



*State of New Jersey*  
*Commission of Investigation*

**THE BEAT**  
**GOES**  
**ON**

**Waste and Abuse in  
Local Government Employee  
Compensation and Benefits**

*December 2009*



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December 2009

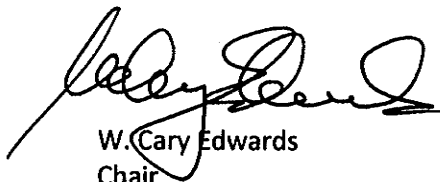
Governor Jon Corzine

The President and Member of the Senate

The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M, herewith formally submits the final report of findings and recommendations stemming from an investigation of waste and abuse in local government employee compensation and benefits.


Respectfully,



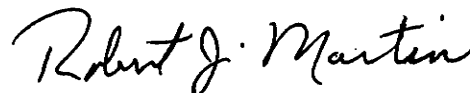
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# *Executive Summary*

The beat goes on.

There are local public employees in New Jersey who are guaranteed time off – with full pay at taxpayer expense – to go Christmas shopping or to attend weddings, baptisms and other private events. Others collect bonuses for working on their birthdays or when they leave their jobs. Still others receive multiple paid days off for not being sick or for donating blood; extra cash on top of regular pay for perfect attendance at work; and paid holidays for moving personal belongings.

These are just some of the findings of the State Commission of Investigation's latest probe of waste, excess and abuse in public employee benefit programs. At a time of economic distress unprecedented since the Great Depression – with government budgets depleted and austerity the theme of the day even in the private sector – the gravy train continues to roll without impediment for select groups of employees on the public payroll. The Commission examined a statewide cross-section of local government employment policies, contracts and agreements involving a comprehensive mix of police, fire and civilian personnel and, in addition to extraordinary specialty perks like those described above, found a lucrative array of questionable benefit practices that collectively cost New Jersey taxpayers millions of dollars every year, including:

- Inconsistent, non-existent and/or inadequate restrictions or caps on the accrual and cashing-in of unused accumulated sick, vacation and other leave at retirement, a phenomenon that enables select local government

employees to collect, in addition to generous pensions, lump-sum payouts sometimes ranging well into six figures and in amounts larger than the equivalent of a full year's salary.

- Provisions that enable local public employees to collect cash for unused leave annually while employed, thus effectively circumventing any caps that may exist locally on the redemption of accrued leave at retirement.
- Costly allocation of various forms of so-called "terminal leave," including arrangements that allow local public employees to stay on the public payroll, using up accrued sick time and other leave at full salary and benefits, occupying a position without showing up for work – in some cases for up to a year – prior to retirement.
- On top of pensions and leave redemptions, payments of thousands of dollars in cash bonuses, sometimes couched improperly and inaccurately as "severance," to employees who retire.
- Inordinate amounts of vacation, compensatory time and/or personal days off at full pay.
- Generous health insurance benefits with no requirement that local government employees – unlike their colleagues at the State level – contribute toward the cost of the coverage premium.<sup>1</sup>

During the past 15 years, dating back to 1994, the Commission repeatedly has examined the nature and fiscal impact of questionable and patently excessive public employee benefits

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<sup>1</sup> State government employees, by contrast, contribute 1.5 percent of their annual salaries toward the cost of health insurance coverage under the State Health Benefits Program (SHBP).

and repeatedly has made recommendations for systemic reform.<sup>2</sup> The Commission's findings have demonstrated time and again that significant amounts of taxpayer money can be saved in this arena. Indeed, the SCI's 2006 inquiry into pension padding and excessive and questionable compensation for public school administrators alone pointed the way to initial savings in the range of \$10 million for local property-taxpayers in just those select school districts cited in the report. During this latest investigation, the Commission has identified more than \$39 million worth of excessive cash benefit payouts to public employees in just a small fraction of the State's local governmental entities. Extrapolated statewide, action to curtail such extravagance would result in enormous savings – especially given the fact that, in addition to State aid, nearly \$40 billion is spent by local taxpayers every year to fund municipal governments, school districts and local public authorities in New Jersey. Beyond the SCI's inquiries in this area, public-sector benefits also have been scrutinized from time to time by other mechanisms, including a detailed series of local budget reviews undertaken by the Governor and State Treasurer in the mid- to late-1990s in an effort to cut municipal government costs.

Throughout the Commission's extensive investigative fact-finding, the objective has been consistent: to provide a rational basis for effective legislative, administrative and regulatory remedies to ensure that public employees are treated fairly, prudently and uniformly without sacrificing the vital interests of taxpayers who foot the bill. Progress toward that end, however, has been piecemeal. In 2002, for example, in response to the Commission's 1998 report on pension and benefit abuses – which, among other things, recommended limits on

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<sup>2</sup> See the following reports in which the State Commission of Investigation has addressed the taxpayer cost of public-employee benefit issues in part or in whole: *Point Pleasant School District* (1994); *Borough of Seaside Heights* (1997); *Pension and Benefit Abuses* (1998); *Questionable and Hidden Compensation for Public School Administrators* (2006).

cash redemption of employee leave at all levels of government – the sole action on that issue came from the Department of Community Affairs (DCA). In 2002, DCA adopted rules requiring municipalities annually to disclose the total local budgetary liability for unused leave owed to their employees. In 2007, pursuant to a Commission recommendation in an investigation of questionable and hidden compensation for public school administrators, legislation was enacted to bring certain administrators under the same restriction on cashing-in unused sick leave as applies at the State level – a maximum of \$15,000 at retirement.<sup>3</sup> Additional proposals have been advanced to reduce that sick-leave payout in some fashion, or to eliminate it entirely. Aside from incremental steps such as these, there has been no concerted effort to rein in lavish, unreasonable and excessive public-employee benefit costs in a comprehensive fashion.

As a consequence, startling amounts of taxpayer-funded booty continue to be dispensed across New Jersey without regard for the common good. In Camden, one of the poorest cities in New Jersey and the nation – with a median household income of less than \$25,000 and fiscal problems so serious that the city’s administration is under State supervision – 20 municipal employees between 2004 and 2008 received combined cash benefit payouts of more than \$2.3 million, an average of \$115,000 apiece, when they left their jobs. In Atlantic City

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<sup>3</sup> State government employees receive 15 sick days per year and may accrue unlimited sick leave. At retirement, unused sick leave may be exchanged for a lump-sum cash payment equal to one-half of the leave balance, calculated at current salary, up to a maximum of \$15,000. Cash redemption of unused leave by retiring state workers was first authorized in 1973, with the maximum individual payout capped at \$12,000. The Legislature took this step, in part, to provide an incentive against employees using up large blocks of accumulated sick time – so-called “terminal” leave – in the weeks and months leading to retirement. Prior to the enactment of the redemption incentive, sick leave was not treated statutorily as an element of state employee compensation. In 1986, the statute governing state employee sick leave, N.J.S.A 11A:6-19, was again amended to raise the redemption threshold to \$15,000.

during the same five-year period, 160 police officers and firefighters were paid more than \$13.7 million for accrued unused sick leave, in addition to their pensions, at retirement; one of these retirees walked away with a check for \$222,910. In Rockaway Township, Morris County, five individuals between 2005 and 2008 received payments totaling nearly \$780,000 – an average of more than \$155,000 apiece – for cashing in unused holidays and other accumulated time. And in Harrison, a tiny 1.3-square-mile community in Hudson County where the residential property tax bill for municipal purposes has averaged approximately \$2.4 million over the past six years, 23 public employees who retired during that period collected \$1.8 million in combined payouts for unused sick and vacation leave – the equivalent of *more than half* of that average annual community-wide tax bill.

Typically, these and other types of lucrative benefit arrangements are awarded through collective bargaining and carry the force of contracts that often apply only to select individuals or groups of municipal employees, such as police and fire personnel, to the exclusion of all others. Indeed, the Commission found numerous cases in which certain local public employees are subject to strict benefit limits while others who share the same municipal payroll are not. Furthermore, in many instances, the actual contract language governing the award of special benefits is crafted in such intricate, convoluted and creatively targeted ways that, much to the detriment of public transparency, a good deal of technical analysis is required to decipher the true purpose and cost. Some of these documents clearly bear the stamp of more time spent cultivating private rather than taxpayer interests.

It does not have to be this way. The Commission found that a range of government entities in New Jersey have, at their own initiative, put the brakes on runaway employee

benefits by imposing effective local limits on leave redemption, cracking down on buyouts and bonuses and drawing a prudent, common-sense line against exotic perks. Indeed, the New Jersey State League of Municipalities – the lead lobbying and governing assistance association for the State’s 566 municipalities – has long taken a position in general support of reasonable benefit standards for public employees, including uniform caps on leave redemption. At the Commission’s invitation, the League took the opportunity to reiterate that position as part of the record of this investigation. Several examples of municipal action in this area are summarized in this report and should serve as models for local governing boards across this State.

Ultimately, however, while such individual initiative is commendable, the decision on whether to gain greater control of excessive public-employee benefits should not be hostage to discretion born of home rule or any other parochial stricture. Meaningful, balanced and equitable reform in this area requires a systemic approach. Thus, through this report, the Commission renews its repeated calls for standards and uniformity in legislation to restrict the cashing-in of unused leave – by *all* public employees. It also recommends the statutory termination of terminal leave and related schemes that enable public employees to remain on the public payroll without working and prevent government employers from filling the consequent vacancies for the duration of such leave. Uniform rules also should be established to govern the allocation of vacation and personal days and the use of compensatory time and related benefits; to ban retirement “severance” bonuses and similar payouts; and to restrict the awarding of taxpayer-subsidized time off for patently personal circumstances.

The Commission also takes this opportunity to point out once again that New Jersey lacks a comprehensive statutory scheme that explicitly addresses the employment practices of local governmental units. In light of that gap, the Legislature should conduct a thorough review of local government employment and benefits practices in order to establish a set of reasonable standards that will protect both the livelihood of the local public workforce and the integrity of the public purse.

