

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration Between:

HUDSON COUNTY DEPARTMENT OF CORRECTIONS

-and-

Docket No. IA-2012-046

PBA LOCAL NO.109 (Corrections Officers)

Before: Susan W. Osborn, Interest Arbitrator

Appearances:

For the County:

Scarinci Hollenbeck, Attorneys
(Sean D. Dias, of counsel)

For PBA 109:

Mets, Schiro & McGovern, Attorneys
(James Mets, of counsel and on the brief)
(Brian Manetta, on the brief)

Witnesses:

Luis Ocasio, President PBA Local 109
Joseph Jordan, Vice-President PBA Local 109
Oscar Avilas, County Correctional Facility Director
Patrick Sheil, County Director of Labor Relations

INTEREST ARBITRATION AWARD

On May 30, 2012 the Hudson County Corrections PBA Local 109 filed a Petition with the Public Employment Relations Commission to initiate interest arbitration over successor collective negotiations agreements with Hudson County. The previous agreements expired on December 31, 2009.

On June 6, 2012, 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 45 days of my appointment with no provision for a mutually agreed upon extension of any length. By letter of June 6, I scheduled an interest arbitration hearing for June 27, 2012 and directed each party to submit a final offer no later than June 18 in accordance with N.J.S.A. 34:13A-16(f)(1).

At the June 27 Interest Arbitration hearing, the parties were given an opportunity to offer testimony and documentary evidence as well as argue orally. The County and PBA Local 109 each submitted substantial documentary evidence. Both parties submitted Final Offers and calculations of the financial impact of their respective economic proposals. The PBA submitted a certification of Accountant and Financial Analyst Joseph Petruccelli. The County submitted a certification of County Finance Director Cheryl Fuller. Both parties submitted rebuttal certifications. Post-hearing briefs were filed by July 10, 2012.

FINAL OFFERS OF THE PBA

The PBA submitted the following final offer:

DURATION OF AGREEMENT:

-5-year contract: 1/1/10 - 12/31/14.

SALARIES:

For Officers hired prior to January 1, 2013:

- 2.75% across the board wage increase effective and retroactive to January 1, 2010
- 2.75% across the board wage increase effective and retroactive to January 1, 2011
- 2.75% across the board wage increase effective and retroactive to January 1, 2012
- 2.75% across the board wage increase effective and retroactive to January 1, 2013
- 2.75% across the board wage increase effective and retroactive to January 1, 2014

Step movement shall be automatic as per Article XXVI.

For Officers hired after January 1, 2013:

PROPOSED SALARY GUIDE (Officers Hired on/or After 1/1/13)		
Step	1/1/2013	1/1/2014
1	\$35,000	\$35,000
2	\$38,916	\$39,986
3	\$42,832	\$44,010
4	\$46,748	\$48,034
5	\$50,664	\$52,057
6	\$54,580	\$56,081
7	\$58,496	\$60,105
8	\$62,412	\$64,128
9	\$66,328	\$68,152
10	\$70,244	\$72,176
11	\$74,160	\$76,199
12	\$78,076	\$80,223
13	\$81,992	\$84,247
14	\$85,913	\$88,275

PREAMBLE:

Conform all dates throughout the contract to the agreed upon term.

ARTICLE III, NEGOTIATION LEAVE

Section 1. Clarify to include negotiations prep sessions.

ARTICLE IV, FUNERAL LEAVE

Section I. Delete the second sentence and replace with:

"An employee shall be excused from work with pay for 5 days for the death of a spouse or child (including step child, foster child, and legal ward), parent or sibling and 3 days for the rest of the immediate family."

Section 2. Replace with the following:

"Immediate family" is defined as grandchild, legal guardian, grandparent, and other relative residing in the member's household."

ARTICLE VI, VACATIONS

Section 2, C. Add: "Except in an emergency, no employee may be held over on the shift immediately preceding the commencement of vacation."

ARTICLE XI, UNION RIGHTS

Section 4. Add:

"Information covered under this Section shall include any audio or video recording relevant to the request."

Section 5. Replace with:

"The PBA shall be notified of any proposed new rules or modification to existing rules at least 30 days prior to their implementation, emergencies excepted."

ARTICLE XII, SICK LEAVE

Section F (New). An employee shall not be required to run family leave concurrent with sick leave.

ARTICLE XXIII, WORK SCHEDULES

Section 3. Replace with:

"Schedules, shifts and units shall be subject to seniority bid once per calendar year. Bidding shall be started on October 1 and completed by November 30 of the preceding year. All vacated posts shall be subject to bid and filled by seniority in accordance with applicable case law. If a post requires training that can be done in-house, the most senior bidder shall be afforded the training and given the post after successful completion of the training."

ARTICLE XXIV, HOURS AND OVERTIME

Section 1. Add,

"inclusive of a paid 45-minute paid lunch period and two 10 minute breaks."

Section 5. Add:

"Mandatory overtime shifts can be split in to two equal portions if the affected officer agrees to the split."

Section 6. Change "one-half hour" to "45 minutes" and add "and time and one-half for 10 minutes for each break that they are required to work through."

Section 7a: Include all courts (as per current practice).

Section 11 (New). Officers may accrue up to 40 hours of renewable compensatory time per calendar year in lieu of paid overtime. Compensatory time shall accrue at the rate of 1.5 hours for each hour of overtime worked. The decision to accept compensatory time instead of cash overtime is solely the employee's. Any compensatory time not used by December 31 of the year in which it is earned shall be paid to the employee at the December 31 rate of pay in the January of the subsequent year.

ARTICLE XXVII, SHIFTS, ASSIGNMENT AND REPORTING TIME

Section 1. Replace with:

"Assignments and reporting times may not be changed except pursuant to Article VI, Vacations or with 5 days advance notice in writing personally served on the officer."

Section 2. Replace the existing language in this section with the following:

Whenever an opening occurs on a shift and the County determines to fill that shift, officers will be permitted to submit a shift preference selection and the shift assignment will be based on seniority, except when particular skills, expertise or training or other necessary skills for the assignment are needed.

The award will reflect this change.

ARTICLE XXX, PLEDGE AGAINST DISCRIMINATION

Delete content of Article and replace with the following:

ARTICLE XXX, OFFICER'S RIGHTS

Section 1. In an effort to insure that Departmental Investigations are conducted in a manner that is fair and that promotes good order and discipline, the Employer shall comply with the Attorney General Guidelines on Internal Affairs Policy and Procedure.

Section 2. When an Officer is involved in a critical incident, such as a shooting, motor vehicle accident, or physical altercation, he shall be immediately removed from the area or as soon thereafter as possible, if he requests medical attention or evaluation. Said officer shall not be required to respond to any questions or supply any statement or written reports until he is released by the evaluating physician or other medical professional. Such delay shall not exceed two business days unless the officer is physically and/or mentally incapacitated.

ARTICLE XXXII, WEAPONS

Section 3 (New). All officers shall be allowed to qualify with their off-duty weapon. Such qualifying

shall be conducted with the regular bi-annual weapons qualifications.

FINAL OFFERS OF THE COUNTY

The County submitted the following final offer:

CONTRACT DURATION:

Three years effective January 1, 2010 through December 31, 2012.

SALARIES:

- a. 2010 - 0%
2011 - 1.0%
2012 - 1.0%
- b. No retroactivity.¹
- c. During the term of the collective negotiations agreement, should the New Jersey Legislature pass any law that directly or indirectly impacts the terms and working conditions of employment, the Union and the County agree to abide by such legislation.
- d. There will be no automatic step movement, salary level movement or automatic salary level increase beyond the expiration date of this Collective Negotiations Agreement, i.e., December 31, 2012. All step and salary level movement shall terminate effective upon the termination of this Collective Negotiations Agreement, i.e., December 31, 2012.

OVERTIME:

- Sick time will not be counted towards the accrual of overtime.

HOLIDAYS:

- a. Eliminate Holiday pay
- b. Amend article to provide as follows: Notwithstanding

¹The County's original final offer included language providing for "no automatic step movement". However, in light of the fact that increments have already been paid for 2010, 2011 and 2012, the County modified its proposal accordingly.

the foregoing, the County reserves the right, at its discretion, to adjust the holiday schedule herein to conform to that promulgated by the Governor of the State of New Jersey.

- c. Add new section to provide as follows:

ABSENCE BEFORE AND AFTER HOLIDAY

An employee who is absent from work due to illness the day before and/or the day following a legal holiday, shall not be paid for the holiday unless he/she has accrued sick leave or has requested vacation time in advance, or produces a doctor's certificate. If an employee is carried on the payroll as "absent no pay" or on a leave of absence without pay, this employee does not receive holiday pay, if a holiday is observed while he/she is employed in either status.

INSURANCE - Article XVII and XVIII

- a. The insurance and health benefit levels as provided in State Law shall remain in effect.
- b. Prescription Drugs: the prescription drug program is currently with the New Jersey Health Benefits Program. The County program shall be provided for the eligible Employee, family and spouse, as set forth and defined by law.
- c. The County shall provide health coverage currently through the New Jersey Health Benefits Program. The County program shall be provided for the eligible Employee, family and spouse, as set forth and defined by law.
- d. The County shall continue the basic County dental program, which shall be at a benefit level of the current plan. The County basic dental program shall be provided for the Employee, family and spouse, as set forth and defined by law. The County and Union shall cooperate to secure State approval for the implementation of an Employee-paid upgrade in the current dental insurance plan. Such upgrade will be at no expense to the County. If implemented, the County will exert its best efforts to assure that Employee payments for the dental upgrade are treated as pre-tax

income.

e. The County shall continue its present life insurance program benefit level of \$5,000.00.

f. A. The parties agree that the County shall have the unilateral right to select the insurance carrier, the program and/or to self-insure in its sole and absolute discretion. Any dispute dealing with the selection of insurance carrier, program, or decision to self-insure shall not be subject to the Grievance Procedure. No reduction in benefit level shall result.

B. Periodically, the State Health Benefits Program may change benefits and/or benefit levels. The County has no input into or control over any such changes.

However, as a participating SHBP employer, the County is governed by any such changes. Accordingly, when SHBP changes a benefit/benefit level, the benefit and/or benefit level in this agreement will be adjusted to reflect the change. The County will not be liable for any such change in benefit level or the impact of any such change. In addition no grievance or complaint against the County challenging any such change can be processed under the grievance procedures of this agreement or in any court of law or administrative agency. This provision does not preclude the Union, or an individual employee of the County from filing an appropriate challenge against the State for any such change. The County will provide notification of any such changes to the Union and employees. This provision covers all plans under the New Jersey State Health Benefits Programs including but not limited to healthcare, prescription drugs, etc.

g. Add new section to reflect that employee contributions towards health care insurance benefits shall be made in accordance with Chapter 78, P.L. 2011. This amount may change from time to time based upon changes in legislation. The County has no input into or control over any such legislative changes. Accordingly, when such a change is made under law this agreement will be adjusted to reflect any change in contribution rate. The County will not be liable for any such change, or the impact of any such change. In addition no grievance or complaint against the County

challenging any such change can be processed under the grievance procedures of this agreement or in any court of law or administrative agency. This provision does not preclude the Union or an individual employee of the County from filing an appropriate challenge against the State for any such legislative change. The County will provide notification of any such changes to the Union and employees.

h. During the term of the collective negotiations agreement, should the New Jersey Legislature pass any law that directly or indirectly impacts the terms and working conditions of employment, the Union and the County agree to abide by such legislation.

NEW ARTICLE TRAINING:

Officers who receive training shall be obligated to remain in the employ of the County for a period of three (3) years after the training is complete or shall be responsible to refund to the County the cost and expenses of any training provided. Any training cost not repaid at the time of termination may be deducted from any accrued but unpaid balances, including but not limited to vacation time and holiday time.

MANDATORY DIRECT DEPOSIT:

Implement direct deposit for all unit employees.

UNION SECURITY CLAUSE:

Section 3: Delete "which amount shall not exceed 85%" and add "the amount allowed by law."

PERSONAL BUSINESS DAYS:

Delete Section 1 and substitute:

Each employee in the bargaining unit shall be entitled to two (2) paid personal days. Employees shall receive one additional personal day per year, for a total of three (3) per year after five (5) years of employment with the County.

GRIEVANCE AND ARBITRATION:

Section 2. Reduce 30 days to 15 days.

SICK LEAVE:

Delete section F sick leave incentive.

SERVICE RECORD:

Delete second sentence.

STIPULATIONS OF THE PARTIES

The parties stipulated the following facts:

1. Base salary consists of the employee's contractual salary, including increments. Increments payments are made on January 1 of each calendar year, regardless of the employee's anniversary date.
2. Employees were paid their salary increments in 2010, 2011 and 2012.
3. Compensation for longevity pay, holiday pay and education stipends are paid by separate check and are not considered part of base salary.
4. Longevity payments are paid on January 1 of the year in which the longevity payment is earned.
5. The employees do not receive a clothing allowance, as clothing allowance was rolled into the base pay several years ago.
6. Training: The parties have agreed to a new Article

which would provide: "Officers who receive training shall be obligated to remain in the employ of the County for a period of three (3) years after the training is complete or shall be responsible to refund to the County the cost and expenses of any training provided. Any training cost not repaid at the time of termination may be deducted from any accrued but unpaid balances, including but not limited to, vacation time and holiday time, except for employees who retire or are laid off."

7. The parties have agreed to modify Article II-B, Union Security Clause, to replace the phrase "which amount shall not exceed 85%" with "the amount allowed by law."

8. With regard to the Employer's offer no. 4b, the Union has agreed to this proposal, with the addition of the following language . . . "however, the number of contractual holidays shall not be diminished or increased".

9. The Union has agreed to the Employer's offer no. 12.

10. The County has agreed to the PBA's offer no. 1 concerning the Preamble language.

11. The County has agreed, in part, to the Union's offer no. 8, to modify Section 7 a. to state "include all courts, provided the appearance is on behalf of the County."

12. The parties agreed to the PBA's proposal to amend Article XXVII to delete the current Section 2 and replace it with the following language: "Whenever an opening occurs on a shift and the County determines to fill that shift, officers will be permitted to submit a shift preference selection and the shift assignment will be based on seniority, unless particular skills, expertise, training or other necessary skills for the assignment are needed."

FINDINGS OF FACT

Demographics

The County of Hudson, in the State of New Jersey, is a peninsula bounded by Newark Bay, the Passaic and Hackensack Rivers on the west, the Hudson River and New York City on the east, the Kill Van Kull on the south (separating the City of Bayonne and Staten Island, New York) and Bergen County on the north (C-118). The County is 46.69 square miles and the smallest of New Jersey's 21 counties (C-107,118).

The County consists of twelve municipalities: Jersey City, Bayonne, North Bergen, Union City, West New York, Kearny, Harrison, Secaucus, Guttenberg, Weehawken, East Newark, and Hoboken (C-118).

The County is an ideal location for industry, as well as commerce, since it is located between the City of Newark and New York City (C-118). It is estimated than one million persons

pass through the County each day (C-118). Major transportation arteries that service the County are: the New Jersey Turnpike and other regional and interstate highways; the Lincoln and Holland Tunnels and various inter-county motor and rail links, including the Port Authority Trans-Hudson Railway (PATH) connecting Manhattan with New Jersey (C-118). The County is also within a short travel distance of Newark Liberty International Airport in New Jersey and Kennedy International Airport and LaGuardia Airports in New York (C-118). Within its borders are trunk-line railroads, motor freight transport facilities, deep water shipping ports and dockside warehouses that play an important role in exporting goods into world markets and importing raw material and finished products for distribution throughout the United States (C-118).

The 2010 population of Hudson County was 634,266, ranking forth in the State (C-124,132), an increase of 4.2% since 2000 (B-3). In 2010, there were 246,437 households within the County in 2010 (B-1). The median household income for residents in Hudson County ranks fifteenth at \$55,767. (C-132) As of 2010, the mean household income in the County was \$79,154. (B-1), while the mean family income was \$84,663. (B-1) The per-capita income in 2010 was \$31,408. (B-2) In 2010, the percentage of Hudson County residents below the poverty level was 14.6%, and the County ranks third in the State. (C-132)

County residents are relatively well-educated. Of the population age twenty-five and over, 36.1% have a bachelor's or higher degree, and 81.5% have graduated from high school. (B-17). Hudson County is home to several colleges and universities. (B-1). New Jersey City University, Stevens Institute of Technology, St. Peter's College and Hudson County Community College are all located within the County. (B-1)

In 2010, the median value of an owner-occupied house was \$383,900 (B-2). The New Jersey Tax Record reflects Hudson County's 2011 estimated average deed amount for a residential property was \$323,966; the estimated total property assessment for the residential class in 2011 was \$123,854.00.

The "2010 Foreclosure Project: Hudson County and Jersey City" report (C-115) shows the progression of foreclosure filings from 2005 through April 2010 in the County. The number of foreclosure filings increased from 1,000 in 2005 to 3,627 in 2009. (Exhibit C-115, page 14) For the first quarter of 2010, foreclosure filings totaled 913 in the County. (Exhibit C-115, page 15) Since 2005, there have been nearly 10,000 foreclosure filings in Hudson County (C-115). Chief Financial Officer Cheryl Fuller testified that the decline in real estate sales has also resulted in a revenue decline "in the millions" in the County Registrar's Office.

Budgeting:

The Hudson County's Director of Finance and Administration, County Treasurer and Chief Financial Officer, Cheryl Fuller, submitted a certification of June 12, 2012 and a rebuttal certification dated July 9. Fuller states that the Hudson County's tax ratables and property taxes are a primary concern due to the financial impact it has on County residents (C-103). In addition, she contends that any award in excess of the County's final offer will result in severe stress on the already constrained budget (C-103).

The PBA argues that the County has the financial ability to pay for the PBA's proposed salary increases through numerous categories of revenue such as revenue surplus (Fund Balance), employee breakage and Miscellaneous Revenues Not Anticipated (MRNA). The County has increased the budget for Corrections' salaries and wages by 2.127% for 2011 and 9.703% for 2012, over the actual spending levels (Revised PBA L). In addition, the PBA asserts that the total cost difference between its proposal and the County proposal over a three-year period of January 1, 2010 through December 31, 2012, would result in an increase to the average residential property owner of \$65.54 ((Revised PBA L)).

Property Values:

The PBA highlights that between 2000 and 2012, the County's equalized value increased \$34.4 billion dollars (PBA L). The County submits that for the years 2008 through 2012, that while the equalized values reached \$68 billion in 2008, they dropped to \$57 billion in 2012. Roughly \$4 billion of that decrease was the change between 2010 and 2011 equalized valuations (PBA L-11).

The County had added new ratable assessments of \$3.2 million in 2011 and \$2.0 million for 2012 (PBA L, Tab 13,14). In 2011, the County's total assessed value of property increased by \$307 million (C-103). For the year 2012, the County's assessed value of property decreased by \$191.8 million (C-103).

Tax Appeals:

The Employer states that for the year 2010, 7,754 tax appeals were filed and in 2011 there were 7,673 filings (C-103). It contends that not since 1996/97, has this number of tax appeals been filed (C-103). In addition, these numbers do not reflect tax appeals directly filed with the New Jersey Superior Tax Court (C-103).

