

**STATE OF DELAWARE**  
**PUBLIC EMPLOYMENT RELATIONS BOARD**

**IN THE MATTER OF:**

<b>FRATERNAL ORDER OF POLICE, Lodge 4,</b>	:	<b>Decision of the Binding</b>
	:	<b>Interest Arbitrator On</b>
	:	<b>Remand</b>
<b>and</b>	:	
	:	<b>BIA 02-01-338</b>
<b>CITY OF NEWARK, DELAWARE.</b>	:	

APPEARANCES

*Perry F. Goldlust, Esquire, for FOP Lodge 4*  
*Sheldon Sandler, Esquire, for the City of Newark*

BACKGROUND

The FOP Lodge 4 (“FOP”) and the City of Newark (“City”), were parties to a collective bargaining agreement for the period April 1, 1999 to March 31, 2001. On December 5, 2000, the parties entered into negotiations for a successor agreement. Unable to resolve all of the outstanding issues, the FOP requested mediation in February, 2001. Following unsuccessful attempts to mediate the outstanding issues the collective bargaining impasse was referred to binding interest arbitration pursuant to 19 Del.C. § 1615.

A public interest arbitration hearing was conducted on September 14, 2001, before the Executive Director of the Public Employment Relations Board (“PERB”), acting on behalf of the full Board as the Interest Arbitrator, pursuant to 19 Del.C. § 1615(b). The Decision of the Interest Arbitrator was issued January 7, 2002, holding:

Based upon the record created by the parties, consideration of the statutory factors, and weighing of the last, best and final offers in their totality, the FOP has not carried its burden to support its proposal as the more reasonable and

necessary, particularly as it relates to Workers' Compensation and the addition of the rank of PFC.

Consequently, based upon the statutory criteria set forth in 19 Del.C. § 1615 (each of which was considered in reaching this determination), the last, best and final offer of the City of Newark is accepted in its entirety.

FOP Lodge 4 filed a Request For Review of the Decision of the Binding Interest Arbitrator by the full Board on January 15, 2002, and the City of Newark filed its Response to the Request on January 28, 2002. The Board convened a public hearing on Wednesday, April 10, 2002, to consider the Request for Review. By decision dated May 1, 2002, the Board remanded the matter to the Executive Director to accept additional testimony and/or argument, FOP Lodge 4 v. City of Newark, Del. PERB, IV PERB Binder 2627, 2628 (2002).

The Interest Arbitrator convened the remand hearing on August 22, 2002, at which time the parties were afforded the opportunity to present testimony and documentary evidence. The record closed on October 9, 2002, upon receipt of written argument. This decision results from the record created by the parties.

#### **SCOPE OF REMAND**

The Public Employment Relations Board remanded this matter to the Binding Interest Arbitrator with direction to:

... accept additional evidence and/or argument specifically as to:

1. The basis for the respective salary proposals of the parties, including the FOP's proposal to include the additional rank of Patrolman First Class;
2. The basis and costs of the City's Flexible Benefit Plan proposal, including the rationale for the reduction in points from 126 to 89.

The arbitrator is also directed to state written findings of fact for each issue.

#### **LAST, BEST, FINAL OFFERS OF THE PARTIES**

**FOP Lodge 4** (9/6/01 - Amended)

1 Workers' Compensation: The City is to cover all employees equal to 19 Del.C. Chapter 23.

Language has been exchanged. The City has indicated a general agreement on the inclusion but not as to all the specific language proposed by the Union. As none of the language has been formally signed off as agreed to by the City, the entire proposal is considered as being open. A copy of the Union's language is attached.<sup>1</sup>

- 2 Workers' Compensation: Weekly disability at full pay for 60 workdays.
- 3 Retiree Health Coverage: Upon retirement, the employee can continue coverage at the same benefit level. Premiums are to be paid by the City at the rate of 100% for the retired employee and 75% for the spouse of the retired employee.
- 4 Salary Increases: Establish the paid rank of PFC at the conclusion of 2 years of service with the City. Rank to be paid at 4.5% above the PO. See salary matrix attached.