# ***Key Findings***

During the course of this investigation, the Commission conducted detailed examinations of taxpayer-subsidized benefits received by public employees in 75 municipalities, counties and quasi-independent local authorities. Although this mix represents a relatively small sampling of the total number of local governmental units in New Jersey, the Commission took pains to invest its inquiry with balance and perspective by including entities of varying size in regions throughout the State.

The vast majority – some 80 percent of the entities examined – were found to provide questionable and/or excessive benefits of one sort or another. More than half routinely engaged in two or more of the following practices:

- Lump-sum cash payouts to retiring employees for unused accumulated sick leave in amounts exceeding the \$15,000 maximum authorized for employees at the State level. In numerous instances, such payouts are not restricted by any cap.
- Annual cash payouts for unused sick or other leave to active employees. In nearly two-thirds of these instances, this occurs even though the same governmental unit maintains some form of cap on sick leave redemption at retirement.
- Excessive vacation and/or holiday leave.
- Abuse in the awarding and use of compensatory time.



- Paid time off for personal events and other special purposes beyond holidays and vacation.
- Cash payouts pursuant to various forms of severance, terminal and bonus provisions for departing employees. Although in some instances, these arrangements are fairly negotiated and aimed at achieving long-term savings, this practice is open to abuse for lack of standards and payout limits. Furthermore, the terms of such arrangements can be hidden from public disclosure by confidentiality clauses.

The Commission also found that only a handful of the local entities examined during this inquiry require employees to contribute to the cost of health insurance, whether through the State Health Benefits Plan (SHBP) or, at their option, through some other coverage mechanism. By contrast, beginning in 2007, public employees at the State level were required to contribute 1.5 percent of their salaries to health-care coverage. According to the State Division of Pensions and Benefits, these contributions to the SHBP amounted to approximately \$56.2 million during FY-2009 alone, thus serving to defray nearly 10 percent of the total State-level employee health insurance tab of \$564.8 million for that year. At the local level, taxpayers collectively spend approximately \$400 million a year to enroll municipal government employees in the SHBP.<sup>4</sup> Applying the same analysis, if those employees were required to contribute to health care coverage at the same rate as their colleagues at the State level, it could result in annual savings of approximately \$40 million. Furthermore, although the actual figures are not

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<sup>4</sup> Approximately half of New Jersey's 566 municipalities offer medical insurance to employees through the State Health Benefits Plan. Those communities not enrolled in the SHBP provide health coverage through locally negotiated insurance plans.

available, it stands to reason that if the health-care salary deduction was imposed on all local public employees – those enrolled in the SHBP as well as other plans – the annual savings would be considerably larger.<sup>5</sup>

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<sup>5</sup> See chart in the Appendix of this report for the estimated annual savings that would accrue to the sampling of governmental entities examined in detail in this report if their employee salaries were subjected to a 1.5 percent salary deduction for health insurance coverage.

# Excessive Benefits and Payouts

The following examples are emblematic of the Commission’s findings across the spectrum of issues referenced above:

## Atlantic City

In 1996, Atlantic City was criticized by a state-level budget review panel for, among other things, granting lucrative sick-leave payouts to retiring public employees, particularly police personnel.<sup>6</sup> Indeed, the panel’s report stated, “several of the police officers openly refer to their sick leave balance as their retirement fund.”

Thirteen years later, while the city has made some progress toward curbing excessive benefit practices, exorbitant leave redemptions continue to burden the taxpayers of this gambling resort by the sea. During the five-year period between 2004 and 2008, Atlantic City paid nearly \$19 million in cash to both active and retiring municipal employees for unused accumulated leave. Among the recipients of this largesse were 71 individuals who received checks in excess of \$100,000 each, including former Fire Chief Benjamin Brenner, who retired in March 2004 with a lump-sum payout of more than \$567,000 for unused sick, vacation and compensatory leave. Brenner also receives a current annual pension of \$107,661 based upon a final average salary of \$137,515.

Windfalls of this magnitude derive from a quiltwork of inconsistent policies and contract stipulations that accrue to the benefit of Atlantic City’s public workforce in different ways. The

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<sup>6</sup> *New Jersey Department of the Treasury Local Government Budget Review – Atlantic City*, March 1996.

top tier of the payout pecking order is occupied by police and fire personnel who, depending upon the date of hire, can convert between six and 18 months' worth of unused sick leave into time off at full pay leading to retirement – without medical certification of illness – or collect the cash equivalent of that accumulated leave at current salary the day they retire. Most opt for the cash. The city's unionized blue-collar ranks, meanwhile, can receive up to a full year of terminal leave or a maximum of \$15,000 cash based upon their remaining balance of accumulated unused sick leave at retirement. As for civilian administrators and other white-collar professionals, a group that makes up less than one-third of the municipal workforce, the city two years ago imposed a \$15,000 cap on the amount that those hired after January 1, 2000 can collect for unused sick leave when they retire.

The fiscal impact of these practices can be significant, particularly in an economically distressed municipality such as Atlantic City where a budgetary shortfall in early 2009 prompted local officials to apply to the State for more than \$9 million in extraordinary aid. Even as that emergency appeal was being submitted, the city was in the process of dispensing hundreds of thousands of dollars – a total of \$1.1 million during just the first five months of the year – in lump-sum payouts to retiring city workers for unused accumulated leave. As of the end of May 2009, the city had a balance of \$1.7 million in reserve to cover anticipated terminal/retirement payouts to members of its municipal work force – down from \$16.2 million in January 2006.

Although the bulk of these costs are associated with circumstances surrounding retirement, Atlantic City taxpayers also foot the bill for benefit payouts to active municipal employees. The city's police contract, for example, enables officers promoted to the rank of captain or above to collect cash for any amount of unused sick leave they have accumulated to

the date of promotion. After the promotion, they are permitted to begin accruing sick leave again, although the amount they can later cash in at retirement is capped at 45 days.<sup>7</sup> Sick-leave payments at the time of promotion to just 11 officers elevated to the rank of captain or higher between 2004 and 2008 totaled more than \$1.1 million. The situation involving the city's current Police Chief, John Mooney III, illustrates the magnitude of what can be at stake in this practice. When Mooney was promoted to his current position from Deputy Chief in 2006, he was permitted to collect more than \$218,000 for 390 days of unused sick leave – an amount equal to approximately \$72,000 more than his pre-promotion annual salary of nearly \$146,000. Also upon his promotion to Chief, Mooney, drawing on a special provision embedded in his personal contract with the city, collected an additional \$31,000 for unused vacation, personal and compensatory leave he had accumulated to that point.

Another generous municipal benefit in Atlantic City enables all police and fire personnel to bank a full year's allotment of vacation and sick leave by the end of January each year.<sup>8</sup> If they retire that same year, they can cash it in or apply it to terminal leave starting as early as February 1 without restriction. In contrast, public employees at the State level can redeem their pre-retirement leave allotment only in increments pro-rated against time actually spent on the job that final year. Had such pro-rating been in effect in Atlantic City, for example, on March 1, 2004 when former fire Chief Brenner retired, his payout would have been reduced by nearly \$20,000.

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<sup>7</sup> Prior to January 2006, when the 45-day cap was imposed, this secondary "bank" of accumulated sick leave was unlimited.

<sup>8</sup> This benefit is provided as a matter of policy and is not formally memorialized as a provision in any of the city's municipal contracts, which on the other hand, do spell out the number of sick and vacation days allotted to police and fire personnel annually: 15 sick days; and depending on the date of hire, 12 to 32 days of vacation for police and 12 to 36 vacation days for firefighters.

## Avalon

In 2007, heightened fiscal pressures stemming from debt service payments, contractual obligations and other fixed costs forced an increase of nearly 4 percent in this Cape May County community's annual operating budget. That same year, Avalon officials cut a check for more than \$172,000 to retiring police Chief Stephen Sykes for unused accumulated vacation, sick and personal time and other leave. A year later, borough Public Works Director Harry deButts collected more than \$78,000 for unused leave for a grand total between the two of more than \$250,000. Payouts of this magnitude were made possible by unique contractual provisions for select Avalon employees and by a special off-contract arrangement involving Sykes individually.

Under the terms of Avalon's existing policies and contractual provisions governing benefits for its personnel, police and non-unionized civilian employees hired before July 1989 qualify for "terminal leave" cash payments when they retire. These entitlement payments, made above and beyond vacation and other leave redemptions, are calculated based on a formula that provides employees with four free days of pay for each year of service. The lump sums received by Sykes and deButts included a total of nearly \$91,000 in terminal leave payments. The checks also included nearly \$130,000 for unused holiday and vacation time, with the bulk of it – \$102,900 – going to Sykes under a special arrangement that allowed him to exceed limits in the police contract on the number of vacation days officers are allowed to accumulate from one year to the next.

Beyond receiving cash payments for terminal and unused leave, both Sykes and deButts were able to use a substantial portion of their accumulated sick days in the months leading to

their respective retirements. Between January 1 and August 31, 2007, the date he officially retired, Sykes stayed out of work on sick leave for a cumulative total of more than four months – that is, 90 of 175 non-weekend business days during that eight-month period. During the six months leading to his retirement on June 30, 2008 – a period involving 130 business days – deButts used 72 accumulated sick days. Although both suffered from legitimate medical conditions, such is not prerequisite for the use of accumulated sick time by Avalon employees prior to retirement.

## **Bernards Township**

Inconsistent rules governing the redemption of public-employee sick leave in this Somerset County community have produced inequitable benefits within the ranks of the municipal workforce and rendered the township vulnerable to big-ticket cash payouts.

Between 2005 and 2009, five retiring Bernards police officers received a combined total of \$390,735 in payments for accrued sick leave, including, in the case of one individual, a single lump-sum check for more than \$100,000 in exchange for 217 accumulated sick days. Payouts of this magnitude occur, in large part, because the contract between the township and the police officers' union contains a provision requiring that, at retirement, they receive cash compensation for half of all unused sick time accrued since January 1987. By contrast, the township's current contract with non-uniform unionized personnel – negotiated at the same time as the current police contract – imposes a \$15,000 limit on retirement sick leave redemptions for all such employees hired after January 1, 2008. For non-union municipal

workers, the township applies a similar \$15,000 cap for all such personnel hired since the beginning of 2007.