The Union asserts that the County, with a low 0.78% net debt, is well below the statutory debt limit and has more than sufficient borrowing power remaining (Revised PBA L). Further,

they state that this low net debt remains a solution to the impact of any tax appeals (Revised PBA L).

Total Revenues & Appropriations:

The following chart reflects summary levels of 2011 and 2012 County revenues, appropriations and the amounts to be raised by taxation (C-151)²:

Summary of Revenues & - Appropriations			
Revenues	2012	2011	% Change
Surplus Anticipated	\$23,500,000.00	-	
Miscellaneous Revenues anticipated	\$169,229,847.76	-	
Total General Anticipated Revenues	\$192,729,847.76	\$212,650,649.72	-9.4%
Amount to be Raised by Taxation	\$291,096,475.00	\$279,653,338.99	3.9%
Summary of Appropriations			
Operations Including contingent	\$392,878,175.30	-	
Capital Improvements	\$29,563,515.02	-	
Total Debt Service	\$22,472,330.45	-	
Deferred Charges & Statutory Expenditures	\$38,912,201.99	-	
Judgements	\$100.00	-	
Total General Appropriations	\$483,826,322.76	\$492,303,988.71	-1.7%

Revenues:

Fuller contends that despite the County's efforts in seeking new or enhanced revenue sources, such as the housing of U.S. Marshal and ICE detainees in their Correctional Center, the loss of budget revenues has been significant and has greatly

² Not all detailed data for 2011 was available at the time of developing this chart; however, the 2011 summary data reflected above was extracted from the 2012 Hudson County Adopted Budget, (C-151, p.2).

contributed to the County's deficit and the requirement to raise taxes (C-103).

The County receives reimbursement from the federal government for the housing of Immigration (ICE) and other federal inmates at the rate of \$110 per day per inmate. In 2011, the County realized \$19.3 million from this revenue source; in 2012, it budgeted \$18.7 million - a decrease of \$671,496 (C-151, p 4a). Fuller avers that this decrease is a reflection of the decreasing population of these inmates in the County Corrections Center.

Payments for State inmates has decreased from \$771,279 realized in 2011 to \$188,460 budgeted in 2012 - a decrease of \$582,819 or 76% (C-151, p 4a). The PBA argues that, based upon the amount realized in 2011, the County could have budgeted a like amount for this revenue in 2012 (Revised L, p. 19). Fuller states that the anticipated amount was reduced at the direction of State Local Government Services.

The PBA maintains that the Corrections Department has increased its Miscellaneous Revenues Not Anticipated (MRNA), by 2,241% since 2006 to 2011 (Revised PBA L, p.18).

The PBA highlights that in 2011, the County collected \$1.7 million in fees from the Department of Corrections which is equal to 3.99% of the Corrections Department's salaries and wages budget for 2011 (Revised PBA L, p.18).

However, the County notes that these "unanticipated revenues" are just that - not to be anticipated and not to be counted, as they could leave a revenue shortfall in collections. For example, the County notes that in 2010, it received \$1,030,8167 in HCCF Bond Refunds as a one-time fee for a debt refunding, which will not be received in future years.

In the years 2006 through 2011, the Constitutional Officers revenues have decreased by \$7.5 million (C-103). The revenue from the County Clerk's office has dropped because of the decrease in housing sales. In year 2012, the Constitutional Officers anticipated revenues are more in line with the 2011 realized figures (C-151, p.8).

Interest on investments is down by \$5.0 million and added and omitted taxes are down by \$2.2 million (C-103)³. Fuller stated that other revenue losses include the Prosecutor PILOT Initiative of \$802,000⁴ and the 2011 complete elimination of the leasing of the County Correctional Center facilities for \$1.15 million (C-103; C-151, p.4a).

State Aid:

State Aid was reduced from \$3,209,386 in 2011 to \$3,126,185 in 2012, a reduction of 2.6% (C-151, p.9). The PBA contends that, notwithstanding the decline in State Aid, the County has

³ C-151, Adopted Budget for 2012, reflects \$473,943 realized in 2011 for interest on investments and an anticipated amount of \$400,000 for 2012.

⁴ County Ex C-151, p.8, , p.9lects 2012 anticipated and 2011 realized amounts for the Prosecutor PILOT Initiative of \$802,500 respectively.

enjoyed continued revenue growth that exceeds the salary increases of PBA Local 109 and since 2005 the growth in revenues has been 4.47% (Revised PBA L, p.8). The Employer rebuts the PBA's contention and states that the revenue growth depicted by the PBA is revenue generated from taxes. It further explains that the average rate of growth at 4.47%, which it agrees is greater than the PBA's award, is not an indicator of good revenue growth but instead indicates that the County has had to place a greater burden on the taxpayers of the County to make its budget (C-103 Rebuttal).

Federal and State Grants:

The Union contends that the County has demonstrated its ability to obtain grant revenues to reduce taxation, as evidenced by the \$36,999,788.05 of grants realized in the 2010 budget year (Revised PBA L, p.27). In 2011, the County budgeted \$34.7 million in anticipated grant revenues (C-151, p.7c). For 2012, it budgeted for \$13.8 million in grant money (C-151, p.7c). However, the PBA notes that, in addition to grants that are anticipated when the budget is adopted, the County has the ability to fully fund appropriations that can later be reimbursed as Chapter 159 Grants are received during the budget year (PBA L, p.27).

The Union contends that the County's argument that it is limited to only funding PBA Local No. 109 with the 2% allowed to

be raised by taxation is incorrect and asserts that the grant revenues could be used to fund salary increases for the PBA (PBA L, p.27).

Tax Rates:

The Employer states that despite the County's efforts to reduce costs in the budget, County taxes have continued to escalate (C-103). It asserts that the unfortunate trend of increasing taxes has placed a tremendous burden on its taxpayers (C-103). It illustrates the trend in increasing taxes as follows: for 2006, the County tax levy increased by \$10.6 million; in 2007, the tax levy increased by \$10.1 million; in years 2008 and 2009, the tax levy increased by \$11.8 million for each year; in 2010, the tax levy increased by \$12.0 million; in 2011, the tax levy increased by \$10.3 million and in 2012, the tax levy was increased by \$11.4 (C-103; Revised PBA L, p.5).

Fuller notes that amount of the budget funded by taxpayers have steadily increased, as the chart below reveals (Revised PBA L, p.22):

Year	Percentage Raised Through Taxation
2012	60.2%
2011	60.5%
2010	55.2%
2009	53.8%
2008	53.3%
2007	53.2%

Beginning in 2004, the County operated an Open Space, Recreation and Historic Preservation Trust Fund (C-103). The authorized annual levy was up to one cent per \$100 of equalized valuations (C-103). For 2010, this levy would have amounted to \$6,665,258 million (C-103). Fuller states that the Open Space tax levy was not fully collected because of stress on the taxpayer. Therefore, it was decided to suspend the program (C-103). It was further decided to levy the debt service requirement in the amount of \$695,215 (C-103). For 2011, the County levied the debt service requirement for only one-half of a penny for the same reason (C-103; C-151, p.42).

The Union contends that the 2011 annual general tax rate increase, allocated to the cost of the Corrections Department's salaries and wages and other expenses, was \$7.195 (Revised PBA L, p.6). The following chart shows 2010-2011 County general tax rates, average residential assessed valuation and annual residential property tax county rate increase allocated to the cost of the Corrections Department (Revised PBA L, p.6):

	2010	2011	Increase (Decrease)
County General Tax Rate	1.228	1.268	0.040%
Avg. Residential Assessed Valuation	\$123,867.45	\$123,839.25	\$(28.20)
County General Tax Rate	x 1.228	x 1.268	-
	\$152,111.70	\$157,033.34	\$4,921.65
Per \$100 of Assessed Value	/ 100	/ 100	/ 100
Amt. to be Raised by Taxation for County General Purposes	\$1,521.12	\$1,570.33	\$49.22
Percentage of Corrections Department Raised by County Taxation			14.62%
Avg. Annual Residential Property Tax County Rate Increase Allocated to the Cost of Corrections			\$7.195

2% Tax Levy Cap:

N.J.S.A. 40A:4-45.4 places limits on county tax levies and expenditures. This law is commonly known as the "Cap Law" (the "Cap Law").

The 1977 Cap Law provides that the local unit shall limit any increase in its budget to 2.5% or the COLA, whichever is less, of the previous year's local unit tax levy, subject to certain exceptions.

The provisions of P.L.2010, c.44 effective June 13, 2010 (the "Amendment"), reduces the cap to 2% and limits exclusions only to capital expenditures, including debt service, certain increases in pension contributions and accrued liability for

pension contributions in excess of 2%, certain healthcare cost increases in excess of 2% and extraordinary costs directly related to a declared emergency. The Division of Local Government Services has advised that counties must comply with both the original "Cap" and the Amendment tax levy limitation, selecting the more restrictive of the two.

A county may, by resolution, increase the COLA percentage up to 3.5% [N.J.S.A. 40A:4-45.14(b)] or bank (for up to two years) the difference between its final appropriation subject to the cap and 3.5%. Cap Banking is not automatic. A single resolution can be used to accomplish both activities: increasing appropriations and banking any unappropriated balance. Cap bank balances from 2010 and 2011 are available for use in 2012.

The Hudson County Cap Calculation reflects the "1977 Cap" Maximum County Purpose Tax After All Exceptions to be \$291,096,475 (C-151, p.3e). The "2010 Cap" Maximum Allowable Amount to be Raised by Taxation After All Exclusions is \$292,036,342 (C-151, p.3f). Since the County is legally obligated to use the more restrictive of the two caps, the amount to be raised by taxation in 2012 is the lesser amount of \$291,096,475 (C-151; p.3f). Hudson County utilized \$673,758.28 from the CY 2010 Cap Bank; and \$2,631,496.72 from the CY 2011 Cap Bank (C-151, p.3e).

The Union states that the County chose not to use a COLA rate resolution in the 2012 budget (PBA O). It asserts that a COLA rate resolution would have provided additional spending and tax levy revenues (PBA O, p.4). It further states that this would indicate that the County budget was not restricted by the spending or tax levy caps (PBA O, p.4).

Fund Balances:

The following chart depicts the County's fund balance from years 2007 through 2012 (PBA O, p.5):

Use of Surplus						
	Budgeted 2012	Actual 2011	Actual 2010	Actual 2009	Actual 2008	Actual 2007
Fund Bal as of January 1	\$28,051,598	\$25,060,546	\$24,528,532	\$24,285,914	\$22,505,108	\$22,050,183
Surplus Utilized in Budget	\$23,500,000	\$24,500,000	\$24,000,000	\$23,800,000	\$22,000,000	\$21,800,000
Remaining Fund Balance	\$4,551,598	\$560,546	\$528,532	\$485,914	\$505,108	\$250,183
Excess from Operations/ Revenue	-	\$27,491,052	\$24,532,014	\$24,042,618	\$23,780,806	\$22,254,925
Fund Balance as of December 31		\$28,051,598	\$25,060,546	\$24,528,532	\$24,285,914	\$22,505,108
Percentage of Surplus Used	-84%	-98%	-98%	-98%	-98%	-99%

The Employer contends that while the downturn in the economy has resulted in major decreases in its resource stream, it has been able to maintain its fund balance; however, it sees this as a problem in future years (C-103). In fact, the County

has had to rely on its fund balances as a significant resource to support its budget (C-103). For 2012, the County reluctantly released some of its current fund reserves to plan for fund balance regeneration for subsequent years and anticipated emergencies in the cost of litigations due to the disposition of funding in its insurance reserves (C-103). In addition, even with the use of virtually all of the fund balance, it was necessary for the County to significantly increase the County tax levy (C-103).

The Employer contends that 2011 appropriation reserves are higher than prior years due to many bills being paid after December 31, 2011 (C-103 Rebuttal). The County explained that charges occurred during the current year many times are not paid until the succeeding year (C-103 Rebuttal). In addition, Fuller states that in 2011 the County closed its books earlier than usual due to it converting to a new accounting/budget software program, thus expenditures that would normally have occurred in that year were carried as reserves (C-103 Rebuttal).

Fuller explained that the 2011 fund balance of \$28,051,598 was higher than in previous years due to a one-time non-recurring release of contracts and commitments (C-103 Rebuttal). The fact that \$23,500,000 was anticipated as revenue, when more was available, further illustrates the fact that it will be

difficult to regenerate fund balance in future years (C-103 Rebuttal).

Petrucelli explained that the County has done a good job in running its budget. The Union states that the above chart illustrates the County have continually been able to regenerate fund balances since 2005⁵ (PBA O, p.5). The Union asserts that in 2011, the County had an ending fund balance of after utilizing \$24,500,000 in the 2011 budget (PBA O, p.5). It states that the 2011 excess results of operations of \$27,491,052 represents the highest level in all years and exceeds the 2010 results by \$2,959,038 (PBA O, p.5). In 2012, the Union asserts that by budgeting \$23,500,000, the County did not use all of its available 2011 fund balance of \$28,051,598 (PBA O, p.5). In fact, it states that the County still had a 2012 remaining balance of \$4,551,598 (PBA O, p.5). In addition, the remaining \$4,551,598 of remaining surplus is before any regeneration of fund balance that will result from 2012 operations (as historically been the case) (PBA O, p.5).

The Union states that the County has continually had appropriation reserves, which arise out of spending less than budgeted, and per the December 2011 Audited Financial Statement,

⁵ The Union avers that the County has continually been able to generate fund balances since 2005; however the chart above reflects years 2007 - 2012. The chart above provides sufficient data for the County's trend analysis in fund balances.

had \$39,602,245 available for future spending in 2012 (Revised PBA L, p.16).

Appropriations:

Fuller explained that the County annually confronts a structural deficit whereas its recurring expenditures exceed its recurring revenues (C-103). She further states that for 2012, the deficit continues to be around \$13 million. In addition, Fuller states that the County has addressed the structural deficit each year by the deferral of pension payments, no salary increases for non-union employees for three years (2009, 2010 & 2011), County tax levy increases and employee contributions for employee benefits (C-103).

In 2012, the County's debt service payments will increase by approximately \$2.7 million due to the issuance of bonds and notes to fund critical infrastructure improvements and capital needs (C-103; C-151, p.30).

In addition, Fuller contends that the State has continued to reduce the reimbursement formula for County-operated psychiatric hospitals, whereas the reimbursement rate stood at 90% of cost, and now, two years later, the rate is 85% of cost (C-103).

Fuller states that she has received notice that health and prescription insurance will increase in 2012 by 10.3% or an estimated \$2.7 million (C-103). Fuller explained that the

County also anticipates a sizable increase in the County's contributions to the pension systems (C-103).

Corrections Department Budget:

The Corrections Department's total salaries and wages for 2011 was \$42,173,938 (C-151, p.21). For 2011, the Corrections Department's appropriated salaries and wages accounted for 11.38% of the County's total budget for salaries and wages (\$42,173,938/\$380,710,228) (C-151, p.21). For 2012, the Corrections Department's salaries and wages accounted for 12.21% of the County's total appropriated salaries and wages (\$46,265,937/\$378,892,511) (C-151, p.21).

The Union contends that since 2005, the Corrections Department's salaries and wages and other expenses have resulted in reserves (PBA Revised L, p.3). The following is an excerpt from the PBA's chart:

Corrections Salaries & Wages & Other Expenses					
Salaries & Wages	Budgeted	Modified by Transfers	Amount Paid	Cancelled	Reserved
2012	\$46,265,937				
2011	\$42,173,938	\$42,173,938	\$41,553,937		\$620,000
2010	\$41,295,704	\$41,295,704	\$40,943,770		\$351,933
2009	\$38,334,133	\$38,334,133	\$38,026,244	\$25,000	\$282,888
2008	\$36,410,980	\$36,160,980	\$35,881,000		\$279,979
2007	\$36,354,885.00	\$35,219,885	\$33,098,989	\$1,900,000	\$220,895.73
Other Expenses					
2012	\$9,850,584				
2011	\$9,946,679	\$8,346,679	\$7,786,246		\$560,432
2010	\$10,305,631	\$10,305,631	\$9,520,398	\$250,000	\$535,232

2009	\$10,708,436	\$10,708,436	\$9,881,214	\$250,000	\$577,221
2008	\$11,920,295	\$11,450,295	\$9,706,336	\$1,000,000	\$743,958
2007	\$10,139,553	\$10,489,553	\$10,091,780		\$397,772

The Union states that in 2011, the County spent \$1,180,433.08 (\$620,000.43 + \$560,432.64) less than budgeted for the Corrections Department salaries and wages and other expenses (Revised L, p.3). In addition it states that in 2010, the County spent \$887,166.40 (\$351,933.52 + \$535,232.88) less than budgeted, for the Corrections Department (Revised L, p.3). Further, it adds that in 2010, \$250,000 of the Corrections Department's other expenses was cancelled (Revised L, p.3). It asserts that the \$250,000 reserve was used to increase the County's fund balance in the 2010 period (Revised L, p.3).

The difference between the 2012 budgeted salaries and wages for the Corrections Department, to the amount budgeted in 2011, is \$4,091,999 or a 9.703% increase over the 2011 budgeted/modified amount (Revised L, p.4).

County's Net Debt:

The Employer notes that in 2012, its debt service payments will increase by approximately \$2.7 million due to the issuance of bonds and notes to fund critical infrastructure improvements and capital needs (C-103;130).

The total County Debt Service appropriated and realized for 2011 was \$19,726,437.88 and appropriated for 2012 is \$22,472,330.45 (C-151).

The Union states that the County has significant remaining borrowing ability due to its low outstanding net debt (Revised PBA L, p.20). The following chart reflects the County's 2009 through 2011 equalized value, net debt outstanding and remaining borrowing power:

Equalized Property Values & Debt Analysis					
Year	CY	Equalized Value	Net Debt Outstanding	Net Debt %	Remaining Borrowing Power
2011	12/31/2011	\$57,358,268,809	\$480,093,536	0.78%	\$747,419,144.68
2010	12/31/2010	\$61,277,951,527			
2009	12/31/2009	<u>\$65,490,681,766</u>			
		\$184,126,902,102			
		3-year Avg. Equalized Value			\$61,375,634,034.00
		2% of the 2011 Avg. Equalized Value			<u>2.00%</u>
		Statutory Debt Limit	100.00%		\$1,227,512,680.68
		Amt. of Statutory Debt Limit Utilized	<u>39.11%</u>		\$480,093,536.00
		Amt. of Statutory Debt Limit Available		60.89%	\$747,419,144.68

The Union asserts that the County's low net debt percentage is below the statutory debt limit and therefore the County has significant statutory borrowing power available in the amount of \$747,419,144.68 (Revised PBA L, p.20).

Consumer Price Index (CPI):

The Consumer Price Index ("CPI"), measured by the United States Bureau of Labor Statistics ("BLS"), tracks price changes

for particular commodities and services at the retail level various geographic areas.

The BLS CPI Index Report issued in February, 2010 shows that over the preceding 12 months, the index increased 2.1% before seasonal adjustment (C-11). For the Northeastern region of the United States, the "all items" CPI percentage change from June 2009 to June 2010 was 1.7% (C-12).

The BLS issued a CPI report in February 2011" (C-13), which report shows that over the preceding 12 months, the all items index CPI-U increased 2.1% before seasonal adjustment (C-13).

