90,097	Trenton Cty	88,035
26	Trenton Cty	88,035	Trenton Cty	88,035	Cherry Hill Twp	87,462
27	Cherry Hill Twp	85,602	Cherry Hill Twp	87,314	Elizabeth Cty	N/A

28	New Jersey Transit	N/A	New Jersey Transit	N/A	New Jersey Transit	N/A
	Average Base	103,392		104,802		105,632
	Median Base	104,754		103,379		105,214
	# of Contracts	26		26		25

Rank	Comparable Police Departments Maximum Base Salary and Longevity					
	Municipality	2015	Municipality	2016	Municipality	2017
1	Toms River	135,116	Toms River	138,832	Toms River	142,629
2	Edison Twp	124,444	Edison Twp	126,933	Edison Twp	130,614
3	Woodbridge Twp	117,239	Woodbridge Twp	119,596	Woodbridge Twp	121,988
4	Clifton Cty	115,000	Hamilton Twp	117,188	New Brunswick Cty	115,511
5	Hamilton Twp	114,925	Clifton Cty	116,477	Irvington Twp	114,215
6	Passaic Cty	111,987	New Brunswick Cty	113,246	Union Cty	112,739
7	New Brunswick Cty	111,573	Jersey Cty	112,330	Bayonne Cty	111,263
8	Jersey Cty	110,182	Irvington Twp	112,030	MTA PD	109,178
9	Irvington Twp	109,887	Bayonne Cty	111,263	Newark City	107,652
10	Union Cty	109,432	Union Cty	111,073	Paterson Cty	104,785
11	N.J. State Police	108,847	N.J. State Police	109,018	Linden Cty	104,686
12	Bayonne Cty	108,284	Newark City	107,652	Trenton Cty	102,115
13	Newark City	106,586	MTA PD	106,284	Hoboken Cty	100,990
14	Union Twp	106,501	Paterson Cty	103,005	Cherry Hill Twp	98,348
15	Paterson Cty	105,327	Linden Cty	102,936	East Orange Cty	97,299
16	MTA PD	104,392	Bloomfield Twp	101,961	Bloomfield Twp	94,546
17	Linden Cty	100,875	Trenton Cty	100,854	Plainfield Cty	92,798
18	Bloomfield Twp	100,453	Hoboken Cty	99,010	Atlantic Cty	N/A
19	Trenton Cty	99,609	Cherry Hill Twp	96,420	Clifton Cty	N/A
20	Atlantic Cty	99,000	East Orange Cty	95,391	Elizabeth Cty	N/A
21	Cherry Hill Twp	97,068	Plainfield Cty	91,450	Hamilton Twp	N/A
22	Hoboken Cty	94,529	Atlantic Cty	N/A	Jersey Cty	N/A
23	East Orange Cty	93,521	Elizabeth Cty	N/A	Lakewood Twp	N/A
24	Plainfield Cty	90,122	Lakewood Twp	N/A	Passaic Cty	N/A

25	Elizabeth Cty	N/A	Passaic Cty	N/A	Union Twp	N/A
26	Lakewood Twp	N/A	Union Twp	N/A	Vineland Cty	N/A
27	Vineland Cty	N/A	Vineland Cty	N/A	N.J. State Police	N/A
28	New Jersey Transit	N/A	New Jersey Transit	N/A	New Jersey Transit	N/A
	Average Base	107,287		109,188		109,492
	Median Base	107,435		109,018		107,652
	# of Contracts	23		20		16

5.

As can be seen by the charts above, New Jersey Transit patrolmen at 100% pay (\$82,723) are significantly below the average base pay, as well as the median base, among the departments surveyed. Indeed, the current top pay for NJT patrolmen at \$82,723 would place them at the very bottom of the 2017 salary comparable chart. They are currently \$18,267 below 2017 average pay among all of the police departments listed above.

New Jersey Transit police are not paid competitively with police officers of the Port Authority of NY/NJ either. Although those parties have not yet negotiated a successor contract to their last contract which covered 2003-2010, it is noted that these officers' top pay rate, after six years of service, in 2009 was \$90,000. Port Authority police also have a generous longevity package which tops out at 15% of base pay.

When longevity is factored in, NJT patrolmen fare even more poorly among

⁵ The PBA also included Port Authority police in its comparative data summary. However, no salary data was available for the Port Authority for any of the years shown below. The last contract between the Port Authority and the Port Authority police expired in 2010.

their peers. The top pay for NJT patrolmen with longevity added is at the 105% of top pay mark at a salary of \$86,859. This is \$22,633 below average pay with longevity added for the departments surveyed. This disparity between what a NJT police officer makes and the salaries of those of the top 25 police departments in New Jersey (plus the MTA) is partially mitigated by the enormous disparity in the price of health care contributions. Every municipality in New Jersey, as well as all county and state employees are subject to the contribution mandates of Chapter 78, P.L. 2011. A municipal police officer earning \$100,000 a year would contribute 35% of premium costs for individual coverage and 32% of premium costs for family coverage. It must be remembered that New Jersey Transit police have been paying \$40 per month at least since the inception of the 2006 – 2010 contract. Therefore, it could be concluded that a municipal police officer subject to the contribution rates set forth in Chapter 78, would have a monthly contribution of \$326.25 for single coverage and \$819.84 for family coverage, assuming premium rates comparable to that set by NJT's virtual rates. In other words, the take-home pay of the municipal police officer making \$100,000 a year would be reduced by \$9,838 annually if he/she choose family coverage – thus, reducing the disparity between net compensation of the municipal police officer and the NJT police officer. The same mitigating factor is present for State law enforcement salaries.

The State presents the collective negotiations agreements among virtually all of the State of New Jersey's law enforcement bargaining units. It makes no particular argument about the actual salaries of these employees but asks that I consider the recent salary increases for each of these units as comparative data. However, among all of the bargaining units presented, only the State troopers group could be considered as a fair comparable in terms of job function as NJT police. The other groups consist of State correction officers, corrections superiors, corrections sergeants, corrections captains, human services police, State park police, and weights and services inspectors. With all due respect to the risks and hazards of these occupations, they really have very little in common with a traditional police force such as NJT. A traditional police force has the power to arrest, apprehend and detect and does so regularly; State correction officers (at all levels) have a daily function that could better be characterized as custodial, where the prison guards' main function is to monitor those individuals already incarcerated.