4% general increase effective April 1, 2001, and 4% increase effective April 1, 2002.

Shift Differential – 4% and 6%.

**April 1, 2001 – March 30, 2002**

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
Police Officer	35,257	36,844	38,502	40,234	42,045	43,937	45,914
PFC			40,234	42,045	43,937	45,914	47,980
Corporal					46,701	48,802	50,998
Master Corporal	41,221	43,076	44,983	47,040	49,157	51,369	53,681
Sergeant	44,983	47,040	49,157	51,369	53,681	56,097	58,621
Lieutenant	49,157	51,369	53,681	56,097	58,621	61,258	64,015
Captain	53,681	56,097	58,621	61,258	64,015	66,896	69,906

**April 1, 2002 – March 30, 2003**

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
Police Officer	36,667	38,318	40,042	41,844	43,727	45,694	47,750
PFC			41,844	43,727	45,694	47,750	49,900
Corporal					48,569	50,754	53,038
Master Corporal	42,870	44,799	46,782	48,922	51,123	53,423	55,828
Sergeant	46,782	48,922	51,123	53,423	55,828	58,340	60,965
Lieutenant	51,123	53,423	55,828	58,340	60,965	63,708	66,576
Captain	55,828	58,340	60,965	63,708	66,576	69,572	72,702

<sup>1</sup> Subsection 9, Disputes, of the FOP's proposal provides:

- 9.1 Any employee having a dispute regarding the application or interpretation of this policy shall be heard in the grievance and arbitration section of this Agreement. The decision of the arbitrator shall be final and binding.
- 9.2 In the interpretation and application of this Article, the decisions of the Courts of Delaware as to provisions that are substantially the same as the Delaware Workers' Compensation Act may be used in the arbitration hearing and shall be binding upon the arbitrator. The Arbitrator, as part of any award made to an employee under this section, shall include as part of the award the reimbursement for the cost of medical witnesses, deposition costs, and attorney's fees (to the extent allowable under 19 Del.C. §2320(10).

5. Retroactively to April 1, 2001 – there has been oral assurances, but nothing in writing.
6. Term of the contract – 2 years.

**City of Newark (9/7/01)**

1. Retiree health insurance coverage based on one of two options:
  - a. OPTION A – For a maximum of 15 years after retirement, coverage for the retiree would be at 100% of the premium; coverage for a spouse who is the retiree’s spouse at the time of retirement would be at the rate of \$8 per year times the retiree’s number of years of service. The retiree would not be able to add a spouse after retirement.
  - b. OPTION B – Retiree and eligible spouse at the time of separation from employment would receive health insurance coverage for the life of the retiree and spouse under the following terms: coverage would begin at a time selected by the retiree, after the retiree’s 55<sup>th</sup> birthday and 25<sup>th</sup> anniversary of the retiree’s hire date as a police officer. The City would pay a portion of the premium for the retiree’s coverage in an amount equal to the non-medicare premium rate for the employee only coverage in effect at the beginning of the coverage. The City would pay a portion of the premium for the spouse’s coverage in the amount of \$8 per month times the retiree’s years of service as a police officer. The retiree would reimburse the City the balance of any premium for retiree and/or spouse coverage. Spouse coverage would continue after the death of the retiree until the death or remarriage of the spouse.
  - c. The multiplier under the Flex Plan, i.e., the City’s cafeteria plan for benefits, would be reduced from 1.05 to .8 (126 monthly menu points to 91 points as of today’s premium rates) effective as of 1/1/02. The base or Flexible Benefit health insurance component would be either the PPO or HMO, whichever is the lower premium rate.
  - d. The retiree and/or spouse may not discontinue health insurance coverage after it has commenced and then reenroll in the City Plan at a later date.
  - e. The spouse of a retiree may not continue coverage if the retiree has discontinued coverage, except where the retiree’s death resulted in the discontinuation.
  - f. If the retiree and/or spouse obtain coverage from another source, the City will reimburse the retiree and/or spouse for their cost, upon verification, up to the amount stated.
  - g. PPO and HMO Benefits shall be in accordance with the attached “Appendix A” and “Appendix C”.
2. There would be a three-year contract, with wage increase percentages of 3.25 in each of the three years.