The Bureau of Labor Statistics issued a "Consumer Price Index issued in May 2011 showing that over the preceding 12 months, the all items index (CPI-U) increased 3.6% percent before seasonal adjustment (C-14). For the Northeastern region of the United States, the all items CPI percentage change from May 2010 to May 2011 was 3.2% (C-14). The Bureau of Labor Statistics issued a "Consumer Price Index- April, 2012" report (C-15) showing a 12-month change in the index for all items was 2.3% percent.

The Social Security COLA for 2010 and 2011 was 0%, and for 2012, the COLA was 3.6%. The New Jersey State LOSAP municipal CY 2011 COLA was 3.0% (PBA L).

Risks and Dangers of the Job

There is no doubt that working in a correctional facility can be stressful and dangerous. Correctional officers have a higher rate of on the job injuries, largely owing to conflicts with inmates. Correctional personnel are frequently required to work extra shifts, resulting in fatigue, low morale, and family related problems. In addition, correctional personnel face the added risk of being targeted outside of their work facilities by gang members out on the street. Further, according to research done by Wayne State University in 1997, "suicide rates among correctional officers is 39% higher than the rest of the working age population" (PBA H-3).

Crime Rates

According to the New Jersey Uniform Crime Report issued by the New Jersey Office of the Attorney General, crime rates declined in Hudson County between 2003 and 2008. For 2010, violent crimes in Hudson County decreased 2% and non-violent crimes decreased by 4% when compared to 2009 (p.90 UCR for 2010). Additionally, the 2010 total crime index of offenses for Hudson County decreased by 4% when compared to 2009. On a State-wide basis, the violent crime rate remained virtually unchanged between 2009 and 2010 (U-H, p. 20).

Over the ten-year period from 1999 to 2008, the total crime rate in New Jersey's "Major Urban areas (Jersey City,

Camden, Elizabeth, Newark, Trenton and Paterson)" decreased 26% from 93,341 in 1999 to 63,683 in 2008 (C-38, p. 105). Violent crime also decreased 23% from 13,521 in 1999 to 10,452 in 2008 (C-38, p.105).

The Department of Corrections:

Oscar Aviles is the County's Director of Corrections and Manages the Corrections Center, which is located in Kearny. Deputy Director Kirk Eady serves as his Confidential Aide. Reporting to Aviles are three Captains. Under the Captains are 15 lieutenants, who in turn supervise 40 sergeants (see SOA facts). There are currently 396 corrections officers working in the Correctional Center.

The Departmental motto is "Honor, Duty and Integrity." (C-1). At the hearing, Director Aviles testified that "Hudson County Corrections Officers were professionals," and that "they deserve every penny they earn."

The County has instituted a Unit Management System as an internal organizational model in the corrections facility. The Unit Management model divides the facility into five units: Unit 1 consists of the front perimeter security, hospital detail, medical, visiting and scheduling; Unit 2 consist of classification, intake and the record room; Unit 3 consist of Delta and Alpha housing pods; Unit 4 consists of Bravo and

Charlie pods; and Unit 5 consists of Echo dorm-style housing and the kitchen. Each Unit is commanded by a Lieutenant who has responsibility for his specific unit.

PBA Local 109 President Luis Ocasio testified the Correctional Facility includes two buildings. One building holds municipal, County and State prisoners. The newer building houses federal prisoners and immigration detainees. Ocasio testified that there are 14 regular housing units within the Correctional Facility. Typically, one corrections officer is charged with supervising 64 inmates.(N). Certain units, such as C100 West, A100 East, the second stage intake unit, C100 West, the disciplinary unit, C500 East the maximum security unit contain fewer inmates. (N). In certain units, however, several officers may be employed on a particular unit. For example, two officers are assigned to the Lockup Unit, which houses inmates with disciplinary problems, regardless of how many inmates are on the unit.

The County utilizes a "direct supervision" model of inmate management (C-1). Direct supervision is a combination of management style and architectural design that permits barrier free interaction between corrections officers and inmates. (C-1). Under this form of prison management, inmates spend most of the day outside of their cells in common areas. While the direct supervision philosophy is considered a more cost-

effective approach to incarceration, it increases the risk of harm to corrections officers, who are no longer separated from inmates by traditional barred prison cells. (C-1). Inmates in the direct supervision units spend their days outside of their cells and are free to be in the open areas, stairways, and visit with each other.

Corrections officers maintain security, custody and control of inmates at the Correctional Center. PBA Local 109 unit members must ensure that inmates observe all of the rules and regulations of the facility and that they interact appropriately with staff members and other inmates. They supervise the day-to-day movement of the inmate population and make sure that each inmate receives the appropriate food, clothing, shelter and medical care. Inmates are also provided rehabilitative services and programs to improve their chances of success upon their return to society. Each Corrections Officer must perform three solo cell searches per shift, feed the inmates and ensure that they return to their cells in the evening.

In addition to their customary duties, PBA Local 109 members serve in several specialized units, including the Hudson County Special Operations Group, the Gang Unit and the K-9 Unit (H-3). The Special Operations Group "has been established to provide the Hudson County Department of Corrections with a group of specially trained personnel capable of effectively responding

to emergencies." (H-3). This unit engages in surveillance and intelligence gathering, provides firearm support for tactical operations, recovers hostages and endangered staff, controls inmate disturbances and is specially trained to contain armed inmates with the least amount of force necessary. The Gang Unit identifies and deals with gang issues in the inmate population. This Unit was recently expanded because of the proliferation of gang membership and activity in the County. Officers assigned to the K-9 unit provide perimeter security, officer safety and perform narcotics searches.

Rank and file corrections officers work five consecutive days on duty with two consecutive days off. Because the Correctional Facility must be staffed at all times, officers work one of three shifts: 6:00 a.m. to 2:00 p.m.; 2:00 p.m. to 10:00 p.m.; and 10:00 p.m. to 6:00 a.m. Officers are also required to work an additional fifteen minutes of muster time prior to the beginning of their shifts. (A-1, Art. XXIV, p. 34). They receive a half hour paid lunch break, during which time they cannot leave the facility. Officers on break remain subject to call.

Dangers of the Job

According to PBA President Luis Ocasio, there are more than a dozen different gangs represented by inmates in the Correctional Facility. Gang members are not segregated each

other or members of other gangs. Thus, members of the Bloods gang can come into contact with rival gang members at any time in the facility. This potential creates an increased possibility of inmate violence which, in turn, places corrections officers in potentially dangerous situations.

President Ocasio testified that he has been assaulted by inmates on several occasions. In 2005 or 2006, he was assaulted by gang members that refused to clear the hallway. He was kicked, punched and beaten with a radio. This attack left President Ocasio with staples in his head, a separated shoulder, a concussion and post-traumatic stress disorder. Several years later, President Ocasio was locked in a cell by an inmate and attacked. He also suffered third degree burns on his foot after stepping on boiling water during an altercation precipitated by an inmate spitting blood in an officer's face.

More recently, Officer Grullion was assaulted by an inmate and injured his knee. Officer Solis injured his shoulder when he was hit with a broomstick. Officer Curbero was attacked by two inmates in protective custody. Officer Brown was assaulted and was injured to the point where he required knee surgery. Ocasio testified that only about 25% of the officers have been provided with shank-proof vests.

Existing Working Conditions

As the parties have not been successful in negotiating a

successor contract, the rank and file corrections officers are currently being paid base salary pursuant following pay scale in the 2009 agreement (J-1):

Step	Current Salary (2009)
1	32,280
2	39,999
3	41,105
4	42,223
5	43,123
6	44,389
7	46,630
8	48,873
9	54,485
10	63,462
11	67,950
12	81,861

At the beginning of 2010, there were 133 employees at top pay (step 12) on the guide. The remainder of the bargaining unit members received their step increment pay for 2010, 2011 and 2012, on January 1. In 2012, there are now 168 employees at top pay of \$81,861.

In addition to base pay, officers with five or more years' service are paid longevity pay as follows: (C-3):

Longevity

Years of Service	Amount
Completion of 5 years	\$300
Completion of 10 years	\$500
Completion of 15 years	\$700
Completion of 20 years	\$900
Completion of 25 + years	\$1,100

Corrections officers no longer receive a separate uniform allowance or a differential for the 5/2 shift, as both these items were rolled into base pay by a settlement agreement in 2003. The prior contract, 1999-2003 had provided for a \$500 clothing allowance and a differential" for employees in the 5/2 schedule of either 14 additional holidays off or compensation equal to 14 additional days of holiday day or a combination thereof. However, in 2002, all employees went to the 5/2 schedule as a result of the Licata award. The 2003 settlement added both these amounts. Holiday day is currently calculated at hourly rate x 112 hours (8 hrs per day x 14 holidays). Thus, this settlement agreement added between \$2400 and \$4600 to employees' base pay (depending upon step) for the 5/2 differential and \$500 per employee for uniform allowance.)

In addition to base pay, corrections officers are paid cash for 14 holidays annually. Officers also have an educational incentive program which provides an additional annual stipend of \$10 per credit earned with maximums of \$750 for an associate degree, \$1500 for a bachelor's degree, and \$2,000 for an advanced degree.

As to time off, corrections officers are provided with the following vacation allotment:

<u>Years of Service</u>	<u>Vacation Days</u>
0-1 yr	1 day per month

1-5 yrs	15 days
6-15 yrs	20 days
16-24 yrs	25 days
25 or more yrs	1 day/yr serv up to 30 days

Further, officers receive 3 personal days a year and 15 sick days. Officers who use none of their sick days in a given year may sell back up to five days for cash payment.

Officers also have the ability to cash out unused sick leave upon retirement at a 1 to 3 rate up to a maximum of \$10,000 (C-3). Officers are also guaranteed a "death benefit" of two years' pay if they are killed while performing their duties.

Officers have health and prescription insurance for the employee and dependents provided through the New Jersey State Health Benefits Plan. As of July 1, 2012, corrections officers are making contributions to their health benefits pursuant to Chapter 78, in Tier 2, meaning that they will pay the greater of 1.5% of salary, or a percentage of the premium costs which doubled over 2011's contribution rates. The following chart illustrates a sample of employee contributions in Tier 2:

Single Coverage:

Salary Range	Tier 1 (2011)	Tier 2 (7/12)	Tier 3 (7/13)	Tier 4 (7/14)
50,000-54,999	5.0%	10.0%	15.0%	20.0%

55,000-59,999	5.75%	11.5%	17.25	23.0%
60,000-64,999	6.75%	13.5%	20.25%	27.00%
65,000-69,999	7.25%	14.5%	21.75%	29.0%
70,000-74,999	8.0%	16.0%	24.%	32.0%
75,000-79,999	8.25%	16.5%	24.75%	33.0%
80,000-94,999	8.5%	17.0%	25.5%	34.0%
95,000 up	8.75%	17.5%	26.25%	35.0%

Family Coverage:

Salary Range	Tier 1 (2011)	Tier 2 (7/12)	Tier 3 (7/13)	Tier 4 (7/14)
50,000-54,999	3.0%	6.0%	9.0%	12.0%
55,000-59,999	3.5%	7.0%	10.5%	14.0%
60,000-64,999	4.25%	8.5%	12.75%	17.00%
65,000-69,999	4.75%	9.5%	14.25%	19.0%
70,000-74,999	5.5%	11.0%	16.5%	22.0%
75,000-79,999	5.75%	11.5%	17.25%	23.0%
80,000-84,999	6.0%	12.0%	18.0%	24.0%
85,000-89,999	6.5%	13.0%	19.5%	26.0%
90,000-94,499	7.0%	14.0%	21.0%	28.0%
95,000-99,999	7.25%	14.5%	21.75%	29.0%

Thus, officers at top pay are contributing 17% of premiums for single coverage and 12% for family coverage this year.

In addition, Chapter 78 raised the pension contribution for PBA unit members from 8.5% of salary to 10.0% of salary.

Internal Comparables:

Sheil testified that approximately 700 County non-union employees received no salary increase for 2009, 2010, or 2011. Potential raises for unrepresented employees in 2012 have not yet been determined. The County has proposed a wage freeze in the first year of each of its contracts currently in

negotiations.

It appears that the County has eight law enforcement bargaining units, 4 of which have settled contracts or awards extending through 2012. Of the remaining three, the two Corrections Internal Affairs units are in negotiations, and this corrections rank-and-file unit is the subject of this award. In addition, the County had settled contracts with three of its civilian groups extending through June, 2011. The following chart shows salary increases to date:

Unit		2010	2011	2012	CBA	Notes *	
Sheriff's Officers PBA 334	On-Guide/ Top of Guide	3% 6%	3% 6%	3% 6%	2008-2012	Award Issued 7/11	
Sheriff's Superiors FOP 127	\$ Increase - Sergeants - Lieutenants -		\$1,99 5 =	2.3% =	\$2,398 = 2.7% = 2.5%	2011-2012	Award Issued 7/11
Prosecutor's Investigators Local 232		2.25%	2.0%	(7/1)	2009-2012	Supplement Award Issued 3/12	
Prosecutor's Superiors Local 232A	In negotiations				Expired 2008		
Corrections Superiors PBA Local 109A		2% (7/1)	1.5%	2%	2010-2012	Award issued 7/2/12	
Corrections Rank & File PBA Local 109	In interest arbitration				Expired 2009		
Corrections Internal Affairs PBA Local 196	In negotiations						
Corrections Internal Affairs Superiors PBA Local 196A	In negotiations						
1199 Blue & White Collar	In negotiations	3.6% (Eff 7/1)			7/1/06 – 6/30/11	Negotiated in 2007	

1199 Professional Unit	In negotiations	3.6% (Eff 7/1)			7/1/06 - 6/30/11	Negotiated in 2009
UNO/1199 Nursing Supervisors	In negotiations	3.6% (Eff 7/1)			7/1/06 - 6/30/11	Negotiated in 2009

* Exhibits C-58, C-59, C-87, C-89, C-90, C-91, & C-92

A wage comparison among County law enforcement groups is as follows:

	2009	2010	2011	2012
Sheriff's Officers	\$71,020	\$75,281	\$79,797	\$84,584
Sheriff's Superiors Sgts.		\$84,419	\$86,415	\$88,813
Sheriff's Superiors Lts.		\$91,975	\$93,970	\$96,368
Pros. Senior Investigators			\$86,642	\$88,375
Corrections Officers	\$81,861			
Corrections Sgts.	\$94,468	\$96,541	97,989	99,949
Corrections Lts.	\$99,380	\$101,368	102,888	104,946

It must be remembered however, that unlike the Sheriff's officers and superiors, corrections officers no longer receive a separate clothing allowance. In addition, Sheriff's Officers and Superiors have a slightly better longevity program by \$200 across-the-board than Corrections.

External Comparables:

The PBA has provided a copy of the most recent contract from each unit of corrections officers, State-wide. Those contract salary guides reveal the following top-step pay, by county:

Top Step Base Salary – NJ Correction Officers						
Rank	County	2008	2009	2010	2011	2012
1	Bergen	\$98,076	\$102,046	\$106,385	-	-
2	Monmouth	\$85,001	\$86,276	\$88,864	\$91,752	\$94,734
3	Ocean	\$83,324	\$86,657	-	-	-
4	Morris	\$79,259	\$82,429	\$85,726	-	-
5	Hudson	-	\$81,861	\$83,498	\$84,751	\$86,446
6	Somerset	\$77,334	\$81,471	-	-	-
7	Mercer	\$79,161	-	-	-	-
8	Union *	-	-	\$79,110	\$84,922	\$89,581
9	Essex	\$74,239	\$76,280	\$78,188	\$79,751	\$81,347
10	Middlesex	-	\$74,974	\$76,860	\$78,793	\$80,368
11	Sussex	-	\$71,526	\$74,547	\$77,674	\$80,910
12	Cape May	-	\$69,118	\$72,082	\$75,165	\$78,372
13	Gloucester	\$63,501	\$68,041	\$68,883	\$71,430	-
14	Warren	\$61,161	\$64,885	\$68,836	-	-
15	Camden	\$66,535	\$68,465	\$68,465	\$70,450	\$72,454
16	Atlantic	\$61,597	\$63,907	\$66,463	-	-
17	Burlington	\$60,357	\$61,866	\$63,103	\$64,050	-
18	Hunterdon	-	\$57,500	\$58,500	\$60,000	-
	Cumberland	-	-	-	-	-
	Passaic	-	-	-	-	-
	Salem	-	-	-	-	-
	Average	\$74,129	\$74,831	\$75,429	\$75,399	\$82,538

*Holiday pay rolled into base.

The average top base pay for Corrections officers in 2010 is \$75,429. I note that Hudson County correction officers are more than \$6,000 above average and rank fifth statewide.

In terms of other economic benefits, 15 other counties have cash clothing allowances for either purchasing replacement items and/or clothing maintenance. The average appears to be about \$1000 annually. The sick

leave allotment is 15 days state-wide; the average number of personal days state-wide is 3. As to vacation allotment, Hudson's corrections officers rank mid-range with 25 days, the average being 23.7 days.

Further, a review of settlement and interest arbitration award trends reported by the New Jersey Public Employment Relations Commission shows that the average salary increase granted in interest arbitration awards and those units that voluntarily settled is as follows:

Year	Number of Awards	Average Salary Increase of Awards	Voluntary Settlements	Average Salary of Increase of Settlements
1/1/12-4/30/12	9	1.82%	10	1.83%
1/1/2011-12/31/2011	34	2.05%	38	1.87%
1/1/2010-12/31/2010	16	2.88%	45	2.65%

Private Sector:

According to the Public Employment Relations Commission's Biennial Report issued in August, 2011, average private sector wages, average total government wages, and average total wages all increased between 2009 and 2010 by 2.2% in New Jersey. However, the same report shows that between 2009 and 2010, private sector wages in Hudson County rose by 5.7%.

The June 30, 2010 report issued by the Bureau of Labor

Statistics shows that Hudson County's unemployment rate was then at approximately 11%. (C-16), and is among the top five counties in New Jersey for unemployment (C-17). On a State-wide basis, unemployment in April, 2010 as at 10.9%, slightly more than double that of April 2007. The Bureau of Labor Statistics reported that the national unemployment rate in July 2010 was 9.4% (C-22). By its April, 2012 report, the BLS reported a slight improvement, noting that the unemployment rate in New Jersey is 9.1% (C-31).

Work Schedules/Shift Bidding

All unit employees currently work a 5 days on/2 days off fixed work schedule. Article XXIII of the 1998-2003 contract provided, in part,

Section 2.

a. Subject to paragraphs b., and c., below . . the County reserves the sole right to . . .determine the starting and ending days and time of each officers 5/2 and 4/2 schedule. Unless the officer volunteers to the contrary and the County agrees, each 5/2 schedule officer shall be scheduled for two consecutive days off each 5/2 cycle. However, the County retains the full managerial discretion to schedule the two consecutive days off that the officer shall receive; . . .

b. Notwithstanding paragraphs a., above, the County agrees that any 5/2 schedule officer who as of November 9, 1995, was assigned to a duty post that has weekends off shall retain weekends off as long as the duty post remains in existence. The officer may be assigned by the County to any 5/2 schedule if said duty post is eliminated.

c. Notwithstanding paragraph a., above, whenever the County chooses to create a 5/2 work schedule for a duty post that involves weekends off, assignment to the duty post shall be based upon seniority, provided that the County determines that the employees' skills, abilities, experience and other qualifications are otherwise equal.