Bernards officials also negotiated a separation-of-employment agreement that delivered both a cash payout and a special pension benefit to former township police Chief Dennis Mott. Effective December 31, 2008, this arrangement called for Mott to collect a lump sum of more than \$107,000 for unused accumulated sick and vacation leave. The township also agreed to purchase 26 months' worth of additional pension-eligible service time for Mott through New Jersey's Police and Firemen's Retirement System (PFRS) at a cost of more than \$63,300. This not only enabled Mott to retire with 25 years of service, thus qualifying him for free lifetime medical coverage, but it also boosted his annual pension by nearly \$20,000, from \$64,950 to \$84,435.

## **Bradley Beach**

The Commission examined the impact of accumulated-leave redemption in this Monmouth County community and found that during 2006 alone, three retiring police personnel received lump-sum payouts totaling more than \$425,400 – an amount equivalent to more than 9 percent of the municipal property-tax levy that year. Two years later, then-Borough Administrator Phyllis Quixley retired with a check for more than \$90,191 for accumulated unused sick leave. All of these payments were in addition to the regular pensions for which these individuals were eligible as public employees. The largest single sick-leave payout during this period – \$194,069 – went to former Police Chief Robert DeNardo, who



retired in December 2006. DeNardo's contract also provided for the conversion of unused accumulated vacation time into terminal leave, a provision that enabled him to remain on the payroll at full salary and benefits while taking eight months off in advance of his official date of retirement.

In 1998, Bradley Beach was one of a number of municipalities cited by the Commission for offering particularly liberal public-employee benefits, especially with regard to certain arrangements involving terminal leave. Borough officials have since taken steps to rein in some costly and questionable practices, but benefit limits vary widely depending on the type and tenure of employee and, as evidenced above, still present local taxpayers with the prospect of fat bills for hefty payouts. For example, although stringent leave-redemption caps are in place for non-uniformed employees who leave or retire with less than 25 years of service, those whose tenure exceeds that threshold can cash in or use unlimited amounts of accumulated sick leave at retirement. A similar, though more lucrative, tiered structure regarding leave redemption exists for police personnel. Officers hired prior to 2001 can sell back all accrued sick leave when they retire. Those hired after 2001, however, are limited to 150 days' worth of accumulated sick leave – a cap that nonetheless still allows for payouts exceeding the State maximum of \$15,000. Rank-and-file police department employees are also permitted to cash in unused personal leave days annually. Between 2004 and 2008, the combined payout for this purpose totaled nearly \$87,000. Meanwhile, all borough employees receive their birthdays off as paid holidays, and they can qualify for extra vacation days as an incentive for not using sick leave while actively employed. Although designed to discourage unnecessary use of sick time,

this benefit also serves as an incentive for building up banks of unused sick leave that can be sold back at retirement.

## **City of Camden**

Camden is New Jersey's most impoverished city and, as such, struggles constantly to maintain basic services and avoid lay-offs of essential personnel, including police and fire personnel who now account for nearly 75 percent the city's annual salary expenditures. A severely diminished property-tax base and a mounting structural deficit force regular and heavy reliance on special State aid to balance the city's budget. During the past six years, Camden has received a total of more than \$257.6 million in special aid through New Jersey's Distressed Cities Program, including \$56.3 million in FY-2009 alone – an amount equal to nearly one-third of the city's \$171 million annual budget. Furthermore, the municipal governing body has been under the extraordinary supervision of a State-appointed Chief Operating Officer since 2002. Despite these circumstances – and in spite of calls for reform and revision of costly contracts with its public employees – Camden continues to pour hundreds of thousands of dollars worth of extravagant, benefit-related cash compensation into the pockets of municipal workers every year.

Between 2004 and 2008, the city awarded payments totaling more than \$3.6 million to 159 retiring municipal employees for accrued sick and vacation time and other benefits. The bulk of that outlay – \$2.3 million – went to just 20 individuals, including former Police Chief Edwin Figueroa and former Deputy Police Chief Joseph Richardson who, together, were granted

more than \$477,000 when they retired in 2006 and 2008, respectively.<sup>9</sup> Below them, eight other top recipients of this retirement largesse – all of them either police or fire personnel – received individual payments ranging from more than \$106,000 to nearly \$178,000.

A unique aspect of Camden’s benefit payouts is that they typically include cash for something variously referred to in employee contracts as “severance” or “terminal” pay – essentially no-strings-attached departure bonuses provided at taxpayer expense for no reason other than leaving the city’s employ. Under this longstanding practice, municipal workers who voluntarily terminate their employment receive up to 10 weeks of additional pay based on their years of service and dates of hire. The payouts referenced above for the 159 employees who retired between 2004 and 2008 included nearly \$900,000 in total “severance/terminal” payments.

More payouts of this nature are on the horizon. As part of the city’s 2009 annual budget, \$1.5 million was placed in reserve to cover the anticipated cost of future claims for accrued leave, severance and other benefit redemptions. Over the long run, Camden’s total retirement payout liability for current active employees, based on the city’s existing benefit practices, is estimated at more than \$25.5 million.

In 1996, Camden’s public-employee benefit structure was roundly criticized by the Treasury Department’s Local Government Budget Review program as exorbitant, particularly in the context of cash payouts at retirement. Among other things, the report recommended that the city re-negotiate contracts with unionized personnel to bring overall benefit costs under

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<sup>9</sup> These payouts were in addition to pensions for these personnel. Figueroa’s annual pension is currently \$104,791; Richardson’s is \$83,797.

control. In addition to recommending that “severance/terminal” payments be abolished, the report “strongly recommended that the maximum payments for accrued unused sick leave be capped at \$15,000, the same limit imposed by state government upon its employees.” The report stated that this step alone would “reduce the tremendous potential liability for the city due to the uncertainty of what the annual cost might be because of unanticipated retirements. . . . While the provision of such benefits is left to the discretion of local governments, it may not be practical for a city under the dire fiscal constraints of Camden to provide such generous benefits.”

These core recommendations, however, went begging.

With regard to sick leave, every retiring member of Camden’s municipal workforce can sell back an unlimited number of unused days at the value of one-half of their current daily rate of pay – a formula that regularly triggers payouts well in excess of \$15,000. Between 2004 and 2008, the city paid 16 police and fire personnel a combined sum of more than \$500,000 for accrued sick leave. In one case, former Deputy Fire Chief James R. Alexander collected a lump sum payout of more than \$82,000 for unused sick days, in addition to an annual pension of \$74,493.

Similarly, certain Camden employees can redeem substantial amounts of unused vacation and holiday time for cash. Police officers and fire personnel receive up to 25 vacation days per year. Over the years, their contracts with the city have permitted them, at retirement, to cash in varying amounts of vacation time ranging from 30 to 40 days depending on the bargaining unit. However, without any written authorization, the city regularly allowed these personnel to exceed that cap and bank all unused vacation time from year to year. This

practice was ended after being brought to light by the State's budget review in 1996, but the city nonetheless has continued to make large lump-sum payments for all vacation days that had been accumulated by police and firefighters up to that point. For example, former police Chief Figueroa's total payout at retirement included nearly \$150,000 in exchange for 262 unused vacation days. Former Deputy Chief Richardson collected more than \$121,000 for 250.5 accumulated vacation days.

Public-safety personnel in Camden also receive special treatment when it comes to cashing in holidays. While the city's non-uniform employees are prohibited from doing so, all rank-and-file firefighters and police superior officers are permitted to accumulate an unlimited number of unused holidays for redemption at retirement, while rank-and-file police personnel can cash in a maximum of 20 unused holidays. Between 2004 and 2008, as part of the \$3.6 million dispensed by Camden to cover unused sick and vacation time and other benefits, the city paid more than \$290,000 for unused accumulated holiday time to 14 police and fire personnel who retired during that period.

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During this investigation, the Commission also found that three senior Camden fire department officials – without any official authorization – collected a lucrative perk beyond the generous benefits already provided for them through their contracts with the city. During the six years between 2003 and 2008, Joseph Marini, the city's current fire Chief, and his two Deputy Chiefs, Kevin Hailey and Thomas Quinn, took a combined total of 336.5 compensatory days off at their pleasure.

An accounting analysis by Commission staff determined that the value of this paid time off, based upon these individuals' salaries, amounted to \$185,585. At the same time, the three officials continued to receive and accumulate sick and vacation leave that may be cashed in at retirement for exorbitant sums of money.

Not only is there is no written record that Marini, Hailey and Quinn actually earned compensatory time off, but there also is no evidence that they were authorized to take it in the first place. No Camden personnel contract or policy provides for the awarding of compensatory time; instead, certain segments of the city's workforce receive cash overtime for being on the job beyond regular working hours, but senior public-safety personnel are not among them. Indeed, a city ordinance adopted in 2005 explicitly exempts the fire and police chiefs and deputy chiefs from collecting overtime.

In response to a Commission subpoena, Marini stated in a letter dated January 22, 2009 that the fire chief and his deputies were made eligible for compensatory leave "on or about 1993" through a memorandum of understanding (MOU) issued by the city's Department of Administration, which purportedly granted each of them 20 days off at the beginning of each year for on-call duty time. Marini also stated, however, that the MOU "cannot be located." Indeed, as the Commission's inquiry proceeded, no such memorandum was found to exist. Furthermore, Marini's predecessor as fire chief denied knowing of any such compensatory time policy or any memorandum establishing it, and Marini routinely signed his own time sheets.