**City Proposal for 01-02 (3.25% increase)**

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
Police Officer	35,003	36,578	38,224	39,944	41,742	43,620	45,583
Corporal					44,368	46,364	48,450
Master Corporal	39,162	40,924	42,765	44,690	46,701	48,802	50,998

Sergeant	42,765	43,657	46,701	48,802	50,998	53,294	55,691
Lieutenant	46,701	48,802	50,998	53,294	55,691	58,198	60,816
Captain	50,998	53,294	55,691	58,198	60,816	63,553	66,413

**City Proposal for 02-03 (3.25% increase)**

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
Police Officer	36,140	37,767	39,466	41,243	43,099	45,038	47,064
Corporal					45,810	47,871	50,025
Master Corporal	40,434	42,254	44,155	46,142	48,219	50,388	52,656
Sergeant	44,155	45,076	48,219	50,388	52,656	55,026	57,501
Lieutenant	48,219	50,388	52,656	55,026	57,501	60,089	62,793
Captain	52,656	55,026	57,501	60,089	62,793	65,619	68,572

**City Proposal for 03-04 (3.25% increase)**

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
Police Officer	37,315	38,995	40,749	42,583	44,499	46,501	48,594
Corporal					47,298	49,427	51,650
Master Corporal	41,749	43,627	45,590	47,642	49,786	52,026	54,367
Sergeant	45,590	46,541	49,786	52,026	54,367	56,814	59,370
Lieutenant	49,786	52,026	54,367	56,814	59,370	62,042	64,834
Captain	54,367	56,814	59,370	62,042	64,834	67,752	70,801

3. The meal allowance would be increased to \$7 a meal.
4. Worker’s Compensation – The City would agree that language be included in the CBA providing that no change in the workers’ compensation policy affecting bargaining unit members would be made during the term of the CBA.

**POSITIONS OF THE PARTIES**

**•Salary Proposal including the FOP’s proposal to include the additional rank of Patrolman First Class:**

FOP Lodge 4: The FOP maintains that the comparable jurisdictions for comparison with the City of Newark include, Delaware State Police, New Castle County Police, City of Wilmington Police and City of Dover Police. The FOP maintains that the City’s reliance on factors such as size of geographical area, relative size of the police departments and budgets to distinguish Newark from the State Police, New Castle County Police and Wilmington Police is misleading.

Relevant crime statistics reflect “Part I” (more serious) and “Part II” (less serious) crimes establish that when broken down by “crime load per officer”, the per officer incident rate is consistent throughout the comparable pool relied upon by FOP Lodge 5. The FOP also points out that the police

departments included in its comparable pool includes the only nationally accredited departments in the State along with the Newark Police Department.

The FOP's salary proposal consists of two (2) essential elements: 1. a 4% general increase, and 2. that the existing rank of Patrolman First Class be paid a promotional increase of % after six months on the force.

1. General Wage Increase: The FOP's proposal of 4% is consistent with the annual general increases received by FOP Lodge 4 from 1993 to 2000. The City's proposal for a lesser amount results solely from the FOP's rejection of the City's proposed five (5) year contract and is, therefore, unreasonable.

2. Patrolman First Class: This promotional increase is based essentially upon the following factors: 1. The PFC rank already exists as an unpaid promotion; 2. the rank of Patrolman First Class results in increased responsibilities and is recognized as a position within the chain-of-command; and 3. an adjustment in salary for promotion to the position of Patrolman First Class is universally recognized.

The ripple effect on the rest of the salary schedule assures the ability of FOP Lodge 4 to remain competitive with the comparable jurisdictions and serves as motivation for police officers to remain with the City's police department.