The State asks that I take note of the following recent salary raises granted to State employees as follows:

New Jersey State Law Enforcement Wage Increases (2010 - 2018)									
Union	2010	2011	2012	2013	2014	2015	2016	2017	2018
PBA Local 105 (Jul 1, 2011 - June 30, 2015)	--	0%	0%1	1.5% (top step only)	1.5% (top step); 1% (all other steps)	--	--	--	--

Special Investigators (Jul 1, 2011 - June 30, 2015)	--	0%	0%	1% (top step only)	1.5% (top step only) ²	--	--	--	--
NJLESA - Primary Level Supervisors (Jul 1, 2011 - June 30, 2015)	--	0%	0%	1.25%	1.25%	--	--	--	--
NJ Law Enforcement COA (Jul 1, 2011 - June 30, 2015)	--	0%	0%	1% ³	1.25% ⁴	--	--	--	--
NJ Superior Officers Law Enforcement Association (Jul 1, 2011 - June 30, 2015)	--	0%	0%	1.25%	1.25%	--	--	--	--
NJ PBA - SLEU (Jul 1, 2011 - Jun 30, 2015)	--	0%	0%	1.25% (top step only)	1.25% (top step); 1% (all other steps)	--	--	--	--
State Troopers Fraternal Assn (Jul 1, 2012 - Jun 30, 2017) ⁶	--	--	0%	0%	0%	0%	0%	0%	--
State Troopers NCO Assn (Jul 1, 2012 - Jun 30, 2017)	--	--	0%	1%	1%	1%	1%	--	--
FOP Lodge 91 (Jul 1, 2015 - Jun 30, 2019)	--	--	--	--	--	1.75% ⁸	0.5%	0.5%	0.6%

- 6. In addition to no across-the-board wage increases, Trooper increments were frozen from pay period 21 in 2015 through June 29, 2017.
- 7. Troopers received a 1.25% increase to their annual maintenance payment (increased to \$13,819.64).
- 8. Additional 1% increase to top step on January 1, 2015.

Exhibits C-34 and U-59 is the most recent award covering New Jersey State Troopers rank and file for the period July 1, 2012 to June 30, 2017. State of New Jersey (New Jersey State Police) and State Troopers Fraternal Association, Docket No. IA-2016-003 (2/1/16), Arbitrator Ira Cure. In that matter, Arbitrator Cure, constrained by the limitations of the 2% arbitration cap, was forced to award a zero percent increase in base pay over the five-year contract. However, he instead awarded a 1.25% increase in troopers' "maintenance allowance" to \$13,819.64. Even with the wage freeze, the current top pay for New Jersey State Troopers is currently \$95,198.10 – far above that of a NJT police officer top pay. Again, it must be remembered that State Troopers are also subject to the Chapter 78 health benefit contribution rates which would put them at the 35% mark of premium costs.

Internal Comparables – Other NJT employees

New Jersey Transit now has settled labor contracts with virtually all of its bargaining units representing nearly 10,000 Union-represented employees. The following chart shows the distribution of settlements among the various bargaining units:

New Jersey Transit Wage Increases (2010 - 2019)												
Union	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	
Non-Aligned	0%	0%	0%	0%	0%	0%	0%	0%	0%	--	--	
FOP Sergeants and Lieutenants (Jul 1, 2010 - Jun 30, 2017)	--	0%	1.5%	1.6%	1.7%	1.7%	1.75%	1.75%	--	--	--	
CWA Dispatchers and Fare Enforcement Officers (Jul 1, 2011 - Jun 30, 2015)	--	--	0%	0%	1%	1.75%	--	--	--	--	--	
ATU Bus Employees (Jul 1, 2010 - Jun 30, 2017)	1.5%	1.5%	1.4%	1.9%	1.9%	1.9%	1.9	--	--	--	--	
UTU Rail Employees (Jul 1, 2011 - Dec 31, 2019)	--	--	1.25%	2.0%	1.5%	1.5%	3.5%	1.5%	4.25%	1.5%	4%	
NJT Offer (Jul 1, 2010 - Jun 30, 2018)	--	0%	0%	0%	0%	1%	1%	1%	1%	--	--	

The UTU represents approximately 5,000 rail operations employees including trainmen, conductors, engineers, brakemen, et cetera. In summary, the UTU received an award from the Presidential Emergency Board covering an eight and one-half year period of July 1, 2011 through December 31, 2019, and awarded the following increases:

Effective July 1, 2011	0%
Effective March 1, 2012	1.25%
Effective November 1, 2012	1%

Effective July 1, 2013	1%
Effective March 1, 2014	1.5%
Effective November 1, 2014	1.5%
Effective July 1, 2015	2%
Effective March 1, 2016	1.5%
Effective November 1, 2016	1.5%
Effective July 1, 2017	2.25%
Effective March 1, 2018	2%
Effective July 1, 2019	2%
Effective December 31, 2019	2%

This is a total of 19.5% over the eight and one-half year period for an average of 2.29% per year.⁶

The ATU representing approximately 4,200 bus drivers, mechanics and other bus operations personnel agreed to take their contract dispute to binding arbitration. In 2016, Arbitrator Jack Tillem issued an award for this group covering the period July 1, 2010 through June 30, 2017. This award totaled 12% over the life of the seven-year contract awarded, or an average annual salary increase of 1.71%.

Also in 2016, the FOP took its negotiations for a successor agreement to binding interest arbitration. Arbitrator Robert Gifford issued an award in 2016

⁶ The Employer's summary chart of the NJT's settlements reached the same conclusion on the total but misallocated percentages to the wrong fiscal year in some instances. The chart above pins the percentage raise to the fiscal year in which it became due.

covering a seven-year period July 1, 2011 through June 30, 2018. The award totaled 10% over a seven-year period, or an average of 1.43% annually.

The CWA, representing a small group of civilian dispatchers and fare enforcement officers recently reached an agreement covering the period July 1, 2011 through June 30, 2015, which provided for a 2.75% increase over a four-year period or 0.69% annually.

In summary, considering the rail employees, the bus operations employees and the police superiors officers unit, I conclude that the average unweighted increase among these units is approximately 1.8% annually.

Continuity of Employment

FOP Lodge 304 contends that there is a "huge" retention problem in the NJT Police Department, which affects continuity of employment. I view continuity of employment as one of the more important criteria as set forth in N.J.S.A. 34:13A-16.9(7). Unfortunately however, the evidence submitted concerning the number of employees who left the bargaining unit – either by retirement or resignation or involuntary separation or promotion -- conflicts. The Union submitted exhibit U-65 which was offered to show the rate at which bargaining unit members are leaving the Employer. U-65 contains the following data:

# of NJT Employees that Left			
Year	# Ees	Year	# Ees
2000	29	2009	5
2001	19	2010	7
2002	8	2011	9
2003	6	2012	1
2004	5	2013	5
2005	17	2014	13
2006	13	2015	7
2007	12	2016	2
2008	13	Total	171
Avg. # Ees Leaving per Yr. = 10			

However, Employer's exhibit C-39 reveals a different set of data, as follows:

# of NJT Ees that Left	
Year	# Ees
2010	5
2011	5
2012	2
2013	3
2014	11
2015	6
2016	2
2017	5
Total	39
Avg. # Ees that Left Per yr. = 5	

The first obvious difference between the data presented by the Union and that presented by the Employer is that the Employer tracked only the last eight years (including 2017), while the Union tracked the last 17 years (excluding 2017).

However, even focusing on the seven-year period between 2010 and 2016, the Union concluded that there were 44 departures while the Employer concluded there were 34 departures. The parties' agreed-upon list of employees shows that since June 30, 2010, 35 employees have left the bargaining unit: 8 retired, 11 were promoted and 16 were separated from service either by resignation or involuntary separation. Patrolmen being promoted out of the bargaining unit cannot be viewed as a negative—in fact, it should be viewed as the desired career path. In addition, the fact that 8 employees retired from the bargaining unit is a naturally occurring consequence of officers reaching retirement eligible age and service factors. This also cannot be viewed as a negative. The 16 employees who resigned or were terminated, during the seven-year period (July 1, 2010 – year-to-date, 2017) averages less than three patrolmen a year. I do not consider this to be evidence of a serious turnover problem that would impact on continuity of employment. Even considering that 35 patrolmen left the bargaining unit during the period for all reasons, this only averages five employees per year over the seven-year period – also not a significant enough attrition rate to seriously impact on continuity of employment.