One month after Marini's letter to the Commission, he wrote a memo to former Superior Court Judge Theodore Z. Davis, then Camden's State-appointed Chief Operating Officer, requesting that Davis take steps to ensure that compensatory time for the three

officials continue to be awarded.<sup>10</sup> In this document, Marini stated that the policy was set forth in a 1991 memorandum prepared by the city's Department of Administration. "More recently, during [a] State audit," Marini wrote, in reference to the SCI's investigation, "the 1991 MOU could not be located for production. In document's absence . . . authorization to the business administrator is required to enable continued compensation beyond calendar year 2008. Your kind attention is certainly appreciated."

In a written response dated March 4, 2009, Davis condemned the taking of compensatory time by Marini and his deputies in the strongest possible terms:

*Dear Chief:*

*I'm in receipt of your memorandum dated February 23, 2009 regarding an alleged agreement or understanding between your department and the City administration which allowed management personnel to compensate themselves by way of taking compensatory time.*

*Frankly Chief, I'm astounded at such activity and find it quite reprehensible. Management is not entitled to compensatory time; this is similar to a president asking the public to give him or herself additional money because they had to work into the night or on holidays.*

*I assure you that my position is and will be that what has happened is illegal and will not be countenanced. Each such officer has contractual leave which could have been used.*

*This error must cease immediately for it is the obligation of the City not to perpetuate an error or theft of time.*

With regard to Davis' reference to "contractual leave which could have been used," Marini, as of December 2008, had accumulated 411 sick days and 285.5 vacation days. Quinn and Hailey, respectively, had accrued 340 sick days and 107 vacation days and 20.5 sick days

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<sup>10</sup> Davis, who served as Camden's gubernatorily appointed COO since 2007, resigned effective August 31, 2009 and was replaced by Albertha Hyché, a manager in the State Department of the Treasury's Division of Administration.

and 14 vacation days. Under normal circumstances, Camden's overall liability to these individuals, both for this unused time and for the estimated terminal payments due them at retirement under its current benefit structure, would exceed \$557,000 – more than \$346,000 for Marini, nearly \$173,000 for Quinn and more than \$37,400 for Hailey. However, during the course of this investigation, the Department of Community Affairs completed an audit of the Camden Fire Department, including an examination of leave and overtime records dating to the year 2000. As a result, action was taken to deduct the compensatory time taken by these three officials from their existing vacation leave balances. These balances were further reduced in order to comply with the city's policy governing the carry-over of vacation time from year to year. Overall, these deductions reduced the value of the remaining leave balances to \$162,654 for Marini and \$49,841 for Quinn, and would have Hailey effectively owing the city \$7,394.

On August 12, 2009, Marini, represented by counsel, appeared in uniform before the Commission in executive session and was questioned under oath about the facts and circumstances surrounding the receipt and use of compensatory time. Although warned that his refusal to testify could result in action leading to his termination as a public employee<sup>11</sup>, Marini declined to answer every question – including whether he was Chief of the Camden Fire Department – exercising his constitutional right of protection under the 5<sup>th</sup> Amendment against possible self-incrimination.

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<sup>11</sup> N.J.S.A. 2a:81-17.2a1



## Edison Township

During its first comprehensive examination of public employee benefits in the mid-1990s, the Commission found that municipal personnel in this Middlesex County community were eligible for one of the most lucrative cash-for-benefits packages available to public workers anywhere in New Jersey. Indeed, Edison's budgetary liability at that time for impending cash redemptions of unused sick and vacation leave by retiring police personnel alone was of such magnitude that in 1995 the township had to borrow \$4.1 million to ensure it could make the payments as required under various contracts. While Edison has since taken some steps aimed at curtailing exorbitant retirement payouts – including the imposition of sick-leave redemption caps on certain classes of employees (\$20,000 for police and civilian personnel; \$10,000 for emergency medical technicians) – the township continues to underwrite highly generous cash-for-benefits deals at taxpayer expense. During 2009, this has occurred against the backdrop of a fiscal crisis that forced the layoffs of six firefighters as part of a strategy to close an \$8.4 million deficit in the municipal budget for FY 2010.

In the immediate five-year period leading up to the current budget crunch, between 2004 and 2008, retiring Edison employees collected more than \$3.9 million in lump-sum payments for unused leave and other benefits. Despite the caps on sick-leave redemption referenced above, the vast bulk of that total payout – more than 80 percent – was for unused accumulated sick days. That's because Edison's fire personnel remain subject to a hodgepodge of redemption formulas that enable them at retirement to cash in accumulated sick leave at far more lucrative levels than their police and civilian colleagues. Individual sick-leave payouts to

rank-and-file firefighters and fire officers who retired between 2004 and 2008 ranged from more than \$53,000 to nearly \$292,000.

Edison also allows its public employees to cash in accrued sick and vacation leave on an annual basis prior to retirement. During just one two-year period alone, active employees on the payroll in 2007 and 2008 received more than \$2.3 million for unused leave over and above the amount distributed to retirees for the same purpose.

Furthermore, Edison rewards non-uniform employees who retire in good standing after 10 or more years of service with bonus payments equivalent to 20 days' worth of current salary. Between 2006 and 2008, four such municipal employees shared nearly \$22,000 in such bonuses. Moreover, Edison employees who are members of one collective bargaining unit qualify for an additional perk – three days off with pay when they get married.<sup>12</sup>

## **Englewood Cliffs**

In 2006 and 2008, this small Bergen County community paid five of its employees a combined sum of nearly \$1.2 million in lump-sum cash benefits at retirement – an amount equal to more than 4 percent of the borough's entire municipal-purposes property tax levy for 2008. These employees shared \$561,886 in payouts for unused vacation leave, \$330,482 for unused sick days, \$291,000 in cash bonuses based on years of service and \$13,810 for accumulated personal leave. The bulk – more than \$931,000 – was divided between three

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<sup>12</sup> Edison is one of a number of municipalities in New Jersey that were found to offer paid time off to employees when they get married or otherwise participate in a wedding. For more details see the section of this report entitled *Exceptional Perks* at p. 40.

ranking police officials: Lawrence Whiting, the former chief, who collected a total of \$348,749; former Captain William Gallagher, who was paid \$292,339; and former Captain Martin Barrett, who received \$290,320.

Taxpayer-funded payouts of this magnitude result from a uniquely generous benefit structure that guarantees end-of-career rewards for borough employees at all levels, particularly police personnel.

Police officers, who, by ordinance, receive between 15 and 30 vacation days annually depending on tenure, are allowed to progressively accumulate unlimited amounts of this leave throughout their careers and then cash in the full remaining balance at retirement. This practice has resulted in several officers receiving individual lump sums of \$148,000 or more in exchange for accrued vacation time, with former Chief Whiting topping the list with a payout of \$172,252 for 243 accumulated vacation days. Non-uniformed borough employees, meanwhile may carry over just one year's allocation of vacation (10 to 25 days per year, depending on tenure), and they are required to use at least 10 of those days annually.

With regard to leftover sick leave, all borough employees are entitled to lump-sum checks at retirement for up to 150 accrued sick days paid at a rate ranging between 50 percent and 100 percent of their daily wages at the time of accrual, depending on their years of service.

Retiring Englewood Cliffs employees also qualify for retirement cash bonuses – which the Borough refers to as “terminal leave” – ranging in value from two to six months' pay, depending on years of service.

All employees of the borough also routinely receive pay raises, in addition to regular and contractual salary adjustments, based solely upon length of employment. These “longevity” raises range from 14 percent for municipal workers with 28 years of service to a maximum of 18 percent for uniformed personnel with 36 years of service.

## **Fort Lee**

Based upon personnel policies and contract provisions currently in effect in this Bergen County community, local taxpayers are on the hook for more than 30,000 days of unused leave banked by the borough’s 408 full and part-time employees. If all of this accrued leave were to be cashed in at once, the tab would exceed \$7 million – an amount equal to 11 percent of Fort Lee’s annual budget of \$63.6 million. A taxpayer liability of this magnitude exists in Fort Lee because of a benefit structure that, despite certain caps, allows municipal employees to redeem unused sick leave annually while actively employed and again at retirement for any accumulated days not previously redeemed.

Between 2004 and 2008, the borough paid retiring employees a combined sum of more than \$1.4 million for unused sick, vacation, holiday, terminal and other leave. More than one-third of this payout – approximately \$547,000 – was for accrued sick time. This occurred even though redemption of accrued sick leave at retirement was capped at \$17,500 and \$20,000 for new civilian employees, depending on their classification. Furthermore, these caps are regularly open to wholesale circumvention because Fort Lee allows its employees to cash in unused sick leave every year while still on the job. During the same five-year period, active

employees received a combined total of nearly \$827,000 in exchange for annual leave sell-backs.

Borough police personnel are permitted to redeem unused leave on a yearly basis and are subject to a less stringent cap at the end of their tenure. When officers leave the force either through retirement or resignation, they are authorized to cash in up to 180 days of accumulated sick leave at their current rate of pay. Between 2004 and 2008, five retiring officers collected a combined sum of nearly \$268,000 for accumulated unused sick leave.

## **Harrison**

In 2005, large payouts to retiring police officers in this Hudson County community – former police Chief John Trucillo alone cashed in more than \$305,000 worth of unused sick and vacation leave – drew the attention of the State Department of Community Affairs during the course of an audit. As administrator of New Jersey’s Distressed Cities Program, which delivers tens of millions of dollars a year in special budgetary aid to Harrison and other fiscally-strapped municipalities, DCA recommended that the town do something to control these payouts. In response, and pursuant to the terms of an arbitration agreement hammered out with the local police union, Harrison granted its officers unlimited annual sick time in exchange for ending lump-sum payouts at retirement.

Unfortunately, however, large payouts continue. That's because Harrison's paid fire department and civilian municipal personnel were not included in the arrangement.<sup>13</sup> The Commission found that during the six-year period between 2004 and 2009, 19 retiring firefighters and civilian municipal employees received nearly \$860,000 for accumulated unused sick leave. They also cashed in more than \$498,000 in accumulated unused vacation time. The total of these leave redemptions – \$1.35 million – is equal to 56 percent of the town's average annual property-tax levy of \$2.4 million for municipal purposes during those years. One employee, former Administrative Clerk/Deputy Municipal Clerk Marion Borek, retired with a check for \$241,851, the bulk of it for 881 days of accumulated unused sick leave.