At the time that contract was executed, however, the corrections department, including rank and file and superiors, had been on a combination of 4/2 schedules and 5/2 schedules. The County sought one unified work schedule. After a lengthy proceeding before Arbitrator Joseph Licata, a Litigation Alternative Procedure ("LAP") Decision was awarded which put all employees on the current 5/2 schedule. That decision specifically modified the work schedules article as follows:

The only exception to the current shift bidding system is as follows:

Shift bids will be completed live or via telephone with one Union representative and one management representative present at all times. All corrections officers shall be given a date and time to report to make their selection. No officer shall receive additional compensations for appearing to make a shift selection. If a corrections officer fails to appear at the designated time and fails to call in to make a selection, despite having received prior notice to appear for selection, the Union to which the officer belongs shall make the selection (C-4).

Thus, the Opinion and Award modified the agreement's shift bidding procedure to include a one-time procedure for officers to make an initial selection for shifts as a result of the

modification to the work schedule to implement the 5/2 schedule. Arbitrator Licata stated, "The current contractual shift bidding system and existing PERC precedent concerning the subject are more than adequate to facilitate shift bidding on the newly implemented 5/2 work schedule." (C-4, p.30).

Avilas testified that, subsequent to the Licata Decision, the County instituted a Unit Management System as an internal organization model in the corrections facility. Prior to this, the Corrections Department lacked an internal organization structure and employees were unaware of their assignments on a daily basis. Further, there was no continuity in the organization of supervisors to rank-and-file. The purpose of the Unit Manager System was to create continuity of supervision within the Corrections Department. The supervisors create relationships with their subordinates, which enforces work-place stability. Corrections Superiors are assigned to the same unit, with the same supervisor, and same inmates, which forms continuity within the facility. This is not only beneficial to the officers, but allows correction officers become familiar with the inmates' patterns and behaviors so as to be prepared to react in any situation.

Currently, shifts only go up for bid when there is a vacancy. The assignment of officers to a particular post or position is done by Corrections management.

DISCUSSION

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 all of the statutory factors are relevant, but not all are entitled to equal weight. It is widely acknowledged that in most interest arbitration proceedings, no single factor can be determinative when fashioning the terms of an award. This observation is present here as judgments are required as to which criteria are more significant and as to how the relevant evidence is to be weighed.

In addition, I note that N.J.S.A. 34:13A-16g(8) 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.

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 [N.J.S.A. 34:13A-16g(5) and N.J.S.A. 34:13A-16g(9)]; the cap restrictions on the employer [N.J.S.A. 34:13A-16g(6)]; the comparison of wages, other compensation and benefits of Hudson County's corrections officers to other law enforcement groups within the County and other similar jurisdictions; the cost of living; and the settlements within the County's workforce.

The Employer's Lawful Authority
and Statutory Restrictions, and
Financial Impact on Taxpayers:
g(5), g(6) and g(9).

Chapter 62, N.J.S.A. 40A:4-45 et seq, provides that a municipality or county shall limit any increase in its annual budget to 2.5% over the previous year's final appropriations unless authorized by ordinance or resolution to increase it to 3.5%, with certain exceptions. This is commonly referred to as the "Appropriations Cap." Chapter 68, N.J.S.A. 40A:4-45.45

prevents a municipality or county from increasing the tax levy by more than 2% absent a public referendum. This is commonly called the "tax levy cap."

The County argues, citing Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 N.J. 71 (1994), that the Appellate Division has directed that this criterion "focuses in part on the priority to be given to wages and monetary benefits of public employees within a public employer's budget and plans." Hillsdale at 188. In other words, the County avers, an interest arbitrator is required to balance the expense borne by the taxpaying public with the need to ensure that the necessary services are provided.

The PBA argues that the proposed increases it seeks are well within the County's existing budget and will not cause the County to exceed its cap limitations. The PBA relies on money remaining in the County's Fund Balance and savings realized as a result of employees retiring and/or separating from service since December 2009.

Terms and Conditions of Employment/Comparables

The factor of internal comparability, based upon existing agency and court precedent, is a factor that is not only specifically addressed in the statutory criteria [N.J.S.A.

34:13A-16g(2)(c)], but also has been found to fall within the criteria of the "interests and welfare of the public" and the "continuity and stability of employment." The Public Employment Relations Commission has recognized the importance of considering internal comparability in its controlling case law on interest arbitration. "Pattern is an important labor relations concept that is relied upon by both labor and management ... deviation from a settlement pattern can affect the continuity and stability of employment by discouraging future settlements and undermining employee morale in other units." County of Union, P.E.R.C. No. 2003-33, 28 NJPER 459,461 (¶33169, 2002). An interest arbitration award that does not give due weight to an internal pattern is subject to reversal and remand. County of Union, P.E.R.C. No. 2003-87, 29 NJPER 250,253 (¶75, 2003).

The factor of external comparability focuses on the wages and benefits of employees in similar jurisdictions. I accord this factor considerable weight in this matter. More specifically, I have compared the wages and benefits of this bargaining unit with those of other corrections groups State-wide. Both internal and external and internal comparability will be discussed in detail below.

I give minimal weight to the component of comparability with the private sector other than to observe that the 2010

unemployment rate in Hudson County is about 11% but currently improving slightly. Additionally, I specifically note that according to the Private Sector wage survey most recently published by the Commission in August 2011, both private and public section wages in New Jersey rose 2.2% between 2009 and 2010.

As to a direct comparison between private sector civilian jobs and the corrections officers of Hudson County, there is no particular private sector occupation that is an equitable comparison to corrections officers. They are unique in a variety of ways, including the stress and dangers of the job, and the lack of portability of their skills beyond a certain age and beyond a geographic region. They are on round-the-clock shifts, seven days a week. They are also frequently required to work on holidays.

Cost of Living

I am required to consider the cost of living as a factor in rendering this award. N.J.S.A. 34:13A-16 (g) (7); Borough of Hillsdale.

The April 2012 CPI reflected a 2.3% increase in the cost of living over the previous 12-month period. Moreover, for the first time in three years, in 2012, Social Security provided a 3.6% cost of living adjustment to beneficiaries.

Stipulations of the Parties

At the arbitration hearing, the parties stipulated to certain facts. These stipulations have been incorporated into the factual findings above. As to the parties' stipulations concerning specific contract terms, I have incorporated those agreed upon terms in my discussion below.

Continuity and Stability of Employment Including Seniority Rights and Such Other Factors Traditionally Considered in Determining Wages and Employment Conditions: g(8) :

Nothing in this award will negatively impact upon the employee's continuity of employment or the officers' seniority rights. In addition, my award gives recognition to employees' seniority rights by providing for an opportunity to bid on tours of duty, which in turn, enhances continuity of employment.

The Interest and Welfare of the Public: g(1) :

In my view, the interest and welfare of the public is not only a favor to be considered, it is the factor to which the most weight must be given. The public interest, of course includes the amount of property taxes which homeowners and businesses will be required to pay. It is for this reason that Section g(1) specifically references the tax levy cap. Here I have specifically considered the public interest in deciding a number of issues which have been proposed. This

factor will be specifically addressed as each of the issues is discussed below.

* * *

In this matter, the parties collectively placed thirty-two proposals before me for consideration. I have evaluated each issue separately on its merits but I have also considered the impact of the changes sought in relationship to the award as a whole.

Contract Duration:

The PBA proposes a five-year agreement covering the period January 1, 2010 through December 31, 2014. The County offers a three-year agreement that will expire at the end of 2012.

The PBA argues that a long-term agreement is in the public's interest. The PBA avers that the public interest is best served by a longer contract that will foster stable labor relations for more than five months.

The PBA cites City of Passaic -and- Passaic Firefighters Assoc., IA-2002-027 (Mastriani, J., 2002), in which Arbitrator Mastriani recognized the inherent instability created by awarding a contract that would result in near-term commencement of negotiations for a successor agreement. Arbitrator Mastriani further recognized the need for a period of stability following contentious negotiations and declined to issue an Award that would result in a swift return to the negotiating table. In

that case, the Arbitrator awarded the union's proposal for a five-year contract to afford the parties time to implement the award. The PBA also cites Borough of Roselle Park -and- PBA Local 27 / SOA, IA-2012-024, IA-2012-026 (Osborn, S., 2012), in which I focused on labor stability as the key factor and awarded a contract that expired in 2014, believing that such a contract "strikes the appropriate balance" between economic factors and the public interest.

The PBA argues that the County's proposal will provide no labor peace, as the parties will have to begin negotiating for a successor agreement within months of the Award.

The PBA's asserts that the public interest is clearly fostered by awarding its proposal because it promotes labor stability and peace. Conversely, the public's interest is harmed by parties that are continually engaging in contentious and costly negotiations.

The PBA seeks to distinguish this contract from the three-year contract I awarded in County of Hudson -and- PBA Local 109A (Corrections Superiors), IA-2012-043 (Osborn, S., 2012). The PBA argues that at some point, a CNA in Hudson County will have to surpass 2012. By awarding a term beyond 2012, the Arbitrator will give some level of predictability to the County regarding financial planning for wages as whatever is awarded to this unit will likely set the pattern for the other law enforcement units

in the County.

The County argues that the motive for the PBA's proposal of a five-year contract is "solely to avoid N.J.S.A. 34:13A-16.7, which imposes a limitation on an arbitrator's award that it not exceed increases to base salary items by more than 2.0 percent of the aggregate amount expended by the public employer on base salary." Co. brief, p.35. It cites two awards by Arbitrator Frank Mason, Borough of Spotswood and PBA Local 225, Docket No. IA-2011-048 (Mason 5/20/11) and Borough of North Arlington and PBA Local 95, IA-2011-050 (Mason 6/13/11) (Ex C-57), wherein Mason awarded a short-term contract based upon the uncertainty of future economic conditions which affect the parties. Mason also held,

Moreover, there is the State [2% cap] law which was intended to govern the economic limitations of a negotiated Agreement. To extend the term of this award to four years would clearly deny the Employer of whatever protection that law might otherwise provide.

It is clear that the four year agreement term suggested by the PBA is essentially aimed at the avoidance of that but there is no good reason to extend the agreement and it is the public policy and intent of the Legislature that law be observed. (C-57, page 10-11)

The County asserts that its negotiation position has been that the prior contracts all expire on December 31, 2012. Sheil stated that the intent of this position is to promote consistency with respect to negotiating with those uniformed

units upon an examination of the County's finances at that time in order to make a fair and reasonable offer to those units.

The County asserts that its position will permit the County to assess its economic position under then current economic conditions, as it negotiates with uniformed bargaining units.

The County cites Hudson County and Sheriff's Superior Officers, FOP Lodge 127, IA-2011-052, (Mastriani 7/22/11) in which Arbitrator Mastriani found that the County's position on the expiration of collective bargaining agreements for uniformed bargaining units was valid and in the "public interest" (Ex C-58). The arbitrator awarded a two-year contract ending December 31, 2012. Arbitrator Mastriani sets forth:

Neither party has shown with any reasonable degree of confidence what the financial health in the County of Hudson will be going beyond 2012 as it may relate to their own proposals. I find that the salary result for this unit of employees, in order to be more consistent with a result that furthers the interests and welfare of the public, should not extend beyond 2012 (Ex C-58, page 26).

Arbitrator Mastriani reiterated the validity of having all uniformed collective bargaining agreements expire on December 31, 2012 in Hudson County Prosecutor's Office and Prosecutor's Investigators PBA Local 232, IA-2009-059 (Mastriani 3/12/12) (C-59) There, PBA 232 also sought a five-year contract. Mastriani stated:

Based upon the evidence in this proceeding, I conclude that a four-year agreement that expires on December

31, 2012 to be the most desirable length for the agreement. The record reflects that the PBA Local 334 agreement in the Sheriff's Office expires on December 31, 2012 as well as the agreement between the County and the FOP Lodge No. 127 that represents superior officers in the Sheriff's Office. There are no other labor agreements in the County that go beyond 2012. The interests and welfare of the public are served by an agreement that contains consistent expiration dates with those that are already in place, thus allowing for negotiations in all units to occur simultaneously based upon the evidence available to all at that time. Thus, the award herein will not represent a lead contract that extends into contract years beyond those that already are in place (C-59).

The County also cites my award in County of Hudson Department of Corrections and PBA Local 109A (Corrections Superiors), IA-2012-043 (Osborn 7/2/12), wherein I awarded the County's proposal for a three year contract ending December 31, 2012, stating:

But more importantly, I give greater weight to the County's goal of having all of its law enforcement units' contracts expire at the same time...I believe it is in the interest of the public to award a contract for this unit that will expire concurrently with other law enforcement units.

Therefore, the County argues, its proposal of a three-year agreement with PBA 109 is reasonable and should be awarded.

There are several competing concerns to be considered in deciding the contract term. On the one hand, the parties have been in negotiations for this agreement for two and a half years. If I award the County's proposal for a three-year contract, the parties will be returning to the bargaining table

almost immediately for a successor agreement. On the other hand, the economic future of the State and more particularly, the County's financial conditions, including its ability to fund future salary increases, is uncertain. I give greater weight to the County's goal of having all of its law enforcement units' contracts expire at the same time. The pattern is now firmly established that all law enforcement contracts in Hudson County will be expiring simultaneously at the end of 2012. This contract will not be the lead contract to set the standards going into 2013 and beyond. I believe it is in the interest of the public to award a contract for this unit that will expire concurrently with other County law enforcement units.

This will provide the Employer with an opportunity to assess its financial resources and negotiate with most if not all units within the same time. All units will have a level playing field and the same opportunity to compete. I believe that this furthers public policy to a greater extent than the stability of a longer contract would provide. Accordingly, I award a three-year contract covering the period January 1, 2010 through December 31, 2012.

Wages:

The PBA seeks increases of 2.75% in each year of the contract. The County proposes a zero increase for 2010, a 1.0%

increase for 2011, and a 1.0% increase for 2012. However, it also proposes that there be no retroactive increases paid.

Further, the County proposed to add the following language to the Article:

"During the term of the collective negotiations agreement, should the New Jersey Legislature pass any law that directly or indirectly impacts the terms and working conditions of employment, the Union and the County agree to abide by such legislation."

"There will be no automatic step movement, salary level movement or automatic salary level increase beyond the expiration date of this Collective Negotiations Agreement, i.e., December 31, 2012. All step and salary level movement shall terminate effective upon the termination of this Collective Negotiations Agreement, i.e., December 31, 2012."

The PBA argues that significant weight should be accorded to salaries of similarly situated law enforcement personnel, including other correction officers State-wide and municipal police in Hudson County. The PBA notes that among correction officers throughout New Jersey, Hudson ranks "midrange". It argues that the increases proposed by the County will cause a significant disparity between the pay scales of Hudson's correction officers and those in similar jurisdictions. The PBA argues that awarding its proposed increases will raise top pay in 2010 to \$84,112.62; \$86,425.72 in 2011; and \$88,802.43 in 2012. The PBA maintains that awarding such raises will merely allow PBA Local 109 members to keep their standing amongst the

various county corrections units throughout the State. Further, the PBA maintains that the County can well afford the raises the PBA seeks. It asserts that the \$1,110,568 saved by the County resulting from thirteen employees retiring or separating from service since the end of the 2009 contract is sufficient to fund the proposed increases. In addition, the PBA also points to salary increases of 6% awarded to sheriff's officers for 2011-12 and 3.6% salary increases for 2010, negotiated with Local 1199J, which represents the County's main civilian units.

The County argues that corrections officers have already received significant salary increases through automatic movement along the salary levels. It notes that, for example, 37 employees at step 11 in 2010 received a 20.47% "salary increase" when they moved from step eleven (\$67,950) to step twelve (\$81,861). Unit-wide, over the three-year contractual period, corrections officers have already received a cumulative percentage increase of 12.89%. Further, it argues that any new across the board increase would be above and beyond the 12.89% increase already given. The County claims that given its present financial situation, the PBA's offer to add another 2.75% is unreasonable and is unsupported by any recent interest arbitration award in this County, as well as other comparable counties. The cost of the award as calculated by the County shows that, under the County's proposal, the total salary

percentage cost, including increments and salary increases, is 10.3% over the life of the contract. The County's cost out of the PBA's offer is 15.3% over the three-year period of the contract.

As to the PBA's argument that the breakage money is sufficient to cover the award it seeks, the County counters that some of the breakage money will be utilized when it hires the thirty-one new recruits, which are currently being vetted. The County calculates the cost of the new hires at \$1,020,799 (31 x \$32,929).

Moreover, the County argues that considerable weight should be given to a salary comparison with other County law enforcement employees. It asserts that awarding the increases sought by the PBA would put the correction officers at a top salary level above any other law enforcement group in the County.

I intend to award salary increases of 2% effective July 1, 2010, 1.5% effective January 1, 2011 and 2% effective January 1, 2012. Although the County claims that it seeks a wage freeze for the first year in all bargaining units, it has not achieved that goal in any bargaining unit negotiations so far. As this contract will expire in 2012, contemporaneous with other County contract expirations, there is no pattern to be followed among other County units that would support a wage freeze. Further,

while the County is in difficult financial circumstances, there is no justification for a wage freeze, particularly in light of settlements and awards for the other County units. Moreover, although the County argues that numerous other arbitrators, including myself, have awarded wage freezes, this fact, standing alone, is not a sufficient basis to do so here. However, in recognition of the County's financial constraints, I have limited the retroactivity of the 2010 increase to July 1, thus reducing the Employer's cost of the increase for that year. For 2011, I have awarded a modest increase of 1.5%, and an additional 2% for 2012. While these increases do not parallel the increases awarded for the sheriff's officers and the prosecutor's investigators, those awards were issued under completely different financial circumstances and based upon then comparable data. Circumstances have now changed and the trend towards significantly lower increases is evident. Data maintained by the Public Employment Relations Commission demonstrates that the average wage increase in 2011 was 2.05% and in 2012 to date, is 1.82%.

I have accorded considerable weight to salaries of other Hudson County law enforcement units in comparison with this unit. Under the terms of this award, top pay will rise from the current \$81,861 to \$83,499 in 2010, \$84,751 in 2011 and \$86,446 in 2012. This compares with sheriff's officers' salaries of

\$75,281 in 2010, \$79,797 in 2011 and \$84,584 in 2012. The evidence reveals that historically, correction officers' pay has been higher than that of sheriff's officers, in part, because sheriff's officers work a shorter workday and also receive a uniform allowance. The award herein will continue that trend. Moreover, correction officers will continue to earn less than investigators in the Prosecutor's office. Finally, this award tracks the increases recently awarded to the correction superiors, thus improving employee morale and contributing to continuity.

In comparing Hudson's correction officers with correction officers Statewide, the Statewide average is \$82,538. This award puts Hudson's correction officers well above the State average and they will continue to rank fifth among all counties.