The FOP points out that the position of Patrolman First Class carries with it additional responsibilities since attainment of this rank is normally required before an officer is eligible to participate in special unit operations.

The FOP argues that when considered together, both elements of its salary proposal are necessary to assure that FOP Lodge 4 will enjoy a competitive position when compared with other comparable jurisdictions.

City of Newark: The City's offer of 3.25% in each of the first two years and 3.5% in the third year in wages together with its other economic proposals results in an increase in total compensation of 5.04% in the first year of the contract compared to the increase in total compensation of 12.92% proposed by FOP Lodge 4. Since the other City bargaining units (AFSCME Local 1670 and IUE Local 317)

accepted similar offers the City's proposal to FOP Lodge 4 essentially maintains the existing internal equity among bargaining units. The City also points out that its proposed compensation package far exceeds the corresponding rate of inflation as measured by the Consumer Price Index.

The City maintains that certification by the Commission on Accreditation for Law Enforcement Agencies (CALEA) has no bearing upon the designation of comparable jurisdictions. Citing numerous differences the City argues that the Delaware State Police, New Castle County Police and City of Wilmington Police are not comparable jurisdictions. The City contends that the City of Dover Police Department is the only true comparable jurisdiction. Over the life of the City's proposed contract term, its proposal of 5.04% actually increases the relative position of FOP Lodge 4 when compared with the City of Dover police.

2. Patrolman First Class: The FOP has presented no operational justification for the introduction of a paid PFC rank into the organizational structure of the Newark Police Department and, in fact, none exists.

Currently, a Newark police officer receives an unpaid automatic progression to the rank of Patrolman First Class on his or her third anniversary with the department. In addition to converting this automatic progression from unpaid to paid, the impact is to increase the salary of all officers with over two (2) years of service an additional 3.68%.

Insofar as retaining younger officers, this was the same rationale during the last round of negotiations for the creation of the paid rank of Corporal. The City maintains that the creation of the rank of Corporal has not succeeded in inducing Newark police officers from seeking employment with other higher paying jurisdictions. Contrary to the FOP's claim, the City has not experienced a significant loss of officers for this reason. Since 1996, thirty-seven (37) officers have left the department including nineteen (19) who either retired or went out on disability; five (5) who were terminated for cause; five (5) who left law enforcement entirely; two (2) who went to federal agencies; and six (6) who joined the State Police.

- The basis and costs of the City's Flexible Benefit Plan proposal, including the rationale for the reduction in available points from 126 to 89:

FOP Lodge 4: Due to the low number of retirees in the immediate future the City's estimated annual cost of \$69,062 to fund retiree health insurance is overstated. The City has offered no actuarial data or other substantive data supporting its estimated annual cost.

The savings in the amount of \$32,200 generated by reducing the flex points represents an actual out-of-pocket cost to the employees. Furthermore, the estimated savings has no reasonable relationship to the cost of providing retiree health care coverage.

The FOP argues that the City's failure to deposit the cost savings in a segregated account as evidence that the City does not intend to utilize the cost savings to fund future retiree health care.

City of Newark: In the absence of a demand by FOP Lodge 4 for retiree health insurance there would have been no proposal by the City for a reduction in the flex points. The City believes the reduction in points is an equitable method for requiring employees to contribute a relatively small amount for health and dental coverage.

The City contends that the national trend is for employees to contribute toward the cost of health and dental insurance. Under the City's proposal, the employees aggregate annual contribution would be approximately \$5600.00 compared to the City's annual cost of approximately \$350,000.00.

All other Delaware public employees contribute to the cost of employer-sponsored health and dental insurance to an extent greater than the amount sought by the City of Newark. If the FOP's proposal were accepted Lodge 4 members would be the only police officers in Delaware who do not contribute to health and dental coverage.

The number of retirees will significantly increase over the next ten (10) years. Considering this reality together with the trend of continually rising health care costs it is not unreasonable for the City to initiate equitable funding measures to cover the cost of retiree health insurance over the longer term.