Cost of Living

Cost of Living is one of the factors identified in N.J.S.A. 34:13A-16.9 as appropriate for consideration in an interest arbitration award. The Consumer

Price Index for All Urban Consumers (CPI-U), for New York-Northern New Jersey – for February, 2017, increased 0.3% in February after rising 0.6% in January. Over the year, the CPI-U advanced 2.6%, the largest 12-month increase since March of 2012. The index for all items less food and energy rose 2.2%. (E-40; U-P-Tab 14)

Cost of Living increases afforded to Social Security recipients is one good indicator of cost of living increases generally. The following chart shows cost of living increases since 2010:

Year	COLA
2010	0.0%
2011	3.6%
2012	1.7%
2013	1.5%
2014	1.7%
2015	0.0%
2016	0.3%
Total	8.8%

The Employer's offer of 4.0% over the life of the eight-year agreement falls far short of the cost of living increases during the same period.

Budget

The New Jersey Transit's Board of Directors adopted a Calendar Year 2017 operating budget and capital program that supports continued investments in infrastructure and equipment to maintain the system in a state of good repair and to enhance the overall customer experience. Jai Patel, the Transit's Deputy Chief

Financial Officer (CFO), testified that the Transit's budgetary process involves approval by the State legislature at the end of June each fiscal year. Patel explained that the New Jersey Transit's 2017 budget consists of an operating budget of \$2.1 billion dollars and a capital budget of \$1.7 billion dollars. She explained that the operating budget pays for wages, benefits, tolls, fuel costs and contract costs; whereas, its capital budget pays for capital projects, infrastructure costs and long-term maintenance costs. Patel also noted that a "balanced budget" refers to revenues equaling expenses.

Operating Expenses

The chart below indicates that operating expenses have increased by \$846,188,000 (\$2,356,215,000 - \$1,510,027,000) or 56.04% (\$846,188,000/10) or 5.60% (56.04/10) per year. (U-P-pg. 11)

Operating Expenses				
FY	Operating Expenses		Dollar Change	% Change
	Before Depreciation	Year Over Year	year over year	Year Over Year
2016	2,356,215,000	382,422,000	19.37%	
2015	1,973,793,000	124,897,000	-5.95%	
2014	2,098,690,000	175,854,000	9.15%	
2013	1,922,836,000	-1,325,000	-0.07%	
2012	1,924,161,000	49,130,000	2.62%	
2011	1,875,031,000	54,720,000	3.01%	
2010	1,820,311,000	-16,358,000	-0.89%	
2009	1,836,669,000	126,723,000	7.41%	
2008	1,709,946,000	102,714,000	6.39%	

2007	1,607,232,000	97,205,000	6.44%
2006	1,510,027,000		

State and Federal Funding Revenues

The CFO stated that the Transit's three sources of operating funds are passenger fare revenues, federal and state reimbursements and a state appropriation. Patel noted that the passenger fares are the funds from commuters riding the Transit buses, trains and para-transit vehicles. Furthermore, Patel testified that the federal funding usually consists of transportation grants; whereas, the state funding is a subsidy from the State's General Fund. Patel explained that the capital budget is regulated by federal statute or the Transportation Trust Fund (TTF).

The following chart depicts the NJT's federal, state and local appropriations and reimbursements (Non-Operating Revenues) from fiscal Year 2000 through 2016: (U-P-pg. 15)

Federal, State and Local Appropriations and Reimbursements				
FY	State Appropriations	Federal, State and Local Reimbursements		% Change Year Over Year
		Total	Total	
2016	33,156,000	1,165,743,000	1,198,899,000	8.31%
2015	40,284,000	1,066,602,000	1,106,886,000	-3.74%
2014	58,373,000	1,091,527,000	1,149,900,000	-2.61%
2013	68,173,000	1,112,551,000	1,180,724,000	15.45%
2012	285,027,000	737,649,000	1,022,676,000	-4.93%
2011	276,200,000	799,548,000	1,075,748,000	2.02%

2010	261,500,000	792,947,000	1,054,447,000	19.14%
2009	248,200,000	636,854,000	885,054,000	-0.77%
2008	298,200,000	593,700,000	891,900,000	2.61%
2007	298,200,000	571,016,000	869,216,000	4.95%
2006	278,700,000	549,549,000	828,249,000	

The Petrucelli report noted that overall federal, state and local appropriations and reimbursements (other than grants) have increased by \$370,650,000 (\$1,198,899 - \$828,249,000) or 44.75% over the ten-year fiscal period from 2006 through 2016, or an average of \$37,065,000 (\$370,650,000/10) or 4.48% (44.75/10) per year.

Although overall the Transit's revenues have increased over the past ten-years, the State's portion of the revenues (other than grants) have decreased significantly since 2013, to an overall reduction of 88.1% since 2006. The following chart illustrates the Transit's State funding since 2006: (U-P Pg. 16)

State Funding Appropriations			
FY	State Appropriations	Total Change	% Change Year Over Year
2016	33,156,000	-7,128,000	-17.69%
2015	40,284,000	-18,089,000	-30.99%
2014	58,373,000	-9,800,000	-14.38%
2013	68,173,000	-216,854,000	-76.08%
2012	285,027,000	8,827,000	3.20%
2011	276,200,000	14,700,000	5.62%
2010	261,500,000	13,300,000	5.36%
2009	248,200,000	-50,000,000	-16.77%
2008	298,200,000	0	0.00%
2007	298,200,000	19,500,000	7.00%
2006	278,700,000		

Patel testified that the passenger fares equate to 49% of its 2017 budget; federal funds amount to 19% of its budget; and, state funds are roughly 20% of its budget. According to Patel, the remaining 18% of its budget comes from the Transportation Trust Fund (TTF), which includes state and federal funding.

Patel testified that to date, actual revenues have not been sufficient to cover actual expenses in 2017. Patel stated that overall, the shortage in its budget through January of this year is \$10.5 million dollars (3T-110). She explained that the reason for the shortfall is due to passenger revenue not meeting the Transit's expectations in the budget. Patel identified a \$17.5 million-dollar shortfall in its budgeted fare revenues as of January of 2017 (3T-116).

Patel acknowledged that the 2016 budget had a shortfall of \$120 million dollars and was also not balanced. She expounded on two reasons for the deficit; first, the Transits expenses are increasing for health benefits, toll increases, and contracted services; and second, its revenues are not concurrently increasing at the same percentage. In addition, the 2016 settlement of both the rail and bus operations contracts resulted in many years of retroactive salary payments to those employees, which all had to be paid out of the 2016 budget.

³ Patel testified that the fare increases that went into effect did not reach the projected \$54 million and was about \$15 million dollars short of expectations. She also stated that the Transit's last fare increases since 2016 were in June of 2007 for 9.6%; and in January of 2005 for 11.5%. (3T-113).

Patel stated that they took steps to balance the budget which consisted of the State giving Transit an additional \$29 million dollars in Clean Energy Funds, while reducing its subsidy by \$7 million dollars, resulting in a net gain of \$22 million dollars. In addition, Patel testified that the Transit identified and corrected \$42 million dollars of inefficiencies, such as locking in its fuel costs against its budget; looking at the Port Authority Bus Terminal and identifying inefficiencies saving money; reducing some opportunities for employee overtime, as well as looking at some of its contracts, thereby negotiating better discounts.