In consideration of all of the above, I conclude that the appropriate salary award in this matter is a 2% increase effective and retroactive to July 1, 2010; a 1.5% increase effective and retroactive to January 1, 2011; and a 2% increase effective and retroactive to January 1, 2012. It is noted that increments have already been paid January 1 of each year of the new contract. While I award the above increases on salary, I do not retroactively adjust the amount of the increments already paid. That is, for example, an employee on step nine of the 2009 guide moved to step ten of the same guide on January 1,

2010, to step eleven on January 1, 2011, and to step twelve of the same guide on January 1, 2012. Therefore, this employee will receive pay increases of base salary only (not increments) retroactive to July 1, 2010.

Cost of the Award:

In Gloucester County Prosecutor, P.E.R.C. No. 2012-66, ____ NJPER ____ (2012), the Commission directed that all interest arbitration awards must now include the cost of salary increases in standard summary format. Accordingly, to arrive at the cost of this award, which includes across-the-board increases only, the following charts show my calculations for each year ⁶:

AWARD COSTS CALCULATION									
2010									
Step	Current Salary (2009)	2010 ATB Increase	2010 ATB Cost	# EES Moving to 2010 Step	Total Cost ATB	New 2010 Base	2010 Increments	Total Costs Increments	Total 2010 Cost
		2% (7/1)							
1	32,280.39	645.61	322.80	20	6,456.08	32,926.00	7,718.55	154,371.00	160,827.08
2	39,998.94	799.98	400.00	84	33,600.00	40,798.92	1,106.31	92,930.04	126,530.04
3	41,105.25	822.11	411.05	5	2,055.26	41,927.36	1,118.23	5,591.15	7,646.41
4	42,223.48	844.47	422.23	37	15,622.69	43,067.95	899.53	33,282.61	48,905.30
5	43,123.01	862.46	431.23	16	6,899.68	43,985.47	1,266.29	20,260.64	27,160.32
6	44,389.30	887.79	443.89	21	9,321.75	45,277.09	2,240.63	47,053.23	56,374.98
7	46,629.93	932.60	466.30	20	9,325.99	47,562.53	2,243.34	44,866.80	54,192.79
8	48,873.27	977.47	488.73	10	4,887.33	49,850.74	5,611.42	56,114.20	61,001.53
9	54,484.69	1,089.69	544.85	15	8,172.70	55,574.38	8,976.98	134,654.70	142,827.40
10	63,461.67	1,269.23	634.62	23	14,596.18	64,730.90	4,487.95	103,222.85	117,819.03
11	67,949.62	1,358.99	679.50	12	8,153.95	69,308.61	13,911.81	166,941.72	175,095.67
12	81,861.43	1,637.23	818.61	133	108,875.70	83,498.66		0.00	108,875.70
				396	227,967.32			859,288.94	1,087,256.26

⁶ My calculations are based on 396 employees currently in the unit in notwithstanding that the employer's list includes 398 names. Two of the employees on the County's list (Lee and D'Andrea) separated from the bargaining unit.

2011								
Step	2010 Base	2011 ATB Increase	# EES Moving to 2011 Step	Total Cost ATB	New 2011 Base	2011 Increments	Total Cost of Increments	Total 2011 Costs
		1.5%(1/1)						
1	32,926.00	493.89	0	0.00	33,419.89	7,718.55	0.00	0.00
2	40,798.92	611.98	20	12,239.68	41,410.90	1,106.31	22,126.20	34,365.88
3	41,927.36	628.91	84	52,828.47	42,556.27	1,118.23	93,931.32	146,759.79
4	43,067.95	646.02	5	3,230.10	43,713.97	899.53	4,497.65	7,727.75
5	43,985.47	659.78	37	24,411.94	44,645.25	1,266.29	46,852.73	71,264.67
6	45,277.09	679.16	16	10,866.50	45,956.24	2,240.63	35,850.08	46,716.58
7	47,562.53	713.44	21	14,982.20	48,275.97	2,243.34	47,110.14	62,092.34
8	49,850.74	747.76	20	14,955.22	50,598.50	5,611.42	112,228.40	127,183.62
9	55,574.38	833.62	10	8,336.16	56,408.00	8,976.98	89,769.80	98,105.96
10	64,730.90	970.96	15	14,564.45	65,701.87	4,487.95	67,319.25	81,883.70
11	69,308.61	1,039.63	23	23,911.47	70,348.24	13,911.81	319,971.63	343,883.10
12	83,498.66	1,252.00	145	181,540.00	84,750.66		0.00	181,540.00
		396		361,866.18			839,657.20	1,201,523.38

2012								
Step	2011 Base	2012 ATB Cost	# EES Moving to 2012 Step	Total Cost ATB	New 2012 Base	2012 Increments	Total Cost of Increments	Total 2012 Costs
		2% (1/1)						
1	33,419.89	668.40	0	0.00	34,088.29	7,718.55	0.00	0.00
2	41,410.90	828.22	0	0.00	42,239.12	1,106.31	0.00	0.00
3	42,556.27	851.13	20	17,022.51	43,407.39	1,118.23	22,364.60	39,387.11
4	43,713.97	874.28	84	73,439.47	44,588.25	899.53	75,560.52	148,999.99
5	44,645.25	892.91	5	4,464.53	45,538.16	1,266.29	6,331.45	10,795.98
6	45,956.24	919.12	37	34,007.62	46,875.37	2,240.63	82,903.31	116,910.93
7	48,275.97	965.52	16	15,448.31	49,241.49	2,243.34	35,893.44	51,341.75
8	50,598.50	1,011.97	21	21,251.37	51,610.47	5,611.42	117,839.82	139,091.19
9	56,408.00	1,128.16	20	22,563.20	57,536.16	8,976.98	179,539.60	202,102.80
10	65,701.87	1,314.04	10	13,140.37	67,015.90	4,487.95	44,879.50	58,019.87

11	70,348.24	1,406.96	15	21,104.47	71,755.21	13,911.81	208,677.15	229,781.62
12	84,750.66	1,695.01	168	284,762.21	86,445.67	0.00	0.00	284,762.21
		396	507,204.05			773,989.39	1,281,193.44	

* In addition, 13 employees separated from service since the expiration of the 2009 contract. No ATB increase is being provided for these employees. The costs of their increments, which were already paid, are: 2010 = \$46,947; 2011 = \$22,437; 2012 = \$9,267

The following table is a summary of the annual costs of all increases to this bargaining unit:

	ATB %	Cost of ATB	Cost of Increments	Cost of Longevity Increases	Yearly Total
2010	2% (7/1)	\$227,967	\$906,235	\$13,600	\$1,147,802
2011	1.5% (1/1)	\$361,936	\$862,094	\$18,300	\$1,242,330
2012	2% (1/1)	\$507,206	\$783,256	\$18,700	\$1,309,162
Total	5.50%	\$1,097,109	\$2,551,585	\$50,600	\$3,699,294

It should be noted that the cost of increments are funds already expended. Similarly, the cost of longevity increases as employees reached their next service benchmark have also been paid. These amounts are not being adjusted by this award. Therefore, the true cost of this award over the life of the contract is only the cost of the across-the-board increases: \$1,097,109, plus retroactive adjustments to holiday pay.

The breakage money available to contribute to funding this award, based upon the employees who retired or separated from service, saved the County \$1,110,568. Even if the County hires thirty-one new recruits by August, those employees will be hired on the new salary guide (tier two) at a starting salary of \$33,000 for total cost for the remaining five months of 2012 of \$426,250.

Moreover, the 2012 budget shows that the County has \$351,933 left in reserves from its 2010 budget, salary and wage account and \$620,000 left in its 2011 salary and wage account. For 2012, the County increased its corrections department salary and wage account by slightly more than \$4 million - a 9% increase. Therefore, I conclude that the County has sufficient funds available to pay the increases awarded herein.

Tier 2 Salary Guide:

The PBA has proposed a new, lower salary guide for employees hired on or after January 1, 2013. The County has not opposed this concept but it opposes the PBA's proposed salaries as several steps are at higher rates than employees in the same step in tier 1. The County has not provided any offer of its own. However, as this award covers only the period 2010 through 2012, I intend to implement a second-tier salary guide for employees hired after the date of this award. This will enable the County to take advantage of the savings starting with the thirty-one recruits it is about to hire.

The PBA's proposed new salary guide is as follows:

Salary Guide for New Hires	
Step	Salary
1	\$ 35,000
2	\$ 38,916
3	\$ 42,832
4	\$ 46,748
5	\$ 50,664
6	\$ 54,580

7	\$ 58,496
8	\$ 62,412
9	\$ 66,328
10	\$ 70,244
11	\$ 74,160
12	\$ 78,076
13	\$ 81,992
14	\$ 85,913

I find merit in the PBA's proposal. By adding two steps to the salary guide, this guide will slow the progression to maximum salary, thus making the increment amounts lower. In addition, the PBA has attempted to even out the amount of the increments over the guide, which decreases some of the bubble steps present in the old salary guide. For example, in the old salary guide, there was a bubble step of almost \$15,000 for employees going from step eleven to step twelve. However, in comparing the PBA's proposed tier-two guide to the new salary guide for existing employees, as awarded herein, the PBA proposed guide is flawed. First, it would create an entry level step of \$35,000, which is higher than the present step one as contained in this award. In addition, several of the intermediary steps are higher than what is being awarded here for the existing employees. This is inconsistent with the purpose of having a new lower salary guide for employees hired after the benchmark date.

The second-tier salary guide I am awarding below is based

upon the salary amounts in the 2009 salary guide, except for steps one, twelve, thirteen and fourteen. I have reduced the amount of entry level salary to \$33,000, which is approximately \$1,000 lower than the tier one guide. This will save the County money on the new recruits and at the same time, allow it to recruit competitively. In addition, the salary rate for each of the intermediary steps is lower than in the tier-one guide, as they are pegged to 2009 rates. Further, I reduced the salary amounts in steps twelve and thirteen to provide a more gradual progression to top pay. Finally, top salary in the tier-two guide is approximately \$3,000 lower than top pay in the tier-one guide and is slightly above the statewide average top pay for 2012 of \$82,538.

Salary Guide for Employees Hired on or After 7/23/12	
Step	Salary
1	\$ 33,000
2	\$ 40,000
3	\$ 41,105
4	\$ 42,223
5	\$ 43,123
6	\$ 44,389
7	\$ 46,630
8	\$ 48,873
9	\$ 54,485
10	\$ 63,462
11	\$ 67,950
12	\$ 72,586
13	\$ 77,186
14	\$ 83,500

Retroactive Pay:

The PBA seeks salary increases retroactive to the effective date. The County argues in favor of no retroactive activity for any employee.

The PBA argues that the County's proposal will decimate the morale of a bargaining unit that is fully aware that raises were budgeted for in 2010, 2011 and 2012. The PBA notes that \$620,000 was left in reserve in 2011 and \$351,933 was left in reserve in 2010. The PBA asserts only that officers that are currently at the top of the salary guide have not received any salary increase since 2009. Further, in Hudson I, I awarded retroactive pay increases. The PBA maintains that awarding the County's proposal would be especially damaging to the morale of the unit in light of the fact that the superior officers received retroactive pay increases. Accordingly, the PBA contends that, this proposal is not in the public interest and the Arbitrator must deny this proposal.

The County asserts that currently, under the parties' contractual language, retroactive payments are only granted to those unit members who are actively employed with the County (Ex C-3). The County's position is not to award any retroactive pay in this proceeding. I find, as discussed more fully above, that an appropriate award includes retroactive pay to all current employees, retroactive to the respective effective dates.

However, I do not award retro pay to employees who have retired or separated from County service since the expiration of the last contract. This is consistent with the parties' prior agreement. I do award retroactive salary payments to employees who were promoted to superior officer positions, most of which were promoted in March 2012, because they were part of this unit on the effective dates of each of the increases being awarded herein, and they did not receive retro pay in my earlier award for the SOA unit. To deprive these employees of retroactive payments would disadvantage them merely because they accepted a promotion.

Step Movement after Contract Expires:

The County also seeks to end automatic step movement beyond the expiration date of the CNA. It proposes this contract provision:

There will be no automatic step movement, salary level movement or automatic salary level increase beyond the expiration date of this Collective Negotiations Agreement, i.e., December 31, 2012. All step and salary level movement shall terminate effective upon the termination of this Collective Negotiations Agreement, i.e., December 31, 2012.

The County maintains it is seeking to end automatic step movement after contract expiration with all of its uniformed personnel that have contractual automatic steps. The County also notes that Arbitrator Mastriani awarded a similar provision in the Hudson County and PBA 232. In that matter, the

Arbitrator stated,

I have not awarded the County's proposal for "no automatic step movement in 2011" but I do award its proposal, with modification, to add a section (c) that does not require movement on the salary schedule steps beyond the expiration of the agreement. That language will read as follows:

While the salary schedule shall, unless agreed to otherwise, remain without change upon the expiration of the agreement, salary level movement shall not occur beyond the contract expiration date of the agreement in the absence of a new collective negotiations agreement.

The County contends that granting this offer would place this bargaining unit in a comparable position with PBA 232.

The PBA argues that this proposal is a slap in the face to a bargaining unit that fought for and was awarded automatic step movement in interest arbitration following the expiration of the January 1, 1999 through December 31, 2003 contract. At that time, Arbitrator Light awarded a step system that would continue after the contract's expiration. In clarifying his March 2001 Award, Arbitrator Light explained "...the automatic steps shall continue each year without regard to the expiration of the collective bargaining agreement unless, of course, the parties mutually agree to such elimination." Moreover, the PBA argues, the Appellate Division, in County of Hunterdon v. FOP Lodge No. 94, Docket No.: A-4989-10T3 (App. Div. 2012), affirmed the award of an incremental salary guide with automatic step increases to sheriff's and corrections Officers.

The PBA asserts that awarding the County's proposal is not in the interest and welfare of the public and could potentially undermine the continuity and stability of employment. The PBA contends that without automatic step movement, the County will have little incentive to settle any future contracts. It maintains that the result will be long and costly negotiations culminating in interest arbitration. The PBA also states that such labor discord is not in the interest and welfare of the public, and further, the morale of the unit will be damaged as a result of losing a recently awarded benefit.

Further, the PBA notes that only Prosecutor's investigators (Local 232) do not receive automatic step movement beyond contract expiration. It further claims that the County did not make such a proposal to either Sheriff's superiors or Corrections superiors. In addition, Sheriff's officers advance to the next step automatically each year once they have served one year of service at the prior step.

The PBA further argues that the County has not provided any projections or concrete data indicating that it will be unable to afford automatic wage increases in the future. In summary, the PBA maintains that the loss of this recently obtained benefit will decimate the morale of the PBA unit and therefore, must be denied.

I am inclined to award this proposal that automatic step

increases will not continue beyond the life of this contract. I recognize the merits of the Union's argument that this was a recently awarded benefit and should not be taken away without substantial justification. However, following this award, the parties will be subject to the provisions of N.J.S.A. 34:13A-16 which limits an arbitration award to 2% of the aggregate salary costs of the prior year, inclusive of both salary increases and increments. It is readily conceivable going forward into 2013 and beyond, that the cost of the increments alone will approach the 2% cap and possibly exceed it, thus leaving little room to negotiate salary increases if increments have already been paid. Therefore, I find it necessary to suspend the automatic salary increments upon the expiration of this 2010-2012 contract. I therefore, award the following:

The salary schedule shall, unless agreed to otherwise, remain without change upon the expiration of the agreement. There will be no automatic step movement, beyond the expiration of this collective negotiations agreement on December 31, 2012.

The County has also proposed a new clause which would provide,

During the term of the collective negotiations agreement, should the New Jersey Legislature pass any law that directly or indirectly impacts the terms and working conditions of employment, the Union and the County agree to abide by such legislation.

The PBA strenuously objects to this proposal. I find this proposal unnecessary to insert into the contract. It goes

without saying that the parties will abide by any new statutorily required mandates. This proposal is denied.

PREAMBLE:

The parties have agreed to conform all dates throughout the contract to the term of the contract awarded herein.

ARTICLE III. NEGOTIATION LEAVE

The PBA seeks to add language in Section 1 that would clarify that negotiations leave time would include negotiations preparation sessions. This article currently provides,

During negotiations for a successor Agreement not more than four (4) Union representatives shall be excused from their normal work duties to participate in negotiations for such time periods as are deemed reasonable and necessary by mutual agreement between the Employer and the Union.

PBA argues that allowing the four negotiating committee members to take such leave will increase the morale of the unit and is therefore in the public interest. It contends that adding this language will clarify any ambiguity in the contract. It argues unit members will be assured that the most capable officers are representing them at negotiations, as excusing officers from work to attend preparation sessions would remove a disincentive for officers to join the committee. It will also promote more responsible and prudent negotiations as the PBA committee will be well prepared for the negotiations table.

The County argues that the Union's proposal to expand

negotiation leave to include "prep sessions" should be rejected. It contends that PBA officials already enjoy generous time off for negotiations leave and other PBA business. Local 109 President Ocasio admitted that he is not prohibited from e-mailing or calling the other members of the negotiating team while preparing for negotiations. Moreover, the County argues that the PBA has not offered any proof that there are problems or difficulties regarding prep time.

It would appear at first glance that the PBA already has significant leave time. The President is released from duty as needed. PBA officers/delegates have time off, by statute, to attend conventions. The PBA State delegate has time off to attend monthly meetings. A committee of four officers is released from duty to participate in negotiations. However, it must be remembered that this bargaining unit has about 400 members. The aggregate time off is not unreasonable for the size of the bargaining unit. The PBA apparently believes the existing clause is ambiguous as to whether it covers negotiations prep time. The record does not indicate what the parties' practice has been in interpreting this language.

I find that the interests of both parties are served when both sides are adequately prepared for negotiations. I have no doubt that the County prepares for negotiations during work time. Therefore, I intend to award the PBA a modicum of time

off to participate in negotiations prep sessions.

However, the PBA's proposal for "...such time periods as are deemed reasonable and necessary by mutual agreement.." is too ambiguous and will only lead to controversy about what is reasonable and necessary. Rather, I award the PBA an aggregate of 16 hours of paid release time to engage in negotiations preparation. The PBA may choose to allocate this time among its committee members in any manner it deems necessary.

ARTICLE IV, FUNERAL LEAVE

The PBA proposed to modify the second sentence of Section 1 to provide that:

"An employee shall be excused from work with pay for 5 days for the death of a spouse or child (including step child, foster child, and legal ward), parent or sibling and 3 days for the rest of the immediate family."

The PBA also seeks to define "Immediate family" as "grandchild, legal guardian, grandparent, and other relative residing in the member's household."

The PBA argues that its members will be afforded more time to grieve for the loss of individuals closest to them. Further, PBA members will have additional time to deal with the numerous issues that arise following the death of a spouse, parent or child. The PBA asserts that awarding this proposal will increase the morale of the unit and will foster the interest and welfare of the public.

The County objects to this proposal. It points out, that in the parties' last negotiations the clause was modified to delete "aunts and uncles" from the definition of family member. The County contends that the PBA is attempting to reclaim its earlier benefit by "significantly expanding the definition" to include any relative living in the household or any legal guardian. Further, the County points out that no other contract in Hudson County has such an expansive definition of family members covered under funeral leave. Additionally, the County asserts that no uniformed contract provides the increased number of leave days sought by the PBA. The County argues that the PBA has not established any proof that the existing funeral leave provision is problematic, nor has it established a basis to deviate from the County pattern.