## **FINDINGS**

### **I. COMPARABILITY**

- At the time of the hearing, the only accredited traditional police departments in the State of Delaware were the Delaware State, New Castle County, City of Wilmington, City of Dover, and City of Newark police forces. The FOP chose these departments as appropriate external comparatives because they were accredited.
- In order to attain and maintain CALEA (Commission for Accreditation of Law Enforcement Agencies) accreditation, police departments must meet 430 standards which cover agency policies and procedures which range from career development to direct policing practices.
- Newark is the smallest of Delaware's accredited traditional police departments. Relative data which allows for comparison of these departments was derived from the exhibits of the parties:

Department	# Sworn Personnel	Population Served	Area Served (square miles)	Police Budget (% of Total Budget)	2000 Reported Part I Crimes	2000 Reported Part II Crimes
Delaware State Police	555	783,600	1954	\$79,680,900 3.3%	12,240	49,538
New Castle County Police	346	500,265	426	\$58,402,011 31%	7,715	37,065
Wilmington	289	72,664	10.8	\$31,133,605 36%	6,882	24,661
Dover	81	32,135	22.4	\$9,078,076 15%	2,343	7,800
Newark	56	28,547	8.9	\$5,769,210 21%	1,454	5,736

- Of the five police forces included in the FOP's comparison, only Wilmington, Newark and Dover are municipal police forces, of which Newark is the smallest in terms of size of force, population and geographic area served, total budget and number of reported crimes. Wilmington reports approximately 4.5 times the crime of Newark, and Dover reports 1.5 times Newark's level of reported crime.
- Newark and Dover both include within their geographical borders university communities which maintain independent police forces.

- Although there are a number of accredited “non-traditional” Delaware police agencies (i.e., AMTRAK police, Delaware Division of Fish and Wildlife officers and Delaware River and Bay Authority Police), the FOP did not include them in its comparative calculations.
- Delaware State, New Castle County, Wilmington, Dover and Newark are the five highest paid police departments in Delaware. By including three higher paid departments and only one lower paid department, the salary averages are skewed toward the higher salaries.
- The City of Newark used only the City of Dover for comparative purposes because it is the Delaware municipal police department which most closely matches Newark’s characteristics. Other Delaware municipalities which have unionized police forces are significantly smaller in size (Lewes, Seaford (25 officers), Georgetown, Rehoboth, Smryna, Milford (26 officers)).
- For purposes of this arbitration, based on the information provided by the parties in two hearings, Dover is the only truly comparable police force (of those on which evidence was presented), in terms of relative size, reported crime, budget and population served. Although it is unusual that a party would present only one other jurisdiction as a comparable, it is also unusual that the other party would present only larger jurisdictions and then compare itself to the average for that group.

## II. Salary Proposals

- The City recently reached agreement with the unions representing its two other organized bargaining units (IUE Local 317 – representing white collar employees, and AFSCME Local 1670 - representing blue collar employees):

	<u>IUE Local</u> <u>317</u>	<u>AFSCME Local</u> <u>1607</u>	<u>City Offer to FOP Lodge</u> <u>4</u>	<u>FOP Proposal</u>
Year 1 (4/1/01)	3.25%	3.25%	3.25%	4.0%
Year 2 (4/1/02)	3.25%	3.25%	3.25%	4.0%
Year 3 (4/1/03)	3.50%	3.50%	3.50%	
Year 4 (4/1/04)	3.50%	3.50%		
Year 5 (4/1/05)	4.00%	4.00%		

- Recent general wage increases for the police bargaining units FOP Lodge 4 provided as comparables:
  - Delaware State Police (7/1/01 - 6/30/02) 3.0%
  - (7/1/02 - 6/30/03) 3.0% base increase

plus graduated increases in  
longevity premiums of  
2% every other year, beginning  
after the twelfth year of service