Furthermore, the curtailment of sick-leave payouts to police personnel may prove to be temporary. All unused sick leave accumulated by police prior to January 1, 2005 continues to be held in a "bank" against the future possibility that the town will re-activate its prior policy of allowing retiring officers to cash in reserves of unused leave. If that were to occur, eligible police personnel could receive a combined sum of more than \$594,000.

Other benefits for Harrison's employees include annual longevity raises of up to 14 percent depending upon length of service and bargaining unit, in addition to regular salary adjustments. They also receive paid longevity time off in the form of one additional day of vacation for every five years of service. Moreover, civilian employees who use no sick leave

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<sup>13</sup> Retiring Harrison firefighters can cash in half of their accumulated sick leave at a rate of 97.75 percent of their current pay up to a maximum amount of one year's salary. Civilian employees can redeem half of their accrued sick leave at the full current rate of pay up to a maximum of one year's salary. In both instances, employees with more than 25 years of service as of January 1, 1996, can collect a lump sum greater than their current salary. For example, when Deputy Municipal Clerk/Administrative Clerk Borek retired in January 2009 with 62 years of service, she was paid \$207,237 for unused sick leave. As for vacation leave, firefighters can accumulate unlimited amounts during their careers. Civilian personnel can do the same if they receive written permission to carry over unused time from year to year. Police personnel, meanwhile, are limited to cashing in two year's worth of vacation time at retirement.

qualify for a yearly cash bonus of up to \$500. Between 2006 and 2008, 65 employees received \$51,250 in such sick leave bonuses.

## **Hoboken**

Municipalities across New Jersey are plagued by fiscal difficulties, but this Hudson County city has been particularly hard hit. Over the past several years, Hoboken has been mired in a financial crisis that has forced it to lay off workers, freeze hiring, cut services and boost local property taxes by nearly 80 percent. In 2008, the city failed to adopt a municipal budget and was placed under the supervision of a state monitor.

Against this troubled backdrop, however, the city nonetheless paid more than \$7.3 million in cash to retiring employees in exchange for accrued leave between 2004 and 2009, pursuant to the terms of city personnel policies and negotiated contracts. The total payout was about evenly divided between unused vacation time and so-called “terminal” leave. Under terms of the city’s personnel policies and negotiated contracts, terminal leave in Hoboken essentially consists of bonus leave days granted to all categories of municipal employees based on length of service. Police, fire and civilian supervisory personnel are awarded five days for every year of service. Rank-and-file workers, meanwhile, qualify for three days per year of service, depending on their dates of hire. At retirement, employees are permitted to cash in this special bank of terminal leave, along with varying amounts of unused accumulated vacation time defined by their various contracts. The only general caveat is that the combined sum of both the terminal and vacation leave redemptions cannot exceed the equivalent of one year’s

salary. During the five-year period referenced above, retiring Hoboken employees collected \$3.87 million worth of terminal leave, including individual payments as high as \$97,000, and \$3.14 million in accumulated vacation leave. In numerous individual instances, the combined lump-sum payout was identical to or within several thousands of dollars of the recipient's last annual salary.

The one notable exception to the maximum-payout rule occurred in the case of Carmen LaBruno, Hoboken's former police chief. LaBruno agreed to retire in 2008 under the terms of a separation agreement in which the city awarded him a lump sum of \$350,000, including \$125,000 in accrued unused vacation leave, \$150,000 in terminal leave and \$75,000 in unused accumulated compensatory time. A confidentiality clause in the agreement cloaks this information from the general public. LaBruno's final salary as Police Chief was \$210,794.

Also, in a strange anomaly, Hoboken police and fire personnel, in addition to lump-sum leave redemptions, are entitled by contract to cash stipends at retirement – \$2,000 for rank-and-file police officers who retire with less than 28 years of service and \$2,000 for firefighters with less than 30 years. Police superiors receive the \$2,000 stipend if they retire on January 1 of any given year, plus \$240 if they are members of the Superior Officers Association.

Beyond retirement payouts for terminal and unused vacation leave, uniformed and civilian employees in Hoboken routinely receive longevity raises ranging from 2 percent to as much as 18 percent per year on top of regular salary adjustments. Depending on the employee group, they also qualify variously for a mix of special leave benefits, including days off as an



incentive for not taking sick leave, time off for donating blood and personal days off for private events, such as weddings and baptisms.<sup>14</sup>

## Neptune

Compensatory time off, when properly applied in both the public and private sectors, typically is provided in lieu of cash to employees who work overtime. In this Monmouth County community, however, it has taken on a whole new meaning.

At the beginning of every year – before they put in a single hour on the job – Neptune’s top municipal officials, including the township’s chief financial officer, tax assessor, business administrator and clerk, each receive 56 compensatory hours – the equivalent of eight seven-hour days. They may use this time off as they see fit or exchange all or part of it for cash on an annual basis. The extent to which these employees earn this time over the course of each year is difficult to ascertain, however, because the township does not maintain daily or hourly time sheets to reflect total actual hours worked.

Neptune’s supervisory police officers from the rank of sergeant through chief, meanwhile, are provided with 48 hours – equal to six eight-hour days – of advance compensatory time annually. All but the chief and deputy chief, however, must use this time or lose it each year. The occupants of those two top posts also are authorized to earn additional compensatory time beyond the 48-hour entitlement. Their contracts stipulate that they may

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<sup>14</sup> For more details, see the section of this report entitled *Exceptional Perks* at p. 40.

cash in 40 of these additional compensatory hours on a yearly basis. Compensatory time accumulated beyond the 40 that are redeemed for cash can be carried over from year to year.

Also, beyond regular vacation time, all of Neptune's public employees who demonstrate perfect attendance over the course of a year receive 3.5 additional leave days, which may be used at their discretion or traded for cash. However, as with compensatory time, the township's record-keeping methodology is weak, making it difficult to determine whether such attendance bonuses are actually earned.

Over time, the payments for accrued compensatory and attendance time can add up. During the five-year period from 2004 to 2008, five of the township's top employees collected a combined sum of nearly \$136,600 for cashing in compensatory time, plus \$40,300 for perfect attendance.

## **Passaic Valley Sewerage Commissioners**

At first glance, it would appear that employees of this Newark-based utility, whose salaries and benefits are underwritten by local ratepayers, are subject to the same sick-leave redemption rule as State employees: at retirement, they can collect no more than \$15,000 for accrued unused sick time. However, unlike their State counterparts, PVSC employees are also allowed to cash in a portion of such leave every year while on the job. During the three-year

period between 2005 and 2007, the bill for such payouts to active employees topped \$681,000.<sup>15</sup>

The PVSC also has arranged for special lump-sum departure payments to certain administrative employees. Under the terms of his current contract, Commission Executive Director Bryan Christiansen, if terminated, is guaranteed a cash severance benefit equal to six months' salary for every year employed, up to a maximum of 24 months. Christiansen, the agency's top administrator since March 2004, is budgeted to be paid a salary of \$316,216 for 2009. Meanwhile, in exchange for his promise to retire in May 2007, former Deputy Executive Director James Krone, whose position was eliminated, received a severance payment of \$88,400, in addition to more than \$7,100 for unused accumulated sick time.

## **Pennsauken Sewerage Authority**

Employees of this Camden County utility receive a similar mix of leave and severance payouts courtesy of local ratepayers. Within certain modest limits, they can cash in unused sick leave every year while employed and still look forward to collecting a hefty lump-sum check in exchange for accumulated leave at retirement. During the three-year period between 2005 and 2007, the combined annual payouts to active employees for accrued leave totaled

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<sup>15</sup> It is noteworthy that PVSC policies imposing the retirement cap and authorizing the annual leave redemptions took effect simultaneously on January 1, 2002.

\$271,153; almost one-quarter of that amount – \$62,264 – went to William Orth, the Authority’s Executive Director.<sup>16</sup>

Allowing employees to exchange leave for cash annually has the effect of diluting or rendering completely ineffective any caps that even partially restrict that practice at retirement. Under the Authority’s personnel contracts, management employees can cash in up to 70 accumulated sick days and 60 accrued vacation days when they retire. For non-management personnel, the retirement redemptions are capped at 70 sick days and 40 vacation days. During their active years of service, however, Authority personnel in both categories can also collect cash for unused leave annually for as long as they are employed. Managers can sell back an unlimited number of unused vacation days each year. As for sick time, management personnel annually can cash in all accumulated sick leave above 15 days, except for Orth whose contract authorizes him to redeem an unlimited number unused sick days every year. Non-management employees must maintain a minimum 15-day sick leave balance, and any leave above that threshold can be redeemed annually. They may also carry over or sell back up to 10 vacation days per year. All annual sellbacks are done on a day-for-day basis.

The ultimate long-term cost of such leave redemptions can be appreciable. Commission staff calculated that if Authority personnel continue to cash in unused sick and vacation leave annually at the current pace over the next 20 years, they will be paid more than \$1.8 million over and above their regular salaries.

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<sup>16</sup> Orth has held this position since January 2006. His contract states that “. . . the Executive Director shall be exclusively employed by the Authority.” Concurrently, however, he serves as mayor of Pennsauken Township, a position that carries an annual salary of \$17,720.

Pennsauken Sewerage employees also are guaranteed bonuses when they resign, retire or are otherwise separated from the Authority's employ. Contract documents refer to these payments as "severance." Under this provision, departing managers qualify for lump-sum checks equal to one-third of their annual salaries. In the case of current Executive Director Orth, for example, he would receive a check for \$42,660 based on a salary of \$123,240, if he were to leave the Authority today. That would be in addition to his pension and any other lump-sum payouts for accumulated leave. Non-management employees, meanwhile, qualify for departure bonuses equal to two weeks' pay, if they have been employed by the Authority for at least 25 years. It is noteworthy that seven of the Authority's 19 rank-and-file employees – including Orth's wife, Regina Orth, who is employed as an administrative assistant at a salary of \$49,379 per year – are explicitly exempt by contract from the 25-year tenure threshold and, thus, are eligible for the departure bonus at any time that they leave the Authority's employ.