I decline to award the PBA's proposal. I well understand the Union's position that the loss of a spouse or child often requires a grieving period of more than three days. However, I give substantial weight to the County pattern in this regard: no County contract extends funeral leave to five days, and no contract expands the definition of immediate family beyond what the PBA currently has in its existing contract provision.

ARTICLE VI, VACATIONS

The PBA seeks to add to Section 2, C.: "Except in an emergency, no employee may be held over on the shift

immediately preceding the commencement of vacation."

The PBA claims that holding an employee over after his last shift can wreak havoc on an officer's vacation plans, which has a deleterious effect on the morale of the unit. Ocasio testified that there are regular instances where PBA members have been required to work overtime on the shift immediately preceding an officer's vacation. He testified concerning the problems that arise when an officer is involuntarily required to work a mandatory overtime shift immediately preceding a vacation day. Ocasio pointed out that an officer's planned vacation can be cut short if he or she is required to work such a shift. For example, if an individual working the 2:00 p.m. to 10:00 p.m. shift has taken a Friday off to enjoy a long weekend, and that officer is held over, or "stuck," on her Thursday shift, the officer would have to work until 6:00 a.m. on Friday morning. This creates a situation where the officer, having worked sixteen consecutive hours through the night, is too tired to enjoy their vacation. If the officer is travelling, he or she may miss a flight or be placed in a situation where they would have to drive with no sleep. Such a situation, the PBA asserts, effectively deprives its members of a vacation day.

The PBA points out that the alternative to holding the officer over would be calling in another officer to work the shift, resulting in no additional cost to the County. On the

other hand, the PBA recognizes the need to preserve the County's managerial prerogative to remain at their posts despite a scheduled vacation in the event of an emergency.

The County argues that the Union's proposal to change mandatory overtime procedures should not be awarded. The County relies on a comprehensive settlement agreement signed by the parties in 2001 concerning voluntary and mandatory overtime (Ex. C-152). However, this settlement, while including a section on "work requiring completion by an officer already working", does not address the issue of being held over immediately prior to a vacation. The County avers that there is no genuine difficulty faced by PBA members concerning mandatory overtime and vacation leave and therefore, the PBA's proposal should be denied.

I am sympathetic to the Union's concern with regard to this issue. There is no denying that corrections officers have a job that is a combination of boredom and stress. The purpose of vacation leave is to allow the employee time away from the job to relax, decompress and spend leisure time with family and friends. I cannot imagine an issue that could create more employee resentment than an employee about to go on a long-awaited vacation and being told that they are being held over for an additional shift. Employees should not have to produce airline tickets or other proof that they are about to leave on vacation to get their full measure of time off. The Department

has other options to assign the overtime. Awarding this proposal will improve employee morale and works little inconvenience to the Employer. The proposal is awarded.

ARTICLE XI, UNION RIGHTS

Currently, Section 4 of this Article provides,

The County shall honor all reasonable requests by the Union concerning information pertinent to the development of proposals, costs, programs and benefits necessary to develop the Union proposals as well as information necessary to process any grievance or investigate the possibility of one (Ex. A-1, p. 16).

The PBA seeks to modify Section 4 to add: "Information covered under this Section shall include any audio or video recording relevant to the request."

The PBA argues that the County has recently installed audio and video cameras in certain parts of the Hudson County Correctional Facility. Therefore, the PBA reasons, these recording devices may contain information pertinent to the processing of grievances. If the County is permitted to withhold this information, it could surprise the PBA at a grievance or arbitration hearing and put the Union at a disadvantage. The morale of the department will be improved if PBA members are assured that all of the information available is openly exchanged prior to negotiations or grievance hearings. Thus, the PBA argues that this proposal is in the public's interest and must be awarded.

With regard to this proposal, the County cites Ocasio's testimony that there have been few occasions when the Union has not received audio and video evidence during a disciplinary proceeding. Ocasio testified that if an attorney was representing a PBA member in the disciplinary proceeding, the attorney would request the evidence through discovery and it would be provided. If a Union representative is handling the disciplinary proceeding, the representative can make a discovery request to obtain the relevant evidence. The County notes that Ocasio admitted that the County has never had to seek a compliance order before courts or the Commission to obtain relevant documents, video or audio. The County avers that extensive Commission case law addressing what relevant information a union must be supplied with in preparation for processing a grievance or preparing for contract negotiations. Additionally, with respect to discipline, the New Jersey Civil Service Commission regulates discovery in major disciplinary actions for civil service entities, of which the County is one. Therefore, the County contends that the proposal should be denied.

I find that the PBA's proposal is an unnecessary addition to the contract. The contract already requires the Employer to provide "information necessary to process a grievance". This would require the employer to share all forms of information,

whether on paper, electronic or videographic. The proposal is denied.

Article XI, Section 5 currently provides, "The PBA shall be notified of any proposed new rules or modifications of existing rules governing working conditions before they are established. The PBA seeks to replace this section with:

The PBA shall be notified of any proposed new rules or modification to existing rules at least 30 days prior to their implementation, emergencies excepted.

The PBA argues that providing such a review period is in the public interest. The Union and the County will have a set period of time to review and discuss proposed rule changes. The PBA will also have time to discuss the rule changes with their membership. This in turn is likely to reduce the number of grievances filed in response to newly implemented rules and regulations. Accordingly, this proposal is in the public's interest and must be awarded.

The County contends that the PBA did not present any evidence to establish any prejudice to the Union for any policy or rule that was implemented by the County without 30 days' notice.

This proposal is also denied. I agree with the County that the PBA has not demonstrated that the existing contract provision has been problematic or that the County has not been forthcoming with sharing new rules or policies with the PBA in a

timely manner.

ARTICLE XII, SICK LEAVE

Both the PBA and the County have proposed changes to Article XII, Sick Leave. The PBA has proposed new language that would allow each officer to determine whether they wish to use sick leave concurrently with family leave. The County has proposed eliminating the sick leave incentive provision.

The PBA has proposed the following addition to Article XII: "[a]n employee shall not be required to run family leave concurrent with sick leave." The County's current practice is to require employee's eligible for family medical leave under either the Family Medical Leave Act ("FMLA"), 29 U.S.C. §2601, et. seq. or the New Jersey Family Leave Act ("FLA"), N.J.S.A. 34:11B-1, et. seq. to use accrued time concurrently with leaves provided by the FMLA and FLA.

PBA Local 109 proposes that a bargaining unit member be permitted to choose whether or not he or she wishes to use sick leave concurrent with family leave. Both the FMLA and the FLA permit an employee to take leave in certain situations. The FMLA allows employees to take up to twelve weeks of leave for their own serious health condition, the serious health condition of a family member, the birth or adoption of a child and for certain exigencies relating to a family member's active duty in the armed forces. 29 U.S.C. §2612 (2012) Similarly, the FLA

permits employees to take up to twelve weeks of leave to care for a family member with a serious health condition or for the birth or adoption of a child. N.J.S.A. 34:11B-4 (2012).

Pursuant to the PBA's proposal, an employee would be able to choose whether to use accrued leave or family leave. He or she would not be required to run both concurrently. The PBA argues that this will increase the morale of the unit as individuals that have sufficient accrued time will not be required to exhaust their allotment of family leave. For example, an officer with a pregnant wife who has a serious health condition may wish to use sick or vacation time for his condition, so that he may spend the full twelve weeks of family leave when his child is born.

The PBA asserts that its proposal will allow unit members to choose when and how to utilize statutory family leave. It contends that this will raise the morale of the bargaining unit by allowing officers to determine how they apportion their accrued leave time and family leave when they or a member of their family is sick or they welcome a new child into their family. Accordingly, the PBA states that this proposal is in the interest and welfare of the public.

The County argues that the PBA did not present any evidence as to why FMLA leave should not run concurrently with sick leave. Sheil testified that sick absenteeism of officers is a

problem at the Correctional Center. According to the County, if the PBA's offer is accepted, it would aggravate the absenteeism problem and affect staffing. The County argues that the prejudice to it is greater when an officer has accumulated more than the standard 15 sick days per year. For instance, the facility can lose an officer's service if after being out for twelve weeks, that officer takes another 30 sick days off from duty.

I find the PBA has not provided sufficient justification for awarding this proposal.

ARTICLE XXII, WORK SCHEDULES

The PBA proposes to replace the current Section 3 with the following:

Schedules and units shall be subject to seniority bid once per calendar year. Bidding shall be started on October 1, and completed by November 30 of the preceding year. All vacated posts shall be subject to bid and filled by seniority in accordance with applicable case law. If a post requires training that can be done in-house, the most senior bidder shall be afforded the training and given the post after successful completion of the training.

The PBA argues that permitting officers to bid on schedules and units by seniority will improve morale. Senior officers will be able to choose their days off. Younger officers will have an incentive to maintain their employment with the County because, as they rise through the ranks, they will earn the

benefit of seniority and be able to choose their days off. The PBA emphasizes that it does not seek to infringe upon the County's managerial prerogative with this proposal, as all vacated posts are subject to bid pursuant to applicable case law. It points out that the County would retain the prerogative to decide its staffing requirements and to fill shifts as needed to meet those requirements.

The County maintains the parties' stipulation of replacement language in Article XXVII, Section 2 mostly disposes of the issues concerning shift bidding. That stipulated language states:

Whenever an opening occurs on a shift and the County determines to fill that shift, officers will be permitted to submit a shift preference selection and the shift assignment will be based on seniority, unless particular skills, expertise, training or other necessary skills for the assignment are needed.

The County argues that the PBA has not supported its demand to bid on post assignments. It notes that in Hudson I, I declined to award the SOA's proposal for shift/post bidding. In that matter, I observed,

I would not be inclined to permit unit members to bid on their work assignments (posts). The County has demonstrated that it needs flexibility to assign the employee to a post based upon skills, performance, temperament, and its own assessment of which officer is best suited to a particular post.

The County correctly notes that I also concluded that the "actual post assignment" has far less impact on the officer's working conditions than the "hours" the officer works.

The County avers that the assigned post at least in some instances goes hand in hand with the scheduled days off. Director Aviles testified that, for example, Education, Receiving, Record Room, Central Control and Transportation have days off appropriate to those posts. Therefore, the County maintains, if an officer was permitted to bid on his/her days off, but was later reassigned to another post with different days off, the County would be mandated to change the days off of that post. That is clearly disruptive to the operations of the Correctional Center. The County also asserts that, as Aviles testified, if an officer is mandated to have a specific day off, it will affect the Correctional Center's ability to rotate officers through various posts for cross-training, as the post to be rotated into would have different days off. Further, the Director expressed his concern for safety if all of the more senior corrections officers out bid junior officers, leaving more junior officers staffing the facility, while a bulk of the senior officers have preferable days off, such as a weekend. Thus, the facility could be left with more junior or even "new" corrections officers staffing the facility on Saturday and

Sunday, because the more senior officers would bid for weekends off.

The County also points out that the in 2002 Licata Award, which established the permanent 5/2 schedule for all unit members, Licata left the contract language almost entirely intact except for creating a one-time bidding procedure to move the correction officers from the 4/2 schedule to the 5/2 schedule. The County notes that the contract continues to provide at Article XIII, Section 2 that "the County retains the full managerial discretion to schedule the two consecutive days off that the officer shall receive..." Thus, the County argues that the PBA's demand for bidding posts and days off should be denied.

* * *

This is a matter of balancing competing interests and needs. The PBA's main concern is that its senior officers be given some say about their days off. The County's main concerns are (1) that they retain a managerial prerogative to decide which positions to fill; (2) that they have the ability to decide the appropriate days off to each post, especially the posts that by their nature, work weekdays only, (3) that their training needs can be met; and (4) that they are able to match posts requiring special skills or training to the best suited

employee. In addition, the County is concerned that the junior staff members, especially the new recruits, will all end up on an undesirable shift together.

I cannot adopt the PBA's proposal for an annual bid of all posts/assignments. I believe the parties have already presented a solution to the problem. First, the stipulated language in Article XXVII (B), which provides for employees to submit preferences whenever a position becomes vacant, is a better solution to the issue than the proposed annual bid, where all positions would be bid on yearly. First, the language "Whenever an opening occurs on a shift and the County determines to fill that shift..." guarantees that the County will first decide if the position is going to be filled. Second, nothing in this language will impinge on the County's ability to set the RDO's for a given position. Third, it allows the County to retain the ability to circumvent seniority in filling the position for any position where (I would add, in its sole discretion) it determines that particular skills, expertise, training or other necessary skills for the assignment are needed. This would allow the County to exempt positions for training purposes, such as for the new recruits. Fourth, the fact that positions would only be bid as they become vacant would minimize the possibility that the least desirable shifts/days off would be left to the

least senior people.⁷ Further, bidding only as a position becomes vacant will result in the least disruption to the continuity of supervision, which the Director has worked hard to foster by implementing the Unit Management model.

I therefore, award the following contract language to replace Article XXIII, Section 3⁸:

For purposes of this section, "tour" shall be defined as the specific days on/days off (RDO's) of a position. Whenever a position becomes vacant, the County will determine whether to fill that position, and will set the RDO's for the position. The tour (with RDO's) will be posted and officers will be permitted to submit a bid for the tour. The assignment to the tour will be based on seniority, unless, in the sole discretion of the County, it is determined that particular skills, expertise, training or other necessary skills for the assignment are needed.

The employer will have sole discretion to assign the employee to any post/assignment in the Correctional Department it deems necessary and appropriate, provided the employee's selected RDO's are maintained. Further, it is recognized that from time to time, the Employer may change an employee's post and/or RDO to accomplish training needs. A minimum of five (5) days' notice will be given to any employee whose tour (RDO) is being changed.

ARTICLE XXIV, HOURS AND OVERTIME

Section 1 currently provides,

The work day shall consist of eight (8) and one

⁷ The SOA's proposal to open the entire bargaining unit to a simultaneous annual bidding is what concerned me most about awarding the proposal in the SOA unit.

⁸ I note that the parties will need to update the language in Section 2 of this Article as much as the language concerning the 4/2 schedule no longer applies.

quarter (1/4) (including lineup) consecutive hours in a twenty-four (24) hour period, or in cases of an emergency, as determined by the Director or his designee.

The PBA proposes to insert in Section 1,

. . . inclusive of a paid 45-minute paid lunch period and two 10-minute breaks."

Ocasio testified that it is extraordinarily difficult for unit members to eat lunch in the half-hour that they are currently allotted. Ocasio explained that unit members may either bring their lunch to work or eat a meal provided by the Correctional Facility. If an officer brings his or her lunch, he or she must retrieve it from their vehicle and then return to the facility to eat it.

Ocasio further testified that officers electing to eat the lunch offered by the Correctional Facility do not have enough time in the thirty-minute lunch period to walk from their post to the dining area, wait for their food to be prepared and then eat their lunch. Officers are therefore faced with the option of eating too quickly or not eating at all. The PBA asserts that neither option is optimal for employees that are on their feet all day interacting with inmates. Corrections officers that have a reasonable amount of time to eat lunch will be in the best position to perform their jobs at a high level. Accordingly, the PBA argues that it is in the interest and welfare of the public to allow its unit members an extra fifteen

minutes to eat lunch as part of their eight hour and fifteen minute day.

The PBA also seeks two ten-minute paid breaks. As set forth above, corrections officers have a difficult job. The PBA states that officers must maintain focus throughout their entire shift in order to identify and defuse problems in the Correctional Facility. It contends that short breaks will allow PBA unit members a brief respite during the day, which will in turn allow them to maintain their focus throughout the remainder of their shift. These breaks are likely to increase officer productivity and possibly prevent some assaults and accompanying injuries. This will, in turn, reduce officer absences.

According to the PBA, awarding this proposal will also require changes to Article XXIV, Section 6. Currently, this provision states: "Members of the unit shall be paid at the rate of time and one-half for one-half hour of their lunch period if they are required to work during their lunch break". The PBA has proposed that officers be paid overtime if they are required to work during their forty-five (45) minute lunch break or their ten minute breaks. This proposal corresponds with the above proposal to add two ten-minute breaks and lengthen an officer's lunch to a reasonable time period. The PBA argues that the Arbitrator must award this proposal.

The County contends that the PBA's proposal to increase

paid lunch and break times should not be awarded. The County presented evidence of its efforts undertaken to assist correction officers. First, Aviles testified that in 2011, the County expended \$1,000,000 to hire officers solely as "relief officers." It also provides an Employee Dining Room ("EDR") with food, serviced by an outside vendor. Ocasio testified that it takes "a few minutes" to get to the EDR from most assignments with the facility. The County contends that, the PBA has not provided sufficient evidence to increase paid lunch and break times.

I find that the PBA's proposal of 15 additional minutes for lunch and two 10-minute breaks daily would result in 175 additional minutes a week of time the officer would be not on his assigned post. This is 175 minutes that the County must cover the post with relief officers. Officers are currently "on post" for a total of 465 minutes daily [7 $\frac{3}{4}$ hours (excluding 30-minute lunch) \times 60]; the proposed reduction of 35 minutes is 3 additional hours a week of reduced time on post. This proposal is excessive and cannot be awarded.

On the other hand, correction officers work a stressful job and deserve adequate time away from the inmates to have lunch. This is no doubt the reason the County provides an employee dining room. Ocasio testified that it takes a "few minutes" to walk to the facility, and employee must then wait for their food

to be served, leaving little time to eat. I am sympathetic to this concern. Accordingly, my award will extend the lunch period by 10 minutes to 40 minutes daily, and will amend the overtime clause accordingly. The proposal to add two ten-minute breaks is denied.

Overtime Shift Splitting:

Section 5 of this Article presently provides,

Officers shall be called in for overtime according to a list in order of seniority. The County may assign overtime on a mandatory basis in the event an insufficient number of officers respond to calls made pursuant to the preceding sentence.

The PBA seeks to add to Section 5:

Mandatory overtime shifts can be split in to two equal portions if the affected officer agrees to the split.

The PBA argues that, currently, superior officers are permitted to split mandatory overtime shifts so that officers are not "stuck" for more than four hours. The PBA points out that such a compromise is a no-cost benefit to corrections officers, as they will not be required to work sixteen (16) hours straight. This will reduce officer fatigue and the likelihood that an officer is injured. The PBA maintains that fewer injuries result in less time lost from work. Aviles testified that he had no particular objection to this proposal. Accordingly, the PBA argues this proposal is in the interest and

welfare of the public and must be awarded.

The County contends that, the PBA's proposal to permit splitting of mandatory overtime shifts changes the parties' settlement agreement. Under the settlement agreement, there is an established list for assignment of mandatory overtime for a "full shift." Each time mandatory overtime is assigned, the County begins at the top of the list for that shift, such that the least senior officers are directed to work first. When an officer works a mandatory overtime shift, "he/she shall be placed at the bottom of the mandatory list, so that officers who have not yet worked a mandatory shift are called first." Under the Union's proposal, an officer who is fortunate enough to find another officer to split his mandatory overtime shift would be placed at the bottom of the list for working only half of the required mandatory overtime shift. At the same time, those officers who are not as fortunate to find another officer to split the shift would have to work a full overtime shift in order to be placed at the bottom of the mandatory overtime list. The Count argues that the PBA did not provide any evidence to establish why this proposal should be awarded. As such, the earlier settlement agreement addressing the assignment of mandatory overtime should not be disturbed.