<ul style="list-style-type: none"> <li>▪ New Castle County Police <sup>2</sup>(4/1/99 – 3/31/00)</li> </ul>	<ul style="list-style-type: none"> <li>(4/1/00 – 3/31/01)</li> <li>(4/1/02 – 3/31/02)</li> </ul>	<ul style="list-style-type: none"> <li>3.0%</li> <li>3.0%</li> <li>3.0%</li> </ul>
<ul style="list-style-type: none"> <li>▪ City of Dover:</li> </ul>	<ul style="list-style-type: none"> <li>(7/1/01 – 6/30/02)</li> <li>(7/1/02 - 6/30/03)</li> </ul>	<ul style="list-style-type: none"> <li>3.0%</li> <li>3.0%</li> </ul>
<ul style="list-style-type: none"> <li>▪ City of Wilmington <sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>(7/1/98 – 6/30/99)</li> <li>(7/1/99 – 6/30/00)</li> <li>(7/1/00 – 6/30/01)</li> </ul>	<ul style="list-style-type: none"> <li>3.0%</li> <li>3.0%</li> <li>3.0%</li> </ul>
<ul style="list-style-type: none"> <li>▪ City of Newark (prior agreement)</li> </ul>	<ul style="list-style-type: none"> <li>(1/1/98 – 3/31/99)</li> <li>(4/1/99 – 3/31/00)</li> <li>(4/1/00 – 3/31/01)</li> </ul>	<ul style="list-style-type: none"> <li>4.0%</li> <li>4.0%</li> <li>4.0%</li> </ul>

- The evidence of record concerning general salary increases for both internal and external comparables supports the City of Newark's proposed increases of 3.25% (2001 - 02), 3.25% (2002 - 03), and 3.5% (2003 -04).

### III. Patrol Officer First Class Rank

- There currently exists in the Newark Police Department the rank of Patrol Officer First Class.

General Order 34.1, §VII., Career Development Promotions provides:

In addition to the tested ranks of Master Corporal, Sergeant, Lieutenant, and Captain, the ranks of Police Officer First Class and Corporal exist to recognize the performance of officers who serve in a non-supervisory capacity.

A. Each Police Officer shall be eligible for promotion to the rank of Patrol Officer First Class upon successful completion of three years of sworn service. An officer shall be ineligible for promotion if he or she is currently serving a performance or disciplinary probationary period. FOP Remand Exhibit 1.

- Upon completion of three years of sworn service, Police Officers in good standing advance to the rank of Police Officer First Class (PFC). Currently this is not considered a promotion and there is no

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<sup>2</sup> New Castle County was engaged in negotiations with FOP Lodge 5 over the terms of a successor agreement during the period in which this matter was being processed.

increase in wages associated with this advancement. The job responsibilities of these officers do not change and PFC's do not perform supervisory responsibilities. [Testimony of Chief Conway] Officers holding the rank of PFC are distinguishable by the addition of one chevron to the sleeve of their uniforms. FOP Remand Exhibit 3.

- The FOP proposes to modify the Patrolman First Class rank in two ways. First, the requirement for advancement would be lowered from three to two years, and second, achievement of the rank would be accompanied by a 4.5% promotional salary increase.
- Police recruits begin service with the City of Newark by attending approximately six months of police training. At the completion of the training period, a police officer becomes a probationary employee for a period of one year. Consequently, if an officer is advanced to PFC at two years of service as the FOP proposes, that officer will have served for only six months as a non-probationary employee.
- General Order 11.1.A, §V, Specialized Assignments, identifies eight specialized assignments available within the Newark Police Department. §VI, Selection Process for Specialized Assignments states:

The following guidelines establish the standards for specialized assignments. These guidelines are subject to modification due to promotions or other unforeseen circumstances. Officers will generally serve in specialized assignments from three to five years, assuming satisfactory performance by the officer.