## **Rockaway Township**

Squeezed by rising costs and diminished revenue, this Morris County community's 2009 municipal budget boosted property taxes by nearly 5 percent, eliminated several vacant positions that local officials had hoped to fill – including a police officer slot – and raised the specter of imminent layoffs. By contrast, during the preceding four years, from 2005 through 2008, generous retirement packages for 21 township employees, primarily police personnel, resulted in cash payouts totaling almost \$1.2 million for accrued sick, vacation and personal leave. Nearly half that sum – \$593,280 – was distributed to just three individuals over a five-

month period between June and October 2008. One of the three was former police Chief Walter Kimble, who, as part of a 2008 buyout negotiated with the township's governing board, collected a combined total of more than \$263,000, including \$135,219 in accumulated personal/holiday time, \$90,530 for unused sick days and \$37,332 for unused vacation time.

As in other municipalities reviewed by the Commission, uniformed personnel in Rockaway generally are positioned for the most generous mix of benefits. In addition to inflated caps on the accrual and redemption of sick leave, township police also receive a potpourri of paid personal time off each year, including 12 to 25 vacation days and 16 holidays.<sup>17</sup> Moreover, the department's top brass, including superior officers and the deputy chief, are granted 15 additional days off for "emergency on-call status." In every instance, it has been the longstanding practice in Rockaway to allow officers to accumulate all of these forms of personal days from year to year and to cash in the accumulated balance at retirement.<sup>18</sup> Between 2005 and 2008, Kimble and four other police officers collected nearly \$445,000 in payments at retirement for redeeming unused accumulated holiday and on-call time.

Different rules apply to the township's non-uniformed employees. For example, civilian employees hired after 1999 are not permitted to accumulate and sell back unused sick time at cessation of employment. Rockaway taxpayers nonetheless are obligated to cover redemptions of accumulated sick leave pre-dating that restriction, and those payouts can be substantial, especially in combination with the cash redemption of unused vacation, holiday and personal

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<sup>17</sup> As for fire personnel, Rockaway Township is served by unpaid volunteer firefighters.

<sup>18</sup> The township allows police officers to accumulate unused holidays even though their contract requires that such time be taken as part of their vacation allotment each year. In the case of on-call time, the superior officers' contract is silent regarding the accumulation issue.

time.<sup>19</sup> When former township Business Administrator Steven Levinson left the township's employ in June 2007, he collected a lump sum of \$92,380.

Meanwhile, all township employees – regardless of any caps that may apply on leave redemption at retirement – are authorized to cash in unused leave on an annual basis while employed. During the four-year period between 2005 and 2008, a total of nearly \$827,000 was paid to active Rockaway employees in exchange for certain portions of their accumulated sick, holiday and vacation time, an average of more than \$206,600 per year.

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<sup>19</sup> All of Rockaway's civilian employees, regardless of date of hire, are allowed to cash in up to 75 days of unused vacation and personal time at retirement.

# Exceptional Perks

In addition to excessive leave benefits and cash payouts, the Commission found that public employees in some New Jersey communities regularly are favored at taxpayer expense with premium fringes that go well beyond conventional time off.

In Union City, all civilian municipal employees receive one day's leave at full pay every year for Christmas shopping. As stated explicitly in the contract between the city and the Union City Employees Association, "each permanent employee shall have one personal day as a Christmas Shopping Day preceding the Christmas holidays . . . ." This is in addition to five other personal days, 16 paid holidays – including a half-day each on Christmas Eve and New Year's Eve – and, depending on length of service with the city, between 10 and 25 vacation days annually.

Englewood grants police and fire personnel one day off per year for moving if such a circumstance results in a change of permanent address. This is in addition to regular allotments of paid vacation and other personal time off.

Englewood is also among a number of municipalities that provide select groups of public employees with paid time off for attending personal events. The city's police officers receive three days off when they marry, as do certain civilian municipal employees in Edison Township. In Parsippany-Troy Hills, police officers receive as many as eight days of leave for their weddings; the community's civilian staff qualifies for three such "wedding days." Meanwhile, police officers in West New York receive time off not only for weddings but also for Baptisms,



Confirmations and First Holy Communions, provided they take an active role in the ceremony. Police officers and firefighters in Hoboken benefit from similar contract provisions.

In Hillside, not only are most municipal employees automatically eligible for 14 paid holidays each year but they also qualify for additional paid time off depending upon which day of the week is occupied by certain official holidays. If the Fourth of July, Christmas and/or New Year's Day fall on a Tuesday or a Thursday, for example, these employees also receive Monday or Friday off – in effect, a four-day weekend at taxpayer expense. Hillside also provides monetary incentives, including a unique arrangement in which certain employees are entitled to an extra 35 hours of pay – the equivalent of one week's salary – added to their regular salaries each year.

Donating blood, avoiding accidents and turning in an exceptional performance on the firing range have also been written into various public employee contracts as occasions warranting paid leave. How much depends on the circumstance and the class of employee. In Paterson, for example, all police officers qualify for a day off for donating blood to a colleague. In Hoboken, police personnel can qualify for up to five days off per year for donating blood. Rank-and-file officers there must use that leave within 11 months of its receipt. Police superiors, however, may accumulate such days and apply them to terminal leave at career's end. The city's police chief can bank his unused annual "blood days" for a lump-sum payout at retirement. As for so-called "safety days," all employees of the Long Branch Sewerage Authority are rewarded with an extra day's pay if, on an annual basis, they are not involved in any accident that results in a cost to the Authority and/or its insurance carriers. In the Borough

of Fort Lee, meanwhile, police officers receive one or two days off, respectively, if they qualify at the firing range as expert or distinguished expert marksmen.

Also, in yet another twist on sick leave benefits, public employees are being rewarded with bonuses and additional time off for coming to work and not using sick time. In Rutherford, a lottery system is used to award cash payments to civilian municipal employees who have perfect attendance for a certain period of time. Under the contractual lottery system, all employees who take no sick leave in a given period are eligible to compete for this perk, but only one individual is randomly selected each month, each quarter and each year to receive a cash payout. Rutherford pays out a maximum of \$2,500 for this purpose each year. Between 2004 and August 2009, these sick leave incentives totaled \$12,600. In East Windsor, police officers annually qualify for a cash attendance incentive under a contract provision that, beginning 2006, paid \$500 for perfect attendance with the bonus increased by \$50 annually during the life of the contract. Hoboken employees, depending on the bargaining unit to which they belong, receive annual payments of between \$700 and \$1,500 for perfect attendance. In Union City, civilian employees qualify for a \$200 cash stipend for using no sick leave in a year, \$150 for using only one sick day and \$100 for using just two sick days.

# Drawing the Line

Just as there is no State law or regulation in New Jersey that prohibits exorbitant payouts and perks for local public employees, there is no law or regulation that explicitly authorizes and shields excessive benefits, either. Given the latter – and taking it as an invitation to control costs on their own – a number of local government entities have taken direct action to rein in public employee benefits through tougher personnel policies and ordinances and more aggressive collective bargaining. Following are examples of municipal benefit practices that reflect such efforts at cost control:

## **Flemington**

This Hunterdon County community has adopted limits on employee sick-leave redemption that are more stringent than the \$15,000 cap established for State workers. All borough employees hired after March 1995 can collect no more than \$5,000 for unused accumulated sick time at retirement. Meanwhile, police personnel hired after January 1998 are capped at \$10,000. No employee is permitted to carry over more than five vacation days from one year to the next, and the borough provides no terminal leave, severance payments, longevity raises extraordinary leave days or the selling back of unused leave on an annual basis.

## **Morris County**

Depending upon non-union or bargaining unit status, employees of Morris County government are capped at between \$10,000 and \$15,000 on the amount of sick leave they can redeem for cash at retirement, based upon the following formulas: county corrections officers and unionized rank-and-file civilian county employees can cash in between 30 and 35 percent of accumulated sick time up to a monetary maximum of \$10,000; civilian supervisory personnel, 30 percent of accumulated sick leave up to a cash maximum of \$10,500; corrections superior officers, 35 percent of accumulated sick leave up to \$15,000; non-unionized employees, a monetary maximum of \$12,000 for accumulated sick days. No employee can carry over more than one annual vacation allotment – a maximum of 25 days – from one year to the next. Moreover, the county provides no leave redemption by active employees, no terminal leave, no severance pay and no longevity raises or extraordinary benefits.

## **Point Pleasant**

All employees of this Ocean County community hired after February 1999 can sell back 60 percent of accumulated unused sick leave up to a monetary maximum of \$15,000 at retirement. Annual vacation is capped at 29 days, and no more than one year's allotment may be carried over. Employees are not permitted to cash in unused leave on an annual basis, and the borough provides no severance pay or terminal leave. Furthermore, employees are required to contribute at least a nominal amount -- \$260 per year – toward the cost of their health insurance.

## **Teaneck**

Over the years, this Bergen County community has imposed a sliding scale of caps on sick leave redemptions for various classes of municipal employees, as follows: Rank-and-file municipal workers, \$12,000; public works supervisors, \$15,000; managerial/executive and professional employees hired on or after September 1989, \$15,000; all police hired after January 1996, \$15,000; fire personnel hired on or after December 1978, \$15,000.<sup>20</sup> Rank-and-file employees receive 25 vacation days per year while supervisors are entitled to no more than 29. No employee hired after September 1989 may carry over more than two years' worth of unused vacation time. In 2002, the city discontinued the practice of awarding two extra days off per year to the police and fire chiefs. Employees are not permitted to cash in unused leave while actively employed, and members of the civilian work force are required to contribute toward the annual cost of their health insurance coverage.