This is another area in which the merits of each party's needs must be balanced against the other. The correction

officers seek a mechanism to provide some relief from an excessively long work times - being stuck for a double shift means the employee is working almost continuously for 16+ hours at a time. While the record does not indicate how often this occurs, I recognize that such extended shift times are tremendously draining on the employee, disrupt sleep patterns, and interfere with personal obligations. More importantly, the longer an employee is at work, especially at a job as stressful as corrections, the more likely he is to make errors in judgment which compromise his own safety as well as others. This in turn, puts the County at risk for increased workers' compensation claims and more time off, which must be backfilled with more overtime. This is not in the interests of the officers or in the interest of the public. By comparison, the County's legitimate interest is in having the shift covered without incurring additional costs. The County has not shown how the proposal would interfere with its legitimate interest. With regard to its argument that the proposal seeks to change the terms of the earlier settlement, I observe that every proposal ordinarily seeks to change the status quo, either of an existing contract provision or some past practice. Further, the County's argument that the proposal creates unfairness to the employee who works a full eight-hour overtime tour is not the employer's primary concern. The PBA has the responsibility of

representing its membership as a whole, and I must assume that it deems its own proposal in the best interests of its collective membership.

I note that Aviles could foresee no problem with the proposal. Further, I give some weight to the fact that the superior officers already have such an arrangement. Awarding this proposal will improve employee morale, reduce employee fatigue and lessen the attendant safety risk. There is no demonstrable harm to the County. I conclude that it serves the public interest. The proposal is awarded with a slight modification to provide that both affected officers must agree to the split.

Court Time:

The PBA proposes to modify Section 7a, Court Appearances. The clause currently provides,

The County shall pay all employees for appearance in municipal court, county and superior court, juvenile court, grand jury and ABC proceedings on their own time at time and one half (1-1/2) with a four (4) hour minimum.

The Union seeks to modify this section to include all courts, provided that the appearance is on behalf of the County. The County has agreed to this proposal. Accordingly, it shall be incorporated in my award.

Compensatory Time:

The PBA seeks a new Section 11 which would provide,

Officers may accrue up to 40 hours of renewable compensatory time per calendar year in lieu of paid overtime. Compensatory time shall accrue at the rate of 1.5 hours for each hour of overtime worked. The decision to accept compensatory time instead of cash overtime is solely the employee's. Any compensatory time not used by December 31 of the year in which it is earned shall be paid to the employee at the December 31 rate of pay in the January of the subsequent year.

The PBA argues that its proposal is in the interest of the public. As Aviles testified, overtime is a necessary evil of employment for Corrections Officers and there is a lot of overtime available at the Correctional Facility. Thus, the PBA reasons that instead of paying cash for all overtime, the County, and thus the public, would benefit from allowing officers to take compensatory time instead of receiving cash overtime. The County will save on the upfront costs of some overtime, and the officers will benefit from increased time off. The County will have no long-term liability as the unused time must be cashed-in at the end of the year. Moreover, the PBA notes that I recently awarded a similar proposal in Hudson I. The County points out that there is another significant cost to compensatory time. Section 207 (4) also provides:

- (4) An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than--
 - (A) the average regular rate received by such employee during the last 3 years of the employee's

employment, or

(B) the final regular rate received by such employee,
whichever is higher[.]..

Therefore, the County would be required to pay more money upon the employee's separation at a salary rate that is higher than when he/she initially earned overtime. The County argues that, in the current economic times, it is more reasonable to permit the County to pay the required overtime in cash, as it will permit the County to monitor its expenditures for overtime based upon current cash payments. Therefore, it asserts, the proposal for compensatory time should be rejected.

Generally, the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, requires an employer to pay a non-exempt worker who exceeds specified maximum hours at an "overtime" rate one and one-half times the worker's regular rate. 29 U.S.C. § 207(a). Cash payment is the required default method for compensating an employee who works overtime when a collective negotiations agreement has not specifically specified for another method, i.e. compensatory time.

First, it goes without saying that any comp time payment for overtime would be based upon 1.5 times the hours worked, just as the cash overtime rate is. Thus, an officer working an extra eight-hour tour would be credited with 12 hours comp

time. The County's argument presupposes that each time an officer takes a comp day, his/her position would have to be filled with another officer called in or held over on overtime. However, this is not the case. My award will give the County discretion to approve or reject a requested comp day depending upon whether minimum staffing level is met.

The County is also concerned about officers accruing a substantial bank of comp time which would have to be cashed out upon separation of service or retirement, at a much higher pay rate than what would have been paid when the time was earned. As noted above, the PBA has proposed permitting officers to accrue a bank of up to 40 hours. Under the PBA's proposal, this would not occur.

I have carefully considered the respective arguments of both parties on this issue. I award the following:

Officers will be compensated for all overtime worked at the overtime rate of 1.5. Such compensation may be in the form of cash payment or compensatory time, at the sole discretion of the officer. Officers may take compensatory time off upon approval by management's designee. The decision to grant a comp time request shall be based upon whether minimum staffing levels are met, but may not be unreasonably denied. Officers may accrue a maximum of 40 hours of renewable compensatory time per calendar year. Any compensatory time not used by December 31 of the year in which it is earned shall be paid to the employee at the December 31 rate of pay in January of the subsequent year.

This award will virtually guarantee that the County's overtime costs will be reduced. The employer will have control over when employees take their comp time so that minimum staffing levels can be met and back-filling comp days with overtime will be limited. The County's concerns about huge payouts later in the employee's career will be satisfied, as the most it would cost the County would be to pay out the comp bank at the end of the year, when the employee's pay is the same as when the overtime was earned. At the same time, it will provide officers with the ability to take time off on relatively short notice - days they may have otherwise been forced to use a sick day. This in turn should have the effect of reducing sick calls, further reducing the need for overtime liability and saving the County money.

Calculation of Overtime

The County seeks to add a provision that sick time will not be counted towards the accrual of overtime. Presently, sick time is excluded from the overtime calculation only after the fifth sick day in a calendar year.

Sheil testified that there is an absenteeism issue at the jail. The County argues that, reducing the amount of sick days in the calculation is a cost containment tool in addressing the County's efforts to control costs and can affect the absenteeism issue.

The PBA argues that the parties negotiated a provision in the last round of negotiations discounting sick time for the purposes of overtime for corrections officers that take more than five sick days in a calendar year. The PBA asserts that any further reduction in overtime opportunities will reduce employee morale, and is therefore not in the interest and welfare of the public.

Further, the PBA, citing Borough of Roselle Park, IA-2012-026 (Osborn, S., 2012), states that the County has not provided any justification for this proposal, and therefore the proposal must be denied.

I find that the County has not supported this proposal with sufficient evidence to justify changing the present contract language. No information has been provided which demonstrates the absentee rate or the mandatory overtime frequency. Moreover, even an employee with a stellar attendance record is occasionally genuinely sick or has an ill family member. The existing benchmark of five days sick without penalty seems a reasonable balance between permitting some sick leave and providing a deterrent to excessive sick leave use. The County's proposal would unfairly penalize even employees with near perfect attendance records from overtime pay. The proposal is denied.

Article XXVII, Shifts, Assignment And Reporting Time:

The PBA proposes to replace the language in Section 1 with: "Assignments and reporting times may not be changed except pursuant to Article VI, Vacations or with 5 days advance notice in writing personally served on the officer." Currently, this section provides for 48 hours of notice, circumstances permitting.

The PBA argues that its proposal will allow officers ample time to adjust their lives when their schedule changes. In many instances, forty-eight hours may not be enough time to figure out childcare issues or take care of personal business. Ample notice of schedule changes will improve the morale of the Department. This will also ensure that PBA unit members are aware of when they are supposed to report to duty, which will reduce absences. Accordingly, the interest and welfare of the public is served by granting this proposal.

The County argues that the PBA failed to provide any rationale or evidence as to why the notice time for changing assignments and reporting times should be increased from forty-eight (48) hours to five days. Also, the County asserts, to mandate that notice be done by "personal service" on an officer is oppressive and impractical in the paramilitary setting of a Corrections department.

No information was provided detailing how often schedule changes are mandated, nor how much notice is typically given, nor the breadth of such changes. I find that the PBA has not produced persuasive evidence to support making this change. This proposal is denied.

Shift Bidding:

The parties agreed to the PBA's proposal to amend Article XXVII to delete the current Section 2 and replace it with the following language:

Whenever an opening occurs on a shift and the County determines to fill that shift, officers will be permitted to submit a shift preference selection and the shift assignment will be based on seniority, unless particular skills, expertise, training or other necessary skills for the assignment are needed.

This stipulated language will be incorporated in my award.

Article XXX, Pledge Against Discrimination:

The PBA seeks to delete the contents of the Article and replace with the following:

ARTICLE XXX, OFFICER'S RIGHTS

Section 1. In an effort to insure that Departmental Investigations are conducted in a manner that is fair and that promotes good order and discipline, the Employer shall comply with the Attorney General Guidelines on Internal Affairs Policy and Procedure.

Section 2. When an Officer is involved in a critical incident, such as a shooting, motor vehicle accident, or physical altercation, he shall be immediately removed from the area or as soon thereafter as

possible, if he requests medical attention or evaluation. Said officer shall not be required to respond to any questions or supply any statement or written reports until he is released by the evaluating physician or other medical professional. Such delay shall not exceed two business days unless the officer is physically and/or mentally incapacitated.

The PBA argues that these provisions will raise the morale of the unit by providing a finite manner in which to handle internal affairs investigations and critical incidents. The PBA contends that the interest and welfare of the public is best served by providing officers with a uniform and consistent level of due process in Internal Affairs investigations. Consistency in internal affairs investigations will likely lead to fewer lawsuits and less money spent litigating procedural issues. The PBA argues that, while the Attorney General Guidelines are not mandated for Corrections, by requiring the County to comply with them, the Arbitrator would only be reinforcing a legal obligation that is applicable to all municipal and County police forces. See N.J.S.A. 40A:14-181 (2012).

The PBA asserts that the proposed critical incident language will increase the morale of the department by providing officers with a grace period following a critical incident. Officers will take comfort in knowing that after they are involved in a traumatic event, they will not be bombarded with interviews and questions prior to receiving medical treatment.

This further provides a level of consistency and uniform application of the rules to officers. Moreover, according to the PBA, it protects the County because an officer will have the opportunity to regain his composure prior to making a statement or writing a report. Accordingly, the PBA maintains that these proposals will increase employee morale and protect the County and are therefore in the interest and welfare of the public.

The County contends that the PBA's proposal to mandate that the County follow the Attorney General Guidelines must be rejected. It avers that the Guidelines are a guide for employers and are not mandated. The County argues that the PBA cannot mandate how the County conducts its investigations, as the conduct of those investigations are within the managerial prerogative of the County. The PBA provided no evidence to demonstrate that the County has engaged in any bad faith or improper motive in the conduction of any investigation. The County maintains that the PBA also did not provide any evidence to show that the County does not already follow the Guidelines. The County cites County of Union Sheriff's Office and PBA Local 108, IA-2012-037 (Osborn 6/11/12), in which I rejected the Union's offer and stated,

"I find that this proposal is unnecessary language to be added to the contract. These guidelines are statutorily mandated and the County acknowledges that the guidelines are already being followed; therefore, nothing further of value would be added by placing

such a requirement into the contract."

The County maintains that the PBA did not present any evidence of any problem concerning officers not being provided with medical care/treatment, because they are being interviewed during a "critical incident" to use the PBA's terms. The County asserts that it would not risk liability by refusing to treat an injured officer, due to an investigation interview. The County maintains that the PBA's proposal imposes such an overly broad obligation on an employer that does not address the circumstances of a particular situation and thus is unreasonable.

The first proposal seeking to impose the Attorney General's guidelines is denied. Unlike municipal police forces, and unlike the record demonstrated in Union County Sheriff, the Attorney General's guidelines are not mandated in this setting. As the name implies, they are guidelines; i.e., suggested investigatory practices and procedures. The PBA has not demonstrated the need to impose them here or that the County's current internal affairs investigatory procedures are inconsistent or prejudicial. Absent a detailed analysis of the metes and bound of the guidelines, I am unwilling to impose them in this setting. The proposal is therefore not awarded.

As to the PBA's demand for contract language implementing

safeguards for officers following a critical incident, I find that the PBA has not demonstrated that this proposal is necessary here. It has not produced a single example of the County depriving an officer of medical treatment after a critical incident, nor requiring an officer to participate in an investigation instead of first permitting medical evaluation and treatment. This proposal is denied.

Article XXXII, Weapons:

The PBA seeks to add a new section which would provide:

All officers shall be allowed to qualify with their off-duty weapon. Such qualifying shall be conducted with the regular bi-annual weapons qualifications.

The PBA contends that this will boost the morale of the department and is therefore in the interest and welfare of the public. Ocasio testified that all officers are required to pass weapons qualification. He also testified that unit members are authorized to carry weapons off-duty. Aviles testified that the County is in the process of issuing duty weapons to all officers and officers are periodically required to qualify with those weapons. Hudson County uses the Jersey City firing range for this purpose. Aviles stated that it takes about one hour for an officer to qualify with a personal weapon.

Currently, the County only allows officers that utilize Glock 19's as their personal weapon to qualify with the personal weapon. The PBA argues that this arbitrary distinction allows

certain PBA unit members to qualify with the personal weapon but prevents others from doing so. The PBA argues that the morale of the department is improved when all officers are provided similar benefits and therefore is in the public interest. Further, the PBA maintains that it is in the public's interest to encourage officers that must qualify with their personal weapons to do so under the trained eyes of a law enforcement instructor, instead of another individual.

The County opposes this proposal. Aviles testified that at one time, officers could qualify with various personal weapons during weapons qualifications. In some cases, officers attempted to qualify with the "wrong ammunition." Therefore, the County made a policy decision that an officer must use a Glock 19 for requalification in firearms proficiency. For those who do not have a Glock 19, the County provides the officer with that firearm at the firearms range. The Director testified that using that type of firearm with specific ammunition provides for consistency during requalification. Therefore, the County argues, the Union's proposal to permit officers to qualify with any off-duty weapon should be denied.

I deny the PBA proposal. While the PBA asserts that the present practice creates disparate treatment, I disagree. To the contrary, all officers are permitted to qualify with their personal Glock 19's. The fact that the practice had been to

permit qualification with other weapons and this created problems with mis-matched ammunition is telling. A resurrection of the failed policy creates a safety and a liability risk for the County and the officers and is not in the public interest.

Article V - Holidays:

The County seeks several changes to Article V. First, it seeks the elimination of holiday pay. The County offers no explanation for this proposal.

The PBA asserts that this proposal is detrimental to the morale of the unit and is therefore not in the interest and welfare of the public. It maintains that corrections officers must spend many holidays at work, instead of celebrating with family and friends. Indeed, unit members are only guaranteed either Christmas Day or New Year's Day off from work. In exchange for time lost celebrating holidays with loved ones, unit members are provided fourteen days of pay.

The PBA cites Hudson I in which I denied the County's proposal to eliminate holiday pay because the County failed to support its offer. Similarly, the PBA contends that the County has failed to support its offer in this case. Moreover, all other County law enforcement units receive paid holidays. Accordingly, the PBA argues that the County's proposal must be denied.

The County has not supported its proposal with any

rationale. Therefore, the proposal is denied.

Further the parties have agreed to add the following language:

Notwithstanding the foregoing, the County reserves the right, at its discretion, to adjust the holiday schedule herein to conform to that promulgated by the Governor of the State of New Jersey.

Accordingly, I will include this language in my award.

The County also proposes to add a new section to provide as follows:

ABSENCE BEFORE AND AFTER HOLIDAY

An employee who is absent from work due to illness the day before and/or the day following a legal holiday, shall not be paid for the holiday unless he/she has accrued sick leave or has requested vacation time in advance, or produces a doctor's certificate. If an employee is carried on the payroll as "absent no pay" or on a leave of absence without pay, this employee does not receive holiday pay, if a holiday is observed while he/she is employed in either status.

The County notes that this language was also awarded in Hudson I as well as in the Local 232 award.

Aviles testified that corrections officers are professionals and they traditionally come to work on holidays. The PBA argues that the County has not justified this proposal. Moreover, it maintains, the morale of the Department will not be improved by imposing arbitrary hurdles on the supplemental pay received by officers. The PBA also asserts that it is does not

make sense for employees who work the holiday not to get holiday pay. Accordingly, the PBA maintains that the Arbitrator must deny this proposal.

I find it important to note that this clause does not deprive all employees who call out sick before or after a holiday from receiving holiday pay; rather, it only targets those employees who have exhausted their sick leave banks for the year and do not produce a doctor's note. In other words, it impacts employees in non-pay status. In Hudson I, I found that awarding this proposal was fair, reasonable and in the public interest. It also follows the emerging County pattern. For all the same reasons, I award the same proposal herein.

Insurance - Articles XVII and XVIII:

The County proposes to modify the language of these Articles to include the following:

- a. The insurance and health benefit levels as provided in State Law shall remain in effect.
- b. Prescription Drugs: the prescription drug program is currently with the New Jersey Health Benefits Program. The County program shall be provided for the eligible Employee, family and spouse, as set forth and defined by law.
- c. The County shall provide health coverage currently through the New Jersey Health Benefits Program. The County program shall be provided for the eligible Employee, family and spouse, as set forth and defined by law.

d. The County shall continue the basic County dental program, which shall be at a benefit level of the current plan. The County basic dental program shall be provided for the Employee, family and spouse, as set forth and defined by law. The County and Union shall cooperate to secure State approval for the implementation of an Employee-paid upgrade in the current dental insurance plan. Such upgrade will be at no expense to the County. If implemented, the County will exert its best efforts to assure that Employee payments for the dental upgrade are treated as pre-tax income.

e. The County shall continue its present life insurance program benefit level of \$5,000.00.

f(A) The parties agree that the County shall have the unilateral right to select the insurance carrier, the program and/or to self-insure in its sole and absolute discretion. Any dispute dealing with the selection of insurance carrier, program, or decision to self-insure shall not be subject to the Grievance Procedure. No reduction in benefit level shall result.

(B) Periodically, the State Health Benefits Program may change benefits and/or benefit levels. The County has no input into or control over any such changes. However, as a participating SHBP employer, the County is governed by any such changes. Accordingly, when SHBP changes a benefit/benefit level, the benefit and/or benefit level in this agreement will be adjusted to reflect the change. The County will not be liable for any such change in benefit level or the impact of any such change. In addition no grievance or complaint against the County challenging any such change can be processed under the grievance procedures of this agreement or in any court of law or administrative agency. This provision does not preclude the Union, or an individual employee of the County from filing an appropriate challenge against the State for any such change. The County will provide notification of any such changes to the Union and employees. This provision covers all plans under the New Jersey State Health Benefits Programs including but not limited to healthcare, prescription drugs, etc.

g. Add new section to reflect that employee contributions towards health care insurance benefits shall be made in accordance with Chapter 78, P.L. 2011. This amount may change from time to time based upon changes in legislation. The County has no input into or control over any such legislative changes. Accordingly, when such a change is made under law this agreement will be adjusted to reflect any change in contribution rate. The County will not be liable for any such change, or the impact of any such change. In addition no grievance or complaint against the County challenging any such change can be processed under the grievance procedures of this agreement or in any court of law or administrative agency. This provision does not preclude the Union or an individual employee of the County from filing an appropriate challenge against the State for any such legislative change. The County will provide notification of any such changes to the Union and employees.

h. During the term of the collective negotiations agreement, should the New Jersey Legislature pass any law that directly or indirectly impacts the terms and working conditions of employment, the Union and the County agree to abide by such legislation.