The remaining deficit of \$56 million was balanced through a passenger fare increase of nine percent or \$54 million dollars and by the Transit reducing some of its services without laying off any employees. Patel testified that the service reductions amounted to about \$2.5 million dollars. She acknowledged that the preceding steps and the resulting savings balanced the 2016 budget.

NJT Police Department Funding

Patel testified that the 2017 Transit Police Department budget accounted for a two percent across-the-board increase, inclusive of all growth and any step increases (3T-131). She stated that in 2015 and 2016, the Transit also budgeted for a two percent increase and step increases similar to 2017. Patel acknowledged that the 2015 and 2016 step increases had all been paid. She noted that prior to 2015, they only budgeted for step movement increases and no

across-the-board increases or retro activity payments were made. She testified that this bargaining unit has not received an across-the-board wage increase since 2008. Patel acknowledged that the Transit would experience a budget shortfall, with no identified source(s) to pay, if the Award in this matter were to exceed two percent.

New Jersey Transit submitted the following chart depicting total police compensation and benefits for calendar year 2016: (C-3)

<u>NJT Police - Police Officers - CY16</u>	
<u>Average Compensation/Benefit</u>	
Total Salary	13,465,024
Total Overtime	4,218,288
Total Medical Premiums	4,057,488
PFRS Annual Employer Contribution	3,491,241
Compensatory Time Earnings	631,961
Extra-Duty Earnings	407,005
401A NJT Match to Employee 457 Contribution	397,348
Uniform Maintenance Allowance	50,700
Tuition Reimbursement	29,063
Total 2016 Compensation	26,748,118
Number of Employees	173
Average Compensation per PBA Employee	154,613

I find that this chart is not terribly meaningful however, as it includes far more than base pay. It also includes such items as overtime earning and the value of compensatory time.

Salary Award

While NJT police top pay rates lag behind average salaries of virtually all of their peers, the starting pay as well as the pay rates for the lower tiers of the salary guide are higher than normal. For one example, Port Authority has a starting pay of \$32,361; typical municipal police starting pay in New Jersey runs between 35,000 and 45,000 – while NJT starting pay is currently 53,770. After just two years of service, a patrolman is earning a base pay of 70,314. This is more than sufficient pay at the entry levels to attract recruits. In addition, the patrolmen walking through the salary guide receive fairly hefty annual increments – of either \$8,272 or \$4,136 – each year until they reach 5 years of service and achieve the 100% top pay mark (before longevity is added at steps 6 through 10).

If I were to award across-the-board increases in the same measure to all unit employees, at the 1.9% increase rate the union seeks, the starting pay would be well over the 60,000 by 2017. I conclude that this is both unnecessary and not in the public interest.

The Employer's proposal to freeze the wage guide for the first four years of the 2010-2018 agreement, followed by a 1% increase in each of the next four years is both unrealistic and not supported by any of the statutory criteria outlined above. The Employer's offer will provide an increase of roughly 4% across the board, or \$3308 (before compounding) to the officer at top pay (100% mark) over an eight-year period. This amounts to an average of $\frac{1}{8}$ percent per

year. It does not keep pace with the cost of inflation. It does nothing to address the significant disparity between NJ Transit's police and other police officers – municipal police, NJ State troopers, or police in other transit agencies in the area. Further, it is considerably less than the wage increases provided to all other NJ Transit employees as a result of recent settlements, which have averaged 1.8% annually.

The PBA's proposal, on the other hand, is more reasonable. It accomplishes the Union's goal of reaching average or near average top pay rates of \$100,000 by 2017. It is also not far off the mark of the average increases afforded to other NJ Transit employees. I have two main concerns about whether the Union's wage proposal is in the best interests of the public. The first is, as previously stated, it appears to be unnecessarily and excessively generous to those officers in the bottom tiers of the salary guide. These employees have already received significant increments over the past few years. Further, giving employees at the lower end of the salary guide additional raises in the form of across-the-board increases will exacerbate the problem of a higher-than normal turnover rate of newly trained officers and waste NJT's training dollars on training recruits only to see them leave NJT's police department for more lucrative positions with other law enforcement departments and agencies.

This is certainly not in the interest of NJ Transit, the membership of Local 304, or the public.

My second concern is the financial impact of the PBA's proposal on the NJT budget and the taxpayers (in this case, the commuting public). According to Deputy CFO Patel, NJT did not budget for large retro payments in FY 2016 or FY 2017 for any of its units. The result in 2016 was a significant outlay of retro payments due when both the rail operations and the bus operations contracts were settled, as well as other contributing factors. This created a \$120 million budget deficit in 2016. Because this bargaining unit is much smaller than either the rail or bus unions, the overall impact is much less. Nevertheless, I am mindful Transit's funding for big retro payments are not unlimited.

Taking into consideration all of the statutory factors considered above, I award the following:

-The Employer shall continue to provide salary guide step increases when due for the life of the contract period.

- The following salary increases are awarded:

- Effective 7/1/10 - 1.5% - steps 5 through 10 only
- Effective 7/1/11 - 1.5% - steps 5 through 10 only
- Effective 7/1/12 - 1.5% - steps 5 through 10 only
- Effective 7/1/13 - 1.6% - steps 5 through 10 only
- Effective 7/1/14 - 1.7% - steps 5 through 10 only
- Effective 7/1/15 - 1.8% - steps 5 through 10 only
- Effective 7/1/16 - 1.9% - all steps

- Effective 7/1/17 - 1.9% - all steps

- Pay raises are only retroactive back to 7/1/13. No retroactivity will be due on earnings before that date.

-Retroactive payments shall be made in two equally divided installments: the first shall be made within 60 days of the date of this award. The second shall be due and payable by October 1, 2017.

* * *

The awarded salary increases which 13.4% over the eight-year agreement or approximately 1.675% average and are right in line with the raises provided to NJT's rail operations, bus operations, and the police superiors. This award favors the public interest and recognizes the statutory criteria of comparability, the financial impact on the Employer and the taxpayer (the commuting public), and will not negatively impact on continuity of employment.

Retro Payments

To the extent that salary increases are awarded retroactively, the PBA seeks to have those unit members who were promoted out of the unit and those who retired from the unit to also receive retro payments pro-rated for the time they were in the unit. NJT agrees to extend such retro payments to those who were promoted but not to those who retired.

The record shows that 12 patrolmen were promoted between July 1, 2010 and by the date the record closed. However, there were only two employees promoted since July 1, 2013 who would be eligible for retro payments.⁸ Based upon the stipulation of the parties that these employees are eligible for their retro money, this payment is awarded.

The parties disagree over whether retroactive payments should be awarded to those patrolmen who retired since the last agreement expired. The parties stipulated that such retro payments to retirees have been made when past contracts are settled. The record shows that 8 patrolmen retired since July 1, 2010. However, only five of the 8 retired after July 1, 2013; these five shall be eligible for retroactive salary increases, pro-rated for the time they were members of the unit between July 1, 2013 and the date the award is implemented. This follows the historic practice of the parties. Neither the payment of retro pay for the promotees or the five retirees will have any more than a deminimis impact on the Employer's budget.