## **Vineland**

All police, fire and civilian municipal personnel can collect no more than \$15,000 at retirement for cashing in unused accumulated sick leave. Vineland employees receive a maximum of 30 paid vacation days based upon collective bargaining unit agreements and length of service. In each instance they may carry over no more than one annual vacation allotment from one year to the next. The city provides no terminal leave, no severance pay, no longevity raises and no extraordinary leave. New employees – including those hired, depending

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<sup>20</sup> Members of one bargaining unit representing a portion of Teaneck's fire personnel, Local 42 of the Firemen's Mutual Benevolent Association, are capped at \$16,000 if hired on or after December 1978.

upon the bargaining unit, between January 2002 and January 2003 – are required to contribute toward the cost of health insurance depending upon which coverage plan they choose.

# ***Recommendations***

Over the years, the State Commission of Investigation has devoted substantial time and resources to shedding a spotlight of public disclosure on wasteful and excessive public-employee benefit practices. It has made reasonable and practical recommendations which, if implemented, could save New Jersey taxpayers millions of dollars. It has called for the establishment of greater fiscal prudence and fairness within the ranks of the public workforce, and for more accountability, oversight and transparency at all levels. Its core findings and recommendations have been echoed by other official oversight entities, including the State Benefits Review Task Force in 2005 and the Special Session Joint Legislative Committee on Public Benefits in 2006. Moreover, the New Jersey State League of Municipalities, the lead lobbying and governing assistance association for the State's municipalities, is generally supportive of reasonable benefit standards for all public employees, including caps on sick and vacation leave redemptions.

The results of this latest inquiry constitute yet another solid and undeniable predicate for action, another opportunity for government decision-makers to pursue effective and meaningful reform.

Given the severity of current fiscal and economic conditions, the central elements of this reform agenda are more vital today than they were when first proposed more than a decade ago, particularly with regard to the need for restrictions on the awarding and cashing-in of exorbitant amounts of employee leave. It simply is unacceptable and intolerable for taxpayers to continue to be burdened by these sorts of gold-plated, sky's-the-limit payout packages for

active and retiring public workers – especially when the cost of such arrangements can seriously erode local budgets, drive up property taxes and actually coincide with the layoffs of essential personnel, including police officers and firefighters. Fiscal responsibility demands a change in direction, and the very fact that a number of communities have taken the initiative on their own to tighten up benefit practices is both a testament to the common-sense efficacy of such an approach and proof that it can and should be done.

But piecemeal action by local authorities, encouraging though it may be, is not sufficient. Meaningful and balanced reform in this area requires a far more comprehensive response, and the State needs to provide the leadership and guidance necessary to get the job done. The Commission makes this statement mindful of New Jersey’s strong and deeply ingrained culture of “home rule.” It is also recognized that many of the enhanced fringe benefits doled out at the local level are embedded in contracts negotiated by municipal governing boards and unions through collective bargaining. Neither of those phenomena, however, should be allowed to impede progress toward greater equity between and among all public employees in New Jersey and greater sensitivity to the interests of those who ultimately pay the bill, the taxpayers.

The Commission, therefore, makes the following recommendations for systemic reform:

## **1. Establish Standards for Local Government Employment Practices**

The nature and scope of questionable and patently excessive public-employee benefits detailed in this report reveal a significant and persistent gap in New Jersey’s statutory framework for ensuring responsible and prudent local governance. The State lacks a



comprehensive statutory framework that explicitly addresses employment practices at the local government level. All too often, the broad discretion exercised in setting the terms of employment, compensation and benefits for local public employees, including vacation and sick leave and retirement-related payment arrangements, has produced an array of costly and sometimes inequitable benefit packages.

The Commission urges the Legislature to conduct a thorough review of local government employment, compensation and benefit practices in order to establish reasonable systemic standards that will protect both the livelihood of the local public-employee workforce and the integrity of the public treasury.

## **2. Establish Uniform Limits on Employee Leave**

Participation in any of the various state pension plans, at a minimum, should be conditioned upon the acceptance by all governmental entities of the basic benefit provisions and policies maintained for employees at the State level, as follows:

### ***Sick Leave***

- Public employees at all levels should be limited to no more than 15 paid sick days per year. At retirement, payment for accumulated unused sick leave should, at the very least, be limited to a lump sum representing no more than 50 percent of an employee's unused sick leave, calculated at current salary, up to a maximum

of \$15,000 – unless the Legislature and Governor determine that a lower sick-leave payout, or none altogether, is in order for all government employees.<sup>21</sup>

- As with State employees, no public employee at any level of government should be permitted to cash in accumulated unused sick leave at any time prior to retirement, including in the event of termination or resignation.

### ***Vacation***

- Public employees at all levels should adhere to the State limit of a maximum of 25 paid vacation days per year after 20 years of continuous service. No more than one annual allotment of vacation time should be carried forward by any public employee from one year to the next. At retirement, public employees at all levels should be authorized to redeem only that portion of their final year's vacation allotment which has actually been earned; no such lump-sum payment should be greater than the value of one year's worth of accumulated vacation.

### ***Holidays and Other Leave***

- All forms of non-traditional leave, such as paid days off for Christmas shopping, wedding attendance, etc., should be eliminated. Public employees at all levels of government should be required to adhere to the established schedule of holidays and administrative time off authorized for state government personnel.

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<sup>21</sup> Pending legislation would lower the maximum sick leave payout at retirement to \$10,000 for all public employees, including those at the State level. The measure (A-2583/S-1316) is sponsored in the Assembly by Assemblyman Declan J. O'Scanlon, Jr., and Assemblywoman Caroline Casagrande, both R-12<sup>th</sup> District, and in the Senate by Senator Kevin J. O'Toole, R-40<sup>th</sup>.

### **3. Eliminate Terminal Leave**

This investigation revealed an elaborate patchwork of local provisions that often enable public employees to remain on the public payroll at full salary and benefits without showing up for work in the weeks and months preceding retirement. Typically, this is accomplished by using up accumulated leave, usually in the form of many sick days banked over the course of a career. This practice not only forces taxpayers to finance the salaries and benefits of no-show employees whose absence or sick leave is not corroborated by medical certification but it also effectively prohibits local governments from hiring permanent replacements since the positions in question technically are still occupied. In other instances, leave allotments are converted to cash for payment to employees at retirement. The Commission recommends that terminal leave, in whatever form it may take, be eliminated for all public employees and expresses its support for the intent of pending legislation to achieve that goal.<sup>22</sup>

### **4. Regulate and Control Severance, Stipends and Related Payouts**

As demonstrated by the findings of this investigation, compensation for government employees in New Jersey, at least at the local level, has come to mean far more than standard and guaranteed salaries, pensions and fringe benefits. In addition to these run-of-the-mill personnel costs, taxpayers are picking up the tab for an array of pricey extras, including various types of employee incentive payments, such as lump sums of cash for not missing work, and lucrative severance packages guaranteed even under the circumstance of voluntary resignation.

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<sup>22</sup> A-2581 (O'Scanlon and Casagrande) would prohibit public employees from using six or more days of accumulated sick leave in the 12 months prior to retirement without medical necessity verified in writing by a physician.

Although severance and employment-separation arrangements, when properly and fairly negotiated, can produce savings over the long run – particularly with regard to early retirement programs and in other cases in which employees receive financial inducements to vacate positions that will be eliminated – the practice is open to abuse for lack of standards and payout limits. Local governments simply can no longer afford the unbridled and unregulated proliferation of such luxuries. Thus, the Legislature should develop a statutory framework to: 1. Define the narrow circumstances under which bonuses, stipends, separation payouts and other special compensation can be awarded, 2. Require local government entities to adhere to a uniform set of caps and restrictions on such payouts, and 3. Require that the terms and conditions of such compensation are subject to public disclosure.

The Commission also supports the intent of legislation that would deny severance pay for municipal officials who are fired from their jobs for cause. Under existing law, terminated local officials are guaranteed severance pay worth up to three months' salary unless they are convicted of a crime.<sup>23</sup>

## **5. Restrict Allocation and Use of Compensatory Time**

The Commission found instances in which public employees are routinely awarded compensatory leave in advance of having actually earned it. In some cases, they may exchange it for cash on a yearly basis and/or allow it to accumulate for cash redemption at retirement. To curtail these unregulated and unnecessarily costly practices, legislation should be enacted

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<sup>23</sup> Assembly members Dawn Marie Addiego and Scott Rudder, both R-8<sup>th</sup>, announced in July that they would introduce legislation restricting such severance eligibility after the arrests of 44 persons on federal corruption charges, including an assortment of elected and appointed government officials.

requiring that compensatory time be allocated strictly based upon hours actually worked beyond the normally scheduled hours of employment as confirmed by daily attendance records. Furthermore, public employees should be required to use such time within one year of its allocation. Under no circumstances should compensatory leave be exchanged for cash payment.

## **6. Require Employee Health Insurance Contributions**

According to the State Division of Pensions and Benefits, local governments in New Jersey collectively spend more than \$400 million annually to cover the cost of health insurance for active employees. State employees are required to contribute at least a small share of their health insurance premiums at a rate of 1.5 percent of current salary, a total contribution statewide of more than \$56 million in FY-2009 alone, thus defraying costs that would otherwise be borne by the taxpayers. At the local level, the practice is inconsistent. Most governmental entities require no employee contributions, and those that do have established inconsistent rates. The Commission recommends that, at a minimum, legislation be enacted to require that local government employees contribute to the cost of their health insurance at the same rate as their counterparts in State government.

## **7. Ensure Public Transparency and Accountability**

Beyond the sheer cost of exorbitant public-employee benefit practices, one of the most troubling findings of this inquiry was the difficulty that awaits average citizens who may be interested in finding out more about how their tax dollars are spent in this regard. Numerous

employment contracts, compensation arrangements and other benefit-related records examined by Commission staff contained thickets of convoluted technical provisions and arcane language not readily understood by the untrained observer. The challenge of obtaining and deciphering this material frequently is compounded by the presence of multiple bargaining-unit contracts, each of which may contain different iterations of the same general benefit principle. Some employees, for example, may be subject to a strict monetary cap on leave redemption at retirement, while others in the same community effectively are allowed to exceed that cap by cashing in a maximum number of accumulated sick days at a certain percentage of their final salary. Still others may be prohibited from exchanging sick leave for cash when they retire but authorized to cash it in while actively employed.