A. Police Officers and Corporals

1. Officers must serve a minimum of three years in Patrol Operations before being eligible for transfer to a specialized assignment.
  2. The Chief of Police will announce any anticipated opening in an agency-wide memorandum and shall request letters of intent from all interested personnel. FOP Remand Exhibit 2
- Officers serving in specialized assignments do not receive additional compensation for these positions. The three-year service minimum requirement is sometimes waived as operational need and pool of available applicants require. Testimony of Chief Conway, Remand Transcript, p. 49.

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<sup>3</sup> The City of Wilmington is currently in mediation over the terms of a successor agreement. There have been no

- There is no requirement that officers serving in specialized assignments must hold the rank of PFC. The PFC and Specialized Assignment policies share a minimum requirement of three years service with the department. The two provisions evidence a underlying premise that new officers generally reach a level of basic proficiency and familiarity with the agency after three years of service such that they are eligible to accept new responsibilities. The FOP's proposal would ignore this premise by promoting officers to PFC after two years of service.
- The rank of Corporal first appeared as a compensated rank in the parties' last collective bargaining agreement (1999 – 2001). Article VI, Policies, §8, Career Development Program, provides that employees with at least four (4) years of City service in the rank of Patrol Officer are eligible to apply for reclassification to the rank of Corporal under certain conditions. The employee must accumulate at least 65 points to be reclassified, with points being awarded for performance of specialized skills, participation in identified departmental programs, service in specialized assignments, participation in departmental training programs, and recognition by award or citation. Joint Exhibit 1.
- The FOP proposal adds an additional PFC compensation step at 4.5% above the Patrol Officer step. The FOP's salary matrix also maintains the existing salary differentials above the proposed new compensation rank of PFC. As a result, all compensation levels at and above PFC receive a 4.5% salary advancement as a result of inserting the additional compensated rank, above the FOP's proposed annual general increase of 4.0% for all ranks.
- An inherent problem in comparing ranks between police agencies is that there is no absolute standard for when officers advance, what additional responsibilities are expected of an advanced officer, and the value placed upon the advancement as reflected in whether it includes an accompanying wage increase. The FOP presented salary matrices from the four departments it considered comparable to support its PFC proposal:
  - Dover Police Department – does not have a PFC rank but does offer a promotional opportunity to Police Officer II after three years of service. Promotion to Police Officer II is accompanied by a 4.4% wage increase. FOP Remand Exhibit 10.

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salary increases to date beyond the 2001-2002 matrix.

- Delaware State Police – officers may advance to Trooper First Class after two years of service. There is a 3.5% increase in wages associated with this advancement. Officers who do not attain PFC rank after two years of service, receive the same 3.5% increase after four years at the Trooper rank. The salary matrix continues the Trooper rank through 26 years of service; apparently not all Troopers are expected to advance to Trooper First Class. FOP Remand Exhibit 11.
- Wilmington Police Department – does not have a PFC or analogous rank. The salary matrix does include a larger salary increase for Patrol Officers between the third and fourth steps. FOP Remand Exhibit 12
- New Castle County Police – Police Officers are hired at Pay Grade 23, Step 1. Officers advance to Step 2 of Pay Grade 23 upon graduation from the police training academy, and advance to Step 3 two years after their initial date of hire if they have received satisfactory evaluations. All steps in the County’s pay scale are 5%. FOP Remand Exhibit 13.

This evidence does not support the conclusion that a 4.5% salary increase after two years of service is the norm even among the best compensated police forces in Delaware.

- The evidence presented does not support the conclusion that the addition of the PFC salary rank is necessary to retain police officers. Over the last ten years, the Newark Police Department has lost 37 officers, of which 60% (22 officers) retired, 16% (6 officers) left for employment with other police agencies (Delaware State Police, FBI, IRS), and 25% (9 officers) left due to personal or performance related reasons. Of those officers who left the department, only five left after five or fewer years of service. The average years of service of the 22 retirees over the last ten years was 23.27 years of service. City Exhibit 12.