Insurance Contributions

New Jersey Transit proposes to impose the Chapter 78 health benefits matrix on the Association, whereas the Union seeks a flat dollar monthly

⁸ It would be unfair to the active current Local 304 membership to provide full retro to all promotees since June 30, 2010 while the active employees only receive retro back to July 1, 2013.

contribution of \$169.00 based on the Rail Coalition contribution. Association members currently pay a flat \$40.00 per month towards benefits.

NJT's Arguments

NJT also contends the evidence is compelling in favor of its proposal to place unit members on the Chapter 78 grid, arguing the PBA's current premium contribution of \$40 monthly is extremely low. For example, it calculates that as a percentage of salary, PBA members' contributions amount to .046% of the top officer's salary, and .043% of the top detective's salary. In contrast, it contends under Chapter 78, no State employee contributes less than 3.5% towards family coverage and no State employee may contribute less than 1.5% of their salary toward health benefits. It argues all police units employed by the State, and some municipal police units, contribute to health insurance in accordance with the grid. It asserts only NJT's superior and rank-and-file officers' contributions do not approach the rates established on the Chapter 78 grid. It notes that the PBA's current monthly contributions of \$40 and proposed \$169 are very small, relative to other employees' contributions and as a percent of premium costs. It asserts they also fall below what NJT's sergeants and lieutenants, fare enforcement officers, dispatchers, rail and bus employees contribute.

NJT acknowledges there are two internal groups who also do not contribute consistently with Chapter 78: the FOP contributes 15% towards the cost of

coverage, and non-aligned NJT employees contribute between 6% and 8% of premium. However, it notes non-aligned employees have not received an across-the-board increase since 2008. It contends the fact that these units do not contribute in accordance with Chapter 78 should not dictate the outcome here because these units' rates are out of step with the broader pool of public employees. Moreover, it asserts comparison with non-aligned NJT employees is inapt because their other terms and conditions include no across-the-board increases, involuntary furlough days, no overtime, and no compensatory time.

Finally, NJ Transit contends that BLS data demonstrates the PBA's proposed contributions compare poorly with national and statewide averages, noting as of March 2016, workers nationwide contributed, on average, 29% towards the premium cost of family coverage.

NJT argues the entire goal of enacting Chapter 78 was to ensure higher earning employees are paying more for their health insurance than lower earning employees because they can afford it. In public administration and protective service, the contributions - 22% and 23%, respectively - are in line with NJT's proposal. While NJT is seeking a significant increase in the PBA's insurance contribution, it argues this change is warranted. Nearly every other relevant comparison group contributes at a substantially higher level than PBA members' and NJT contends the PBA should be contributing at these levels as well.

PBA's Arguments

PBA argues that New Jersey Transit proposes a massive and unjustified increase in employee contribution to premium which will eliminate the only comparative advantage Transit police have over their municipal counterparts.

PBA argues that as the party wishing to institute such a major change in terms and conditions of employment, NJT bears the burden of proving the necessity for the change. It asserts NJT's proposal is not supported by law or internal Company comparisons and is unsupportable under any factor in the statute.

NJT concedes that Chapter 78 does not apply to it, as a matter of law. If not required by law, then the contribution must be supported by internal or external comparisons under the interest arbitration analysis. However, the proposed contribution is almost twice as large as the ATU/Bus unions and FOP Lodge #37, and nearly four times the amount paid by non-represented employees. The family plan charge is 4.83 times the amount paid by the 26 employees in Transit's CWA unit, the only employees paying Chapter 78-style payments. The sole supporting factor under the statute is that other New Jersey law enforcement officers are paying Chapter 78 contributions, yet NJT apparently believes these comparisons are irrelevant in all other facets of compensation.

The Association proposes the health benefits contribution remain a flat monthly amount because this will support the continuity and stability of

employment. Low benefits costs will be a disincentive for police officers to jump to other agencies after being trained by NJT. Members currently pay \$40.00 per month, so a flat dollar contribution is part of the "historic" bargaining relationship. Rail coalition workers who comprise 38% of Transit's workforce, are paying flat dollar payments per month, adjustable by 5% annually. The proposed flat dollar amounts are equal to or exceed the amount chosen by management for non-represented employees. For all these reasons, PBA argues its proposal is fair and should be awarded, whereas NJT's proposal is unreasonable and unsupported.

Patel testified that the NJT is self-insured with Horizon as its Administrator. She stated that NJT offers two health insurance plans, a PPO and HMO to its bargaining unit members in this matter. Patel explained that the PPO plan is a more expensive plan and that its network is slightly different in comparison than the HMO network. Of the two plans, Patel testified that 139 members are enrolled in the PPO plan versus 27 in the HMO plan. She noted that both plans offer single coverage, family coverage, parent/child coverage and employee/spouse coverage. The PBA members currently contribute \$40 each, per month, regardless of the type of coverage. These amount to contribution rates of 4.29% for individual coverage, 1.83% for employee plus spouse, 2.61% for employee/child, and 1.56% for family coverage.

Because NJT is self-insured, it does not actually have insurance premiums paid to an outside vendor. Rather, it has calculated "premium costs" based upon virtual rates derived from its experience. The following chart depicts NJT's health benefits monthly pseudo or virtual premium rates for FY 2017: (C-41)

NJT Health Benefits Monthly Premium* Rates for FY 2017**		
Coverage Tier	PPO	HMO
Individual	933	722
2 Adults	2,190	1,673
Parent & Child(ren)	1,531	1,166
Family	2,562	1,967

* Pseudo or virtual Rates
**Includes Medical, Rx & Dental Plans

Patel stated that the monthly contribution of \$169 as proposed by the PBA for single coverage would equate to 18% of the premium cost for the PPO plan; 11% of premium cost for parent/child coverage; 7.7% of premium cost for employee/spouse coverage; and 6.6% of premium cost for family coverage. Patel explained that 108 of Local 304's members are enrolled in family coverage; 33 employees are enrolled in single coverage; 16 employees are enrolled in the employee/spouse coverage; and nine employees are enrolled in the parent/child coverage.

Patel stated the NJT and the CWA entered into negotiations and its members currently contribute according to the Chapter 78 statute. She noted that the CWA

employees are fare enforcement officers and dispatchers who work for the NJT Police Department.

NJT argues that the PBA's proposed health contribution is not consistent with NJT's rail union's contribution. According to Patel, the PPO premium for its rail employees is \$373 per month or 20% of the premium cost; the HMO contribution for its rail employees is \$131 per month.

Patel explained that the goal in its negotiations in the rail operations contract was to achieve 20% of the PPO's plan premium or \$373 per employee. The HMO plan has lower contributions that equate to roughly 10% of premium. Patel stated that the HMO is roughly 10% cheaper than the PPO plan and lowers the NJT's cost by approximately 10% for an overall 20% savings to the NJT. Patel testified that with an average rail employee salary of \$66,000, its employees would be paying 19% of premium cost when using the Chapter 78 grid for family coverage. NJT argues that another reason the PBA's proposal is not consistent with the rail contributions is that, unlike the contribution for its rail employees which includes a built-in escalator of 5% annually, the PBA proposal is a flat amount with no escalator. (3T-126-128)

Patel testified that the collective negotiation agreement between the NJT and the ATU, who represents certain bus employees, have set a 15% premium for the same PPO and HMO plans that the rail and police officers currently have in place.