The County notes that Arbitrator Mastriani awarded similar language in the PBA 232 matter.

The PBA notes that significant changes have recently been enacted under Chapter 78 which impact upon employee payments for health care insurance. The County's proposal would remove any control officers have concerning the health benefits that they are paying for. The PBA further asserts that the County's proposal is confusing and does not specifically identify any changes. The County seeks to cede all authority over health benefits to the SHBP or the legislature, and to be held harmless for any changes. Moreover, the PBA claims, the County seeks to

deny the PBA access to the grievance procedure to contest these changes. The PBA maintains that these changes will destroy the morale of a bargaining unit, and should be denied.

The PBA further asserts that the County already has the right to select the carrier for all insurance plans or to self-insure, provided that there is no reduction in benefits. It argues that the County's proposal completely undermines the contractual guarantee that benefits will not be reduced. The PBA further argues that the County's Final Offer also seeks to completely abdicate any responsibility for health benefits to the SHBP. Despite the fact that the County is contractually required to maintain the current level of benefits offered to PBA Local 109 unit members, it has proposed that any changes implemented by the SHBP automatically become part of the agreement. In addition, according to PBA, the County seeks to free itself of any liability with regard to these changes and to prevent the Union from utilizing the contractual grievance procedure to contest these changes.

The County also seeks to add several new sections that automatically implement any changes to laws concerning health benefits and that these changes not be subject to the grievance procedure. As set forth above, legislation requiring employees to contribute towards the cost of their health benefits has been made applicable only after the expiration, reopening or

modification of an existing agreement. Again, the PBA argues that the County is proposing that the Arbitrator award what the Contracts Clauses of the State and Federal Constitutions do not allow - that new legislation change the terms of existing contracts.

I find that the County's proposed language above exceeds that which was awarded in Hudson I or what Arbitrator Mastriani awarded in the Local 232 matter. There is insufficient justification for expanding the language, notably paragraphs g and h pertaining to employee contributions and legislation, beyond that which was previously awarded. Accordingly, my award will follow the County pattern, and the clause will be amended to add:

New section: "Periodically, the State Health Benefits Program may change benefits and/or benefit levels. The County has no input into or control over such changes. However, as a participating SHBP employer, the County is governed by any such changes. Accordingly, when SHBP changes a benefit/benefit level, the benefit and/or benefit level in this agreement will be changed accordingly including the cost of co-payments of prescriptions to employees. The County will not be liable for any such change or the impact of any such change. In addition no grievance or complaint against the County challenging any such change can be processed under the grievance procedures of this agreement or in any court of law or administrative agency. This provision does not preclude the Union, an individual employee or the County from filing an appropriate challenge against SHBP for any such change. This paragraph applies to any programs under the SHBP, for example, the prescription drug program."

New Section: Employees will contribute to the cost of health care insurance in accordance with Chapter 78, P.L. 2011.

Employee Training:

The parties have agreed to add the following language as a new Section:

Except for employees who retire or are laid off, Officers who receive training shall be obligated to remain in the employ of the County for a period of three (3) years after the training is complete or shall be responsible to refund to the County the cost and expenses of any training provided. Any training cost not repaid at the time of termination may be deducted from any accrued but unpaid balances, including but not limited to, vacation time and holiday time.

I will incorporate this provision in the award.

Mandatory Direct Deposit:

The County seeks to require all employees to participate in a mandatory program of direct deposit for all compensation. Sheil testified that there are sometimes problems with paper paychecks being issued to employees. He stated that there have been instances where employees do not cash their paychecks before the checks expire. The County notes that other County bargaining units have already agreed to this proposal. Additionally, Arbitrator Mastriani awarded direct deposit in both the FOP 127 and PBA 232 awards (C-58 and C-59). The PBA makes no specific argument about this issue.

I find that awarding this proposal will provide administrative efficiencies to the County and no undue hardship to the employees, provided that there is no delay to the employee in having his/her funds available on payday. Most payroll operations are done electronically, and indeed, most public employees are paid by direct deposit. The employee's ability to access the funds is widely available by ATM's. The County's proposal is neither unusual nor unrealistic. The proposal is awarded.

Article II-B Union Security Clause:

The parties have agreed to modify Article II-B, Union Security Clause, to replace the phrase "which amount shall not exceed 85%" with "the amount allowed by law." This agreed upon language will be included in the award.

Article VII Personal Business Days:

The County seeks to reduce the annual personal leave allowance from 3 days to 2 days for the employee's first five years of employment. The County seeks to replace the existing language of Section 1 with:

Each employee in the bargaining unit shall be entitled to two (2) paid personal days. Employees shall receive one additional personal day per year, for a total of three (3) per year after five (5) years of employment with the County.

The County argues this offer creates consistency with other

County employees as to accrual of this leave time.

The PBA argues this proposal will reduce the morale of the unit and is therefore not in the public interest. The PBA notes that working in a correctional facility or jail is a stressful job. The PBA claims that employees are constantly exposed to inmates that can become violent at any moment. Personal days are an important benefit to PBA unit members. The PBA asserts that corrections officers may take up to three days per year to conduct personal business, spend time with family and friends and otherwise decompress from the rigors of corrections officer employment. The PBA contends that removing this benefit will have a deleterious effect on the esprit de corps, and therefore it is not in the public's interest. Accordingly, the PBA asks that this proposal be denied.

An examination of other County contracts reveals that the Sheriff's officers and Prosecutors investigators, as well as the 1199J professional unit and the 1199J white collar unit, all have a two-tiered personal leave allotment with starting employees receiving two personal days until they reach their five-year mark (C-88, C-89, C-90, C-91). I am inclined to follow the County pattern in this regard; however, I do not wish to harm any current employee, who already has three days annually. Accordingly, I award the following:

Employees hired on or after July 23, 2012 shall be

afforded two (2) paid personal days annually; upon completing five years' service in the County, they shall receive one additional paid personal day annually for a total of three (3) paid personal days per year.

Article X - Grievance and Arbitration:

The County seeks to modify Section 2 to reduce the number of days for filing a grievance from 30 days to 15 days. It argues that this proposal will promote a more efficient process by bringing grievance issues to the attention of management in a timely manner.

The PBA maintains that a reduction in the amount of time an employee or the Union has to file a grievance is not in the public interest, and therefore this proposal must be denied. It asserts that the current thirty-day period of time is sufficient to allow the PBA adequate time to investigate alleged contractual violations and to determine whether a grievance should be filed. Reducing the amount of time to file a grievance correspondingly reduces the amount of time the PBA has to investigate the facts and circumstances surrounding a grievance. The PBA contends that, in order to protect the rights of its members, the PBA will likely have to file grievances first and investigate them later. This could result in an increase in grievance filings, which in turn will result in more time and effort being expended by both the County and the PBA in processing the grievances. In addition, the PBA

claims that this will take away from the shared goal of maintaining a safe Correctional Facility. Therefore, the PBA contends, this proposal is contrary to the public interest and should be denied.

Deciding this issue is a matter of striking a balance. On the one hand, the PBA and its members must be given adequate time to investigate claimed grievances, potentially resolve them informally, and when necessary, file a formal grievance and process it to a resolution. On the other hand, it is generally recognized that it is in no party's interest to allow potential claims to become stale. The County is best served when claimed contract violations are brought to the attention of supervisors and management as soon as possible, to allow the Employer to investigate the claimed wrongdoing while memories are fresh, and to mitigate damage costs arising out of the claim.

In Hudson County, sheriff's officers must initiate a grievance within 15 days, and Prosecutor's investigators must file within 10 days. While this unit works round-the-clock shifts, making daytime contact with a Union officer more of a challenge, there is no justification for a window period for filing of 30 days. I do not accept the Union's argument that shortening the filing period to 15 days would result in a "file first, investigate later" procedure. I believe that 15 days is an adequate period to investigate claimed grievances. Moreover,

the contract allows the PBA President release time to conduct such investigations. Accordingly, I award the County's proposal that a grievance must be initiated within 15 calendar days of the grievable event.

Article XII, Sick Leave Incentive:

The County proposes to delete the Sick Leave Incentive provisions found in Section XII (F). This section provides,

Any member not using sick leave for a full calendar year may, at his or her option, receive compensation in the first payroll of the next year in an amount equal to five (5) days' pay. Such member shall have five (5) days deducted from his or her sick leave for that year.

Any member utilizing the equivalent in hours of one or less of his or her sick days for a full calendar year may, at his or her option, receive compensation in the first payroll of the next year in an amount equal to four (4) days' pay. Such employee shall have four (4) days deducted from his or her sick leave for the year.

Sheil testified that this incentive does not provide much incentive, as a significant absenteeism problem still exists at the Correctional Center. The County avers that the purpose of this demand is for cost containment.

The PBA argues that the existing sick leave incentive program benefits both the PBA and the Employer. The PBA alleges that it provides an incentive for officers to come to work each day. The PBA asks why the County would propose to eliminate a

sick leave incentive in the face of its claimed absenteeism problem. The PBA asserts that the public interest is fostered when public employees work their assigned shifts. The sick leave incentive bonus provides an incentive for PBA Local 109 members to do just that.

The County has provided no information about its annual current costs for the sick leave incentive; therefore I am unable to determine just how much "cost containment" could be realized if this clause is eliminated. With Shiel's testimony that the provision is ineffective at curbing absenteeism, combined with the County's lack of any cost analysis, I can only conclude that the sick leave incentive currently in place is neither providing much incentive to employees to minimize sick leave usage, nor is it costing the County very much in payouts.

It is common knowledge that in the corrections field, sick leave usage is a very real problem. The impact of sick leave usage is often that the officer who reports off must be replaced with another employee, at overtime rates. The real problem with the existing language is that it provides a monetary benefit only to those who are never sick or very rarely sick (and have no family illness). This is an almost unattainable goal. Once an employee uses just a second sick

day in a calendar year, he become ineligible for the incentive pay, and there is then no incentive for the rest of that year for him to conserve his sick days. Further, the sick leave payout upon retirement also offers only a limited inducement to officers to save their sick time.

I award the County's proposal to delete this language from the contract. However, I award the following language as its replacement:

Employees shall be entitled to sell back one day in each calendar year quarter during which time they do not use any sick days. Employees who use more than 4 sick days in any calendar quarter will not be eligible for a sick leave bonus in the next succeeding quarter unless the illness is covered by FMLA.

This awarded provision will give employees a more short-term target and provide a more meaningful incentive to conserve sick leave. The economic impact on the County would be a cost savings. Employees are provided with 15 sick days annually - about 3.75 days per calendar quarter. If all of the days are used, the County would likely have to backfill the vacant post with overtime, costing 1.5 times the employee's pay. An employee who uses all 3.75 days in a quarter costs the County a little more than five days' pay in overtime costs, plus the day's pay for the officer who called in sick. By contrast, an officer who does not call in sick at

all in a calendar quarter would cost the County one additional day's pay. The cost savings is both obvious and in the interest of the County, the public, and the officers. Therefore, the language above is awarded.

Article XIII Service Record:

The parties have agreed to delete the second sentence of this Article which provides,

Upon the addition of any report or other writing to such file, notice thereof will be immediately given the member in order that he may reasonably inspect such writing.

My award will include this agreement of the parties.

AWARD

Duration of Agreement:

January 1, 2010 through December 31, 2012.

Salaries:

Effective July 1, 2010: 2.0% across-the-board increase to all unit employees.

Effective January 1, 2011: 1.5% across-the-board increase to all unit employees.

Effective January 1, 2012: 2.0% across-the-board increase to all unit employees.

The new salary guide schedule for 2012 appears below:

STEP	2012
1	34,088.29
2	42,239.12
3	43,407.39
4	44,588.25
5	45,538.16
6	46,875.37
7	49,241.49
8	51,610.47
9	57,536.16
10	67,015.90
11	71,755.21
12	86,446.16

Salary increases are retroactive to the above effective dates and apply to all current unit employees, and to employees who were promoted into the superior officers unit since January 1, 2010. The percentage increases do not apply retroactively to increment payments.

Tier-Two Salary Guide:

Employees hired on or after the date of this award, shall be paid pursuant to the salary guide.

Salary Guide for Employees Hired on or After 7/23/12	
Step	Salary
1	\$ 33,000
2	\$ 40,000
3	\$ 41,105
4	\$ 42,223
5	\$ 43,123
6	\$ 44,389
7	\$ 46,630
8	\$ 48,873
9	\$ 54,485
10	\$ 63,462
11	\$ 67,950
12	\$ 72,586

13	\$ 77,186
14	\$ 83,500

Step Guide Movement:

The salary schedule shall, unless agreed to otherwise, remain without change upon the expiration of the agreement. There will be no automatic step movement, beyond the expiration of this collective negotiations agreement on December 31, 2012.

Article III - Negotiations Leave:

I award the PBA an aggregate of 16 hours of paid release time to engage in negotiations preparation. The PBA may choose to allocate this time among its committee members in any manner it deems necessary.

Article VI - Vacations:

Add: Section 2, C.: "Except in an emergency, no employee may be held over on the shift immediately preceding the commencement of vacation."

Article XXIII - Work Schedules:

Replace: Section 3:

For purposes of this section, "tour" shall be defined as the specific days on/days off (RDO's) of a position. Whenever a position becomes vacant, the County will determine whether to fill that position, and will set the RDO's for the position. The tour (with RDO's) will be posted and officers will be permitted to submit a bid for the tour. The assignment to the tour will be based on seniority, unless, in the sole discretion of the County, it is determined that particular skills, expertise, training or other necessary skills for the assignment are needed.

The employer will have sole discretion to assign the

employee to any post/assignment in the Correctional Department it deems necessary and appropriate, provided the employee's selected RDO's are maintained. Further, it is recognized that from time to time, the Employer may change an employee's post and/or RDO to accomplish training needs. A minimum of five (5) days' notice will be given to any employee whose tour (RDO) is being changed.

Section 5: Add the following language:

Mandatory overtime shifts can be split in to two equal portions if both affected officers agree to the split.

Modify Section 7a, Court Appearances as follows:

The County shall pay all employees for appearances in all courts on their own time at time and one half (1-1/2) with a four (4) hour minimum, provided that the appearance is on behalf of the County.

Add new Section:

Compensatory Time: Officers will be compensated for all overtime worked at the overtime rate of 1.5. Such compensation may be in the form of cash payment or compensatory time, at the sole discretion of the officer. Officers may take compensatory time off upon approval by management's designee. The decision to grant a comp time request shall be based upon whether minimum staffing levels are met, but may not be unreasonably denied. Officers may accrue a maximum of 40 hours of renewable compensatory time per calendar year. Any compensatory time not used by December 31 of the year in which it is earned shall be paid to the employee at the December 31 rate of pay in January of the subsequent year.

Article XXVII, Shifts, Assignment And Reporting Time:

Replace Section 2 with the following language:

Whenever an opening occurs on a shift and the County determines to fill that shift, officers will be permitted to submit a shift preference selection and the shift assignment will be based on seniority,

unless particular skills, expertise, training or other necessary skills for the assignment are needed.

Holidays:

Add new section:

ABSENCE BEFORE AND AFTER HOLIDAY

An employee who is absent from work due to illness the day before and/or the day following a legal holiday, shall not be paid for the holiday unless he/she has accrued sick leave or has requested vacation time in advance, or produces a doctor's certificate. If an employee is carried on the payroll as "absent no pay" or on a leave of absence without pay, this employee does not receive holiday pay, if a holiday is observed while he/she is employed in either status.

Sick Leave Incentive Pay:

Replace the existing contract provision concerning sick leave incentive pay with this language:

Employees shall be entitled to sell back one day in each calendar year quarter during which time they do not use any sick days. Employees who use more than 4 sick days in any calendar quarter will not be eligible for a sick leave bonus in the next succeeding quarter unless the illness is covered by FMLA.

Overtime:

Add this provision:

Compensatory time

Officers will be compensated for all overtime worked at the overtime rate of 1.5. Such compensation may be in the form of cash payment or compensatory time, at the sole discretion of the officer. Officers may take compensatory time off upon approval by management's designee. The decision to grant a comp time request shall be based upon whether minimum staffing levels are met, but may not be unreasonably denied. Officers

may accrue a maximum of 40 hours of renewable compensatory time per calendar. Any compensatory time not used by December 31 of the year in which it is earned shall be paid to the employee, at the December 31 rate of pay, in January of the subsequent year.

Insurance:

Add new section:

Periodically, the State Health Benefits Program may change benefits and/or benefit levels. The County has no input into or control over such changes. However, as participating SDHBP employer, the County is governed by any such changes. Accordingly, when SHBP changes a benefit/benefit level, the benefit and//or benefit level in this agreement will be changed accordingly including the cost of co-payments of prescriptions to employees. The County will not be liable for any such change or the impact of any such change. In addition no grievance or complaint against the County challenging any such change can be processed under the grievance procedures of this agreement or in any court of law or administrative agency. This provision does not preclude the Union, an individual employee or the County from filing an appropriate challenge against SHBP for any such change. This paragraph applies to any programs under the SHBP, for example, the prescription drug program.

New Section: Employee Health Care Insurance contributions in accordance with Chapter 78, P.L. 2011.

Section 15.4: Amend to: The County shall provide the N.J. State Prescription Drug Program.

Employee Training, (New Article)

Except for employees who retire or are laid off, Officers who receive training shall be obligated to remain in the employ of the County for a period of three (3) years after the training is complete or shall be responsible to refund to the County the cost and expenses of any training provided. Any training cost not repaid at the time of termination may be deducted from any accrued but unpaid balances,

including but not limited to, vacation time and holiday time.

Direct Deposit:

The County shall have the authority to establish a program in which all bargaining unit officer's compensation will be directly deposited into a financial institution and immediately available to officers on payday, at no cost to officers.

Article II-B Union Security Clause:

Modify Article II-B, Union Security Clause, to replace the phrase "which amount shall not exceed 85%" with "the amount allowed by law."

Article VII Personal Business Days:

Section 1: Replace the existing language with:

Each employee hired on or after the date of this award shall be entitled to two (2) paid personal days. Employees shall receive one additional personal day per year, for a total of three (3) per year after five (5) years of employment with the County.

Article X - Grievance and Arbitration:

Modify Section 2 to reduce the number of days for filing a grievance from 30 days to 15 days.

Article XXIV, Hours And Overtime:

Section 1: Modify - "inclusive of a 40-minute paid lunch period."

* * *

All proposals 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.

Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken the statutory limitation imposed on the local tax levy cap into account in making the award. My Award also explains how the statutory criteria factored into my final determination.

Susan W. Osborn
Susan Wood Osborn
Interest Arbitrator

DATED: July 23, 2012
Trenton, New Jersey

State of New Jersey }
County of Mercer }
 }

On this 23rd day of July, 2012, 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.

Susan E. Peslin