#### **IV. Flex Point Modification**

- The City’s health insurance expert from Marsh, USA (a national insurance firm) has 21.5 years experience in the insurance industry and was a Fellow of the Life Management Institute and a Registered Health Underwriter. He has personally worked with the City of Newark on its employee benefit plans since 1999.
- Newark is the only represented police force in Delaware where officers are not required to contribute to the cost of health and dental insurance. There is a national trend towards increasing employee contribution to health care insurance premium costs. Each of the four accredited police departments



Family Dental	+ 85.14	Family Dental	+ 85.14
\$50,000 Life Insurance	<u>+ 19.95</u>	\$50,000 Life Insurance	<u>+ 19.95</u>
TOTAL PREMIUM	\$ 897.60	TOTAL PREMIUM	\$ 819.59
Multiplier	<u>x 1.05</u>	Multiplier	<u>x .80</u>
	\$ 942.48		\$ 655.67
Conversion Factor	<u>x 0.136</u>	Conversion Factor	<u>x 0.136</u>
Menu Points/Employee/Month	128 points	Menu Points/Employee/Month	89 points
Savings/year:	\$ 0.00	Savings/year:	\$25,272.00

- Under the existing Flex Plan, not a single Newark Police officer contributes monetarily to the premiums for health, dental, and/or life insurance for the employee and his/her dependents. Currently, the amount the City pays annually to officers to “cash out” their excess points above the cost of their chosen benefit package is between \$27,770 (FOP Exhibit 31) and \$32,682 (City Exhibit 4(c)). The City’s proposed change in the multiplier and the resulting points would affect less than 30% of the bargaining unit. No officer would be required to contribute more than \$27.30 monthly for health, dental and life insurance. City Exhibit 4 (c).
- By decreasing the Flex Point multiplier from 1.05 to .80, the City estimates it will save \$25,000 annually. Over the ten year period used to project increased costs generated by providing the new retiree health benefit, this will result in estimated savings of \$250,000 to the City. This is approximately 36% of the City’s projected cost of the benefit for retirees and their spouses over the ten year period.
- Even if the City’s projections are overstated, the City’s offer does not extract the full cost of the retiree benefit from the employees. Under the City’s projections, it is still responsible for 64% of its estimated costs. The FOP proposal requires the City to pay the full cost of the retiree’s health benefit and 75% of his or her spouse.

**V. Total Year 1 Cost of Proposals**

The total cost of the first year of the FOP and City’s proposals (excluding other employment costs such as pension, social security, overtime or unemployment insurance) are:

	<u>City Proposal</u>		<u>FOP Proposal</u>	
Total Base Salary Rates (3-31-2001)	\$ 2,445,707		\$ 2,445,707	
Base Salary Increase (4/1/01)	79,485	(3.25%)	187,927	(7.68%)
Shift Differential Proposal	0		59,377	(2.42%)
Change in Flex Points	(25,272)	(-1.03%)	0	
Retiree Healthcare	<u>69,062</u>	<u>(2.82%)</u>	<u>69,062</u>	<u>(2.82%)</u>
 COST OF YEAR 1 PACKAGE	 <b>\$ 2,568,982</b>	 <b>5.04%</b>	 <b>\$ 2,762,073</b>	 <b>12.92%</b>

[City Remand Exhibit 1]

**DECISION**

The Interest Arbitrator’s January 7, 2002, decision evaluated the last, best, final offers of the parties, as supported by the evidence and argument placed on the record, against the statutory criteria set forth in 19 Del.C. § 1916. This arbitrator concluded that the record supported the conclusion that the City of Newark’s offer should be accepted in its entirety. The findings of the Interest Arbitrator’s January 7, 2002, decision are incorporated by reference into this decision.

The record in this case, including the additional evidence and argument presented at the remand hearing support adopting the City of Newark’s last, best, and final offer in its entirety.

/s/Charles D. Long, Jr.  
 Charles D. Long, Jr., Arbitrator  
 Delaware Public Employment Relations Board

Dated: 12 November 2002