Patel stated that the average salary for the bus employees is roughly \$58,000.

Employees making \$58,000 would contribute 14% of premium costs using the Chapter 78 grid for family coverage.

Chapter 78, P.L. of 2011 ([N.J.S.A.40A:10-21](#)) mandates health care contributions from virtually all New Jersey public employees pursuant to a matrix that establishes four tiers of contribution rates depending upon the employee's base salary and class of coverage selected. Upon its enactment, the statute required public employees to begin contributing at the tier one rates and then move up one tier every year until reaching maximum contributions in tier four.

By letter of September 2, 2011, the New Jersey Office of the Attorney General responded to an inquiry from the US Department of Labor, stating that the minimum employee health benefit contributions as set forth in Chapter 78, P.L. 2011 are not applicable to New Jersey Transit employees. It also stated that the subjects of health benefit plans, coverage, and employees' contributions continues to be negotiable for Transit employees. (U-70)

Notwithstanding the lack of State-mandated contributions, nevertheless, NJT now seeks to have the rates as set forth in the Chapter 78 matrix apply to this unit of employees. The impact of the Employer's proposal on unit employees, in terms of the increase in their health care contributions, would be as follows:

For a unit employee at 100% pay through top step pay (\$86,958), the contribution rate for single coverage would be 34%; for family coverage, the contribution rate

for a top-step officer would be 26%; and for spouse/child coverage, the contribution ate for a top-step officer would be 30%. For the typical Local 304 member at top pay and selecting family coverage (the most commonly chosen plan), the monthly contribution dollar value would increase from \$40 to \$666.12 based upon the Employer's proposal. I find that such a steep increase in premiums is not a reasonable proposal.

Comparables

NJT correctly points out that since 2011, virtually every other public employee in New Jersey has been contributing towards the cost of health care pursuant to the Chapter 78 matrix. This includes employees of police and municipal police departments, State law enforcement officers and of course, all public sector civilian employees. However, it should be noted that all employees as they became subject to the Chapter 78 mandates, had their contribution rates increase gradually over a four-year period. Coverage would begin in the tier one rates and move up annually through the tiers until the employee contributions reached tier four, which is the fully effective rate.

The MTA police provides for a 2% of base pay contribution rate for new employees only (U-61). The Port Authority police continue to enjoy health benefits completely paid for by the Employer (U-68).

Contribution rates for other NJT employees as a result of the recent settlements are as follows:

Comparison of Health Care Contributions								
	Individual		Spousal		Parent/Child		Family	
	% Contrib	Annual Cost	% Contrib	Annual Cost	% Contrib	Annual Cost	% Contrib	Annual Cost
NJT Proposed	30.0%	3,358.80	30.0%	7,884.00	30.0%	5,511.60	29.0%	8,915.76
Non-represented	6.0%	671.76	8.0%	2,102.40	8.0%	1,469.76	8.0%	2,459.52
ATU/Bus	15.00%	1,679.40	15.0%	3,942.00	15.0%	2,755.80	15.0%	4,611.60
Rail Coalition A	18.11%	2,028.00	7.72%	2,028.00	11.04%	2,028.00	6.60%	2,028.00
Rail Coalition B	39.98%	4,476.00	17.03%	4,476.00	24.36%	4,476.00	14.56%	4,476.00
FOP	15.0%	1,679.40	15.0%	3,942.00	15.0%	2,755.80	15.0%	4,611.60
CWA	11.0%	1,231.56	6.0%	1,576.80	7.0%	1,286.04	6.0%	1,844.64
PBA Current	4.29%	480.00	1.83%	480.00	2.61%	480.00	1.56%	480.00
PBA Proposed	18.11%	2,028.00	7.72%	2,028.00	11.04%	2,028.00	6.60%	2,028.00

Note: All rates are "Pseudo" rates for 2017. (C-41)

It should be noted that virtually no employee of New Jersey Transit is contributing towards health care costs at the Chapter 78 rates except for dispatchers and fare enforcement officers represented by CWA. However, this bargaining unit, because of its low average salaries, is contributing between 11% and 6% of premiums depending upon the class of coverage selected.

In 2016, Arbitrator Robert Gifford, considered the issue of health care contributions for NJT's superior officers. In that matter, the Employer also proposed that Chapter 78 contribution rates. Gifford rejected that proposal,

imposing instead a flat 15% contribution for all employees regardless of the class of coverage selected and without regard to individual's salaries. New Jersey Transit v. FOP, Docket No. 2016-2, Arbitrator Robert Gifford (2016).

Further, no employee of NJT is paying anywhere near a monthly contribution rate of \$666 a month as NJT suggests should be imposed upon this bargaining unit. It is particularly noted that NJT's exempt employees -- a group over which the Employer has ultimate discretion to set a contribution rate -- are paying between 6% and 8% of premiums.

I find that an appropriate contribution rate would be pegged to that of the NJT'S police superior officers' unit and the ATU Bus Operations Division, a flat contribution rate of 15% of premiums. I am opting for an awarded percentage increase rather than a flat dollar amount because this will mean going forward, both the Employer and employee will share in cost increases as they will inevitably continue to occur. This percentage contribution rate yields a slightly lower result for members choosing individual coverage but a higher contribution rate for every other class of coverage selected. The chart below shows that the contribution dollar value for each coverage option is as follows:

NJT Health Benefits Monthly Pseudo Premium Rates for FY 2017**					
# Ees	Coverage Tier	PPO*	\$40 Per Mo.	Cost Per Eee @ 15%	Total Unit Contributions @ 15%
33	Individual	933	1,320	140	4,618
16	2 Adults Parent &	2,190	640	329	5,256
9	Child(ren)	1,531	360	230	2,067
108	Family	2,562	4,320	384	41,504
166	Total Cost		6,640		53,446
**Includes Medical, Rx & Dental Plans					

In comparing the bargaining unit's total annual contributions before this award, the unit was contributing \$79,680 ($\$6,640 \times 12$). Pursuant to the terms of this award, the unit will now contribute \$641,352 annually ($\$53,446 \times 12$). This is a fair and reasonable contribution rate as compared with other New Jersey Transit employees; is right in line with what police superiors and bus operations employees are now contributing. Moreover, it is in the public's interest that police officers pay their fair share of health care costs. The reduction to the Employer's share of health care costs will be \$561,671 annually.

I award the following:

- Effective July 1, 2017 Bargaining unit employees will contribute towards the cost of their health care benefits at the rate of 15% of the Employer-established virtual premium rates. I also add the following language to Article

XXXII, Section 1.4:

4. An employee on leave without pay who receives health and prescription benefits provided by NJ Transit shall be required to pay the above-outlined contributions, and shall be billed by NJ Transit for these contributions. Health and prescription benefit coverage will cease if the employee fails to make timely payment of these contributions.

Vision Care Plan

Article XXXII, Section 1B provides Local 304 members with a vision care plan which covers both the employee and his/her dependents. The benefit provides for \$25 to cover the cost of the eye examination and an additional \$25 to cover the cost of lenses, or \$35 to cover the cost of bifocals. The benefit is available once during a 2-year period. The Employer seeks to eliminate this benefit and the PBA proposed to maintain it.

PBA Arguments

The PBA argues that the savings from eliminating this benefit is estimated as \$1,350 annually for the entire Association. Other unions receive a more generous eyeglass benefit and were permitted to retain it in their recent agreements. For example, rail workers receive a pair of eyeglasses for employees and dependents every two years; their bi-annual benefit, however, is \$75 for regular prescription eyeglasses and \$100 for bifocals. There were no changes in the rail workers' eyeglass prescription programs in their recent agreements. The

ATU agreement similarly provides for an eye glass benefit. Based upon the minimal savings and the fact that other Transit bargaining units continue to enjoy the benefit, the Association submits that the Corporation has failed to establish any justification for why this program should be eliminated.

Both parties have noted that only a small fraction of the police work force take advantage of the vision care plan. The cost of this plan to the Employer is only \$1,350 annually. This argument cuts both ways – one could say that the fact that the plan is only slightly used makes it an insignificant benefit to the police officers and therefore, there is no significant harm in scrapping the benefit. On the other hand, if the cost to the Employer is also insignificant, what particular problem am I being asked to cure here?

Further, as the Union notes, no other bargaining unit has surrendered this benefit. Therefore, I find that the balance tips in favor of the Union because of the pattern of settlement maintaining the benefit. I find that the Employer has not justified this proposal.

The Employer proposes to modify coverage for full-time students up to the dependent's 26th birthday. Section 2, is modified as follows:

Section 2.

Category

After full time students 23rd-26th birthday

Injury Leave

Employer's Arguments

The expired Agreement requires NJT to pay PBA members who are injured on the job full salary for up to one and a half years, which NJT argues is a substantial augmentation of the workers' compensation benefit (\$855 weekly maximum) established by the Legislature. NJT argues it has shown no police employees employed by the State receive Sick Leave Injury Benefits due to a 2010 statutory change eliminating the benefit from all Civil Service employees, with limited exceptions. NJT acknowledges the statute does not apply to NJT, but argues the rationale is the same here, that the cost savings from removing the benefit outweigh the minimal impact employees will experience by losing the benefit. It contends that for this reason, the benefit was removed from NJT's FOP unit of sergeants and lieutenants in an interest arbitration award in 2016. NJT argues the same analysis there should be applied in this case. While acknowledging the worker's compensation benefit is not a dollar-equal replacement for the PBA members' salaries in the event of on-the-job injuries, the Legislature has determined as a matter of policy that \$855 per week is an appropriate salary replacement for employees, including police, who are injured on the job. It argues the PBA members should receive the same benefits as everyone else.

PBA's Arguments

PBA argues against New Jersey Transit's proposal to change the line-of-duty injury leave benefit from 1.5 years of full salary continuation to immediately being cut off pay when an officer can't work due to an injury sustained while performing his or her duties. PBA contends New Jersey Transit's proposal to eliminate paid injury leave represents a significant reduction in a long-standing benefit. It argues interest arbitration is not the appropriate forum to redraft major provisions of the parties' agreement or consider making such a fundamental change in benefit structure. It argues arbitrators are generally cautious concerning such changes during the interest arbitration process, especially absent strong justification. It argues an arbitrator's role is not to significantly change the unit's relative standing, that interest arbitration is an extension of negotiations, not intended to revamp a compensation structure established over many years.

PBA argues police officers are engaged in high risk and dangerous duties, citing testimony highlighting the significant criminal activity and physical interactions New Jersey Transit patrol officers engage in to protect the public. They receive high level security and rescue training, which in and of itself is dangerous. In 2016, New Jersey Transit police officers were responsible for nearly 200 "use of force actions" where they were required to use physical force against individuals they were attempting to subdue. The PBA argues that comparable

municipal departments in the New York area were shown to provide 1 to 2 years or unlimited injury leave benefits. None of the comparable departments with which NJ Transit police officers work every day have eliminated injury leave benefits.

PBA argues New Jersey Transit Corporation bears the burden of proving the necessity and appropriateness of removing the injury leave benefit but has not done so. NJT cited a 2010 amendment to the Civil Service law, which eliminated injury leave benefit for civilian employees, State Corrections employees, SLEU and other investigative-based titles. New Jersey Transit also supported the proposal with the removal of injury leave benefits from its supervising lieutenants and sergeants via another IA award. The PBA argues these arguments are not relevant because there is no proof civilian employees and superior officers routinely patrol areas where they are exposed to criminal activity. It asserts NJT did not produce an analysis of potential cost savings associated with its proposal. PBA argues the costs of the benefit are either minimal or insignificant, citing the incidence of claims and lost time between 2012 and 2016. PBA asserts the record demonstrates no abuse of the benefit, nor does the evidence suggest the benefit strains NJT's resources. PBA argues New Jersey Transit failed to carry its burden of proof that this benefit needs to be eliminated.

On the other hand, PBA asserts its proposal was demonstrated to brings this benefit in line with municipal police departments in New Jersey. Each of the top 25 municipal police departments provides 1 year of injury leave benefit. The departments compare favorably to NJT officers in size and are municipalities through which NJT police work daily. It asserts PBA's proposal is reasonable and equitable. The PBA contends it is inappropriate to require police officers who daily face risks associated with being a patrol officer to forego pay when those risks result in injuries necessitating time off to recuperate.

Currently PBA Local 304 Members are afforded 18 months of leave time with pay if they are injured on duty. NJ Transit proposes to eliminate this benefit. The PBA proposes to reduce the benefit to a one-year period.

The employer was unable to supply any data that would tend to show the recent costs to the employer of the injury leave benefit. However, the union submitted cost data showing that over the past 5 years the cost of lost time for injury leave among members of this bargaining unit is as follows:

Injury Leave Chart				
Loss Year	# of Claims	# of Claims with Loss Time	Total # of Days Lost from Work	Total Amt. Lost time Payments
01/01-10/31/16	123	8	407	50,163.63
2015	50	11	676	81,351.08
2014	57	8	434	52,266.04

2013	64	16	676	85,519.34
2012	105	4	237	26,614.26
2011	79	8	657	51,811.89
Total	478	55	3,087	347,726.24

Moreover, it appears from the data presented by the PBA that there are many more injuries that do not result in employees taking injury leave time than those that do. In 2016, 123 injuries were reported, but only 8 resulted in injury leave. This is an indication that police officers are not abusing this benefit.

The elimination of injury leave would, in essence, leave police officers with no means of replacement income when they are out on a work-related disability except coverage by a workers' compensation policy. Workers compensation pays 70 % of an employee's wages concomitant with a maximum/minimum rate. There is a statutory maximum of \$896 dollars. Thus, for an employee at 100% of the wage scale rate earning \$82,722.87, that employee's weekly pay would total \$1,591; replacement income by workers-compensation would only provide this employee with \$896 -- about 56% of his regular income. (U-55; U-56) This would seriously impact the employee's financial status for what could be an extended period. It appears to me that this is an unduly harsh result for an injury that occurs through no fault of the police officer. Moreover, the record evidence shows that the risk of injury to a police officer is higher than that of a NJ Transit

civilian employee. I find that the Employer has not sustained its burden of proof to sufficiently justify awarding the outright elimination of injury leave.

On the other hand, 18 months' injury leave appears to be an unnecessary and excessive benefit. It is also out of line with municipal employees, Port Authority employees and other transit jurisdictions -- those jurisdictions which the Union proffers as most comparable to NJ transit police. In fact, most large municipalities offer a maximum of 12 months' injury leave.

In addition, the union notes that in the absence of an injury leave benefit, officers are likely to purchase disability insurance through the private market such as AFLAC. Since private carrier disability insurance often provides for replacement income of the officers' full gross salary (not net pay) it provides an incentive for workers to stay out longer on leave as it is more lucrative to stay home than to come to work. This will cost the Employer in additional overtime to provide coverage for the officer who is out on disability.

The Employer argues that no other NJ Transit employee has injury leave as a benefit. In addition, the employer maintains that by State statute, this benefit was eliminated for all state employees, including law enforcement personnel, approximately 10 years ago. N.J.S.A. 11:6-8. I am also mindful of the fact that Arbitrator Gifford, in 2016 awarded the elimination of injury leave for the NJ

transit police superiors. However, I am unable to determine what facts in that record supported such a conclusion. In addition, the record evidence shows the patrolmen are the first to respond to any scene of a potential crime. It is often after the fact that the superior officer is called in. This makes the risk to the patrolmen even greater than that posed to a superior officer.

In any event, in this record the Employer has not supported the elimination of the benefit. Further, while other transit employees do not have the injury leave benefit, the risk of injury to a police officer is far greater than the risk to transit civilian employees. Recognizing this risk, Injury leave is a common benefit for law enforcement personnel but not civilian personnel.

Effective for injuries occurring on or after July 1, 2017, I award a reduction in the injury leave benefit to 9 months' maximum.

Free Ridership

Article XXXIII of the contract provides Local 304's members with unlimited free ridership on NJ Transit trains and buses. This is accomplished by the officer merely showing the conductor or bus operator his NJ Transit identification. An officer has the privilege of using this benefit at any time including for commuting purposes and even on his day off.

NJ Transit proposes to eliminate this benefit in its entirety. The PBA proposes to maintain the benefit.

NJT's Arguments

NJT asserts that a free commutation benefit was removed from NJT employees by its Board and contends PBA officers should not be entitled to maintain their passes. NJT rejects the idea, as irrelevant to collective negotiations, that a benefit of police officers riding the trains is that they will help the Company respond to incidents. At present, NJT has temporarily restored the ridership benefit to all Transit employees in the wake of the Paris terrorist attacks.

It contends the fact that bus and rail employees recently retained their ridership passes is of minimal relevance here because those employees actually operate the systems that they ride for free. Additionally, these employees earn, on average, significantly less than what the PBA's members earn. It asserts none of the outside comparators identified either by NJT or the PBA are contractually entitled to free ridership on NJT or any other transit system. The only NJT employees who are contractually entitled to that benefit are unionized bus employees, unionized rail employees and the FOP unit.

PBA's Arguments

PBA asserts NJ Transit has not provided any justification for this position or any cost savings to the carrier for eliminating this benefit. No other NJT negotiations unit has eliminated its ridership benefit. In fact, the PBA contends NJT reinstated the benefit for all non-represented employees in December 2015 as a method of increasing "eyes and ears" on the transit system for security purposes. PBA argues its members are the best "eyes and ears" for security. Since they are not being paid for this extra security service, it appears that this service would more than offset any cost of providing this benefit. Because of the lack of evidence of the need for the elimination of ridership and the benefit to Transit and the public of having additional unpaid off duty police officers riding the system, the Association recommends this proposal be rejected.

* * *

In 2016, the Employer eliminated the benefit for NJ Transit management employees; however, several months after the passes were taken away by operation of a resolution of the board of directors, they were restored, at least to the police department management. Moreover, Arbitrator Gifford declined to eliminate the benefit for police superiors. Further it appears from the record that NJ Transit bus and rail employees still enjoy this benefit.

NJ Transit submitted no cost data for me to determine the price tag of providing this benefit. Therefore, I have no way of knowing how much the savings might be by eliminating the benefit.

I find that the presence of police officers on trains and buses, especially in uniform, furthers one of the stated goals of NJ Transit police department; that is, to have as much police presence as possible in its facilities and on its carriers. For the very reasons that led NJT's Director to "temporarily" return free ridership to police management employees after the Paris bombings – to be the additional "eyes and ears" – provides a good rationale for maintaining this benefit for patrolmen. A police officer on a train or bus commuting to work acts as an additional resource to deter crime on the train or bus, and enhances public safety – all in the public interest. On the other hand, saving to the Company has not been established by the record and therefore, the Employer has not provided sufficient justification for the elimination of this benefit.

Therefore, I decline to eliminate the benefit.

* * *

COST OF SALARY INCREASES AWARDED

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	TOTAL
ATB	150,563.90	160,459.18	184,829.70	211,028.37	236,552.25	256,288.49	276,496.43	282,457.15	1,758,675.47

SUMMARY OF THE AWARD

Contract Duration – Eight-year contract covering the period July 1, 2010 through June 30, 2018.

Salaries -

- The Employer shall continue to provide salary guide step increases when due for the life of the contract period.

- The following salary increases are awarded:

- Effective 7/1/10 – 1.5% - steps 5 through 10 only
- Effective 7/1/11 – 1.5% - steps 5 through 10 only
- Effective 7/1/12 – 1.5% - steps 5 through 10 only
- Effective 7/1/13 – 1.6% - steps 5 through 10 only
- Effective 7/1/14 – 1.7% - steps 5 through 10 only
- Effective 7/1/15 – 1.8% - steps 5 through 10 only
- Effective 7/1/16 – 1.9% - all steps
- Effective 7/1/17 – 1.9% - all steps

- Pay raises are only retroactive back to July 1, 2013. No retroactivity will be due on earnings before that date. Retroactive pay for patrolmen who were promoted out of the unit or retired will be paid on a pro-rated basis for the time the patrolman served in the bargaining unit between July 1, 2013 and the date the award is implemented.

- Retroactive payments shall be made in two equally divided installments: the first shall be made within 60 days of the date of this award. The second shall be due and payable by October 1, 2017.

Healthcare Contributions

- Effective July 1, 2017, bargaining unit employees will contribute towards

the cost of their health care benefits at the rate of 15% of the Employer-established virtual premium rates. I also add the following language to Article XXXII, Section 1.4:

4. An employee on leave without pay who receives health and prescription benefits provided by NJ Transit shall be required to pay the above-outlined contributions, and shall be billed by NJ Transit for these contributions. Health and prescription benefit coverage will cease if the employee fails to make timely payment of these contributions.

Modify Section 2 as follows:

Category

After full time students 23rd-26th birthday

Injury Leave

Effective for injuries occurring on or after July 1, 2017, the injury leave benefit shall be reduced to 9 months' maximum.

All proposals by the New Jersey Transit and the PBA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those which have been modified by the terms of this Award and any prior agreements between the parties.

Susan W. Osborn

Susan Wood Osborn
Interest Arbitrator

Dated: April 18, 2017
Trenton, New Jersey

On this 18th day of April, 2017, before me personally came and appeared Susan Wood Osborn to me known and known to me to be the individual described in and who executed the foregoing instrument and she acknowledged to me that she executed same.

Pamela Jean Sutton-Browning

PAMELA JEAN SUTTON-BROWNING
ID # 2424173
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires August 20, 2017