Those responsible for negotiating and administering public-employee compensation and benefits should never commit themselves to the disbursement of substantial sums of taxpayer money without, at a minimum, taking steps to ensure that the terms and implications of such disbursements are clearly and accurately spelled out and made readily available for public review. Thus, in the interests of fostering greater transparency, oversight and accountability, the Commission recommends that legislation be enacted requiring local and county government units in New Jersey to maintain easily accessible and readily understandable summary sheets delineating all benefits provided to every individual in their employ. They should also be required to disclose the terms and conditions of all special compensation and benefit arrangements negotiated with and awarded to select individuals upon resignation, retirement and/or termination. The need for ensuring the widest possible public disclosure and transparency in government has been demonstrated repeatedly over years by the SCI's findings

in a wide array of inquiries, ranging from an examination of hidden compensation for public school administrators to the lack of proper accountability and oversight in the governance of New Jersey's institutions of public higher education.





# APPENDIX



**ESTIMATED TAXPAYER SAVINGS FROM  
LOCAL PUBLIC EMPLOYEE HEALTH INSURANCE CONTRIBUTIONS  
(FY-2008)**

Local Government Entity	Type of Health Plan	1.5 % of Budgeted Personnel Salaries <sup>1</sup>
Atlantic City	SHBP <sup>2</sup>	\$1,452,994
Avalon	Other	\$76,579
Bernards Township	SHBP	\$197,430
Bradley Beach	SHBP	\$43,752
City of Camden	Other	\$1,263,551
Edison Township	Other	\$849,269
Englewood Cliffs	SHBP	\$85,256
Fort Lee	Other	\$265,645
Harrison	Other	\$259,255
Hoboken	Other	\$602,482
Neptune	Other	\$223,701
Passaic Valley Sewerage Commissioners	Other	\$730,240
Pennsauken Sewerage Authority	SHBP	\$59,647
Rockaway Township	SHBP	\$190,349
<b>Total Estimated Savings (FY-2008)</b>		<b>\$6,300,150</b>

<sup>1</sup> Estimated annual savings that would accrue to each of the governmental entities examined in detail in this report if their employee salaries were subjected to a 1.5 percent salary deduction for health-care coverage.

<sup>2</sup> State Health Benefits Plan



**N.J.S.A. 52:9M-12.2 provides that:**

- a. The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following materials are responses submitted pursuant to those statutory requirements.



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GENERAL ATTORNEY  
\*OF COUNSEL  
\*COUNSEL

November 9, 2009

Via Federal Express

Alan A. Rockoff, Executive Director  
State of New Jersey  
Commission of Investigation  
28 West State Street  
P.O. Box 045  
Trenton, New Jersey 08625-0045

Re: Township of Neptune  
Notice of Proposed Report  
Dissemination Nos.: 09-10-001, 09-10-004, 09-10-008, 09-10-014,  
09-10-015, and 09-10-023

Dear Mr. Rockoff:

This firm serves as labor counsel for the Township of Neptune. Six Township administrative employees – the Township Administrator; the Township’s Chief Financial Officer (“CFO”); the Township Clerk; the Tax Assessor; the Chief of Police; and the Deputy Chief of Police – have each received a letter from the State Commission of Investigation, to which was attached a draft of a section of a future SCI report. Pursuant to N.J.S.A. 52:9M-12.2(c) and (d) please accept this letter as clarification, correction, and/or objection to the information contained in the draft report section forwarded to these six Township employees:

1. Each of the six employees has employment contracts which were negotiated with and adopted by the Township Committee. The aforementioned adoptions took place at open public meetings of the Township Committee.

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2. The provision for compensatory time – 56 compensatory hours per year for the Administrator, CFO, Clerk, and Tax Assessor, and 48 hours per year for the Chief and Deputy Chief – is contained in the employment contracts for each of the six aforementioned individuals. With respect to the four non-public safety employees, the Commission’s draft report fails to note that these compensatory time hours are not automatically awarded by contract but, rather, are earned by the employees. For the two Police employees, the compensatory hours are based upon hours worked in the previous calendar year. Thus, in both cases the compensatory time hours are for hours worked above and beyond the regular workday, and are not simply an unearned contractual benefit awarded to the employees. In addition, the annual number of compensatory hours established by contract is actually a “cap” on the number of compensatory hours that the employees can earn in a year. Thus, even though the Administrator may work of total of 2,500 hours per year, he is entitled to but 56 hours of compensatory time for the hundreds of hours he works above 1,820. The four non-public safety employees work 1, 820 hours per year, while the Chief and Deputy Chief work 2,080 hours per year. Each of these six employees work many hours beyond the contractual number of hours per year, and the 56 hours of compensatory time is the only fiscal recognition of these hundreds of extra hours that these six employees work for the Township each year.

3. The draft report states that it was difficult for the Commission to ascertain whether these 56 hours of compensatory time for the non-public safety employees were actually earned by these employees “because the Township does not maintain daily or hourly time sheets to reflect total actual hours worked”. This is incorrect. The SCI investigator was in fact provided by the Township with time sheets for each of the four employees in question, which time sheets contain specific information to support the earning of these compensatory hours (and many hours more than the 56 hours of annual compensatory time) by the employees in question.

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4. The draft report fails to note that the Administrator, CFO, Clerk, and Assessor do not have the ability to carry the compensatory time into subsequent years.

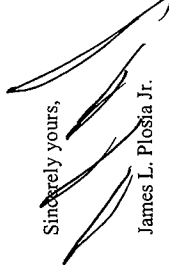
5. The 48 hours of compensatory time for the Chief and Deputy Chief has been included in employment contracts for these positions in Neptune Township for over twenty years. The benefits were negotiated in good faith between the Township Committee and the Chief and Deputy Chief, and the contracts have always been approved at open meetings of the Township Committee. This benefit is designed to account for "incidental overtime" which would require the Chief or Deputy Chief to perform service for the Township outside normal business hours, for which no claim of overtime would be made. For instance, the "chain of command" in law enforcement requires superior officers in the chain of command be notified of certain events. Likewise, those superior officers must give instruction back down the chain of command. This notification and instruction undoubtedly occurs which the Chief and Deputy Chief are not on duty, either before or after their shifts begin but most likely, due to the nature of police work, in the middle of the night. Both the Chief and Deputy Chief experience this phenomenon on nearly a daily basis and do not seek to recoup this time through overtime requests. Therefore, the benefits provided to the Township by their service far exceeds the 48 hours of compensatory time benefit the Chief and Deputy Chief receive. Moreover, the ability to obtain supervisory overtime in Neptune Township is available to all Superior Police Officers in the Township, and all such Officers have the ability to either be paid for this Supervisory overtime or to receive time off for this benefit. Finally, the 48 hours of compensatory time is covered in three separate contracts: that of the Chief of Police, of the Deputy Chief of Police, and FOP Lodge No. 19, which covers Superior Officers in Neptune Township.

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6. The reference in the draft to the Township paying out "nearly \$136,000 for cashing in compensatory time" is inaccurate. That amount includes tens of thousands of dollars that the Chief and Deputy Chief have earned throughout previous years pursuant to a collective bargaining agreement and statutory obligation, in positions other than Chief and Deputy Chief. As the Commission is no doubt aware, compensatory time (or overtime in cash) must be paid as a matter of federal law (the Fair Labor Standards Act) to any employee who works more than forty hours per week and is not employed in a position which is exempt under the Act.

The six Neptune Township employees in question hereby request that the Commission revise the draft report to include these corrections and clarifications, and include this letter of objection in the appendix to the report. Thank you for your attention to this matter. Please contact me if you have any questions or require further information.

Sincerely yours,



James L. Plosia Jr.

JLP:CAP\S:\CAP\Neptune Twp\RocKoff Ltr Public Emp. Benefits Invest. 11-6-09.doc

cc: Township Administrator (via reg. mail)  
Chief Financial Officer (via reg. mail)  
Municipal Clerk (via reg. mail)  
Tax Assessor (via reg. mail)  
Chief of Police (via reg. mail)  
Deputy Chief (via reg. mail)



RECEIVED

2009 NOV -9 PH 1:23

INVESTIGATION

Bryan Christiansen  
2006 Darbes Court  
Edgewater, NJ 07020

November 6, 2009

Alan A. Rockoff  
Executive Director  
State of New Jersey  
Commission of Investigation  
28 West State Street  
Trenton, NJ 08625-0045

Re: Notice of Proposed Report  
Dissemination No. 09-10-007

Dear Mr. Rockoff:

I received your letter on behalf of the State of New Jersey Commission of Investigation dated October 30, 2009 regarding the above-referenced matter. Please accept this letter in response.

I have been involved in the administration and management of wastewater and solid waste facilities for over 30 years. During that time, I have built energy to waste plants and wastewater treatment facilities in both the private and public sector, and have also been an Executive Director in those fields.

As you are aware, I currently serve as the Executive Director of the Passaic Valley Sewerage Commissioners ("PVSC"). PVSC is a body politic and corporate created in 1902 by the State of New Jersey pursuant to N.J.S.A. 58:14-1, et seq. PVSC's duties are to manage and regulate the collection and disposal of wastewater generated in a four-county treatment district along the Passaic Valley River Basin and its ongoing mission is to relieve the streams and rivers of the Passaic Valley River Basin of pollution. In furtherance of this purpose, PVSC maintains an extensive main interceptor and branch interceptor sewer system and operates its wastewater treatment plant in Newark, New Jersey with the capacity to treat 330 million gallons of wastewater per day. PVSC is one of the oldest publicly-owned wastewater facilities in the United States and the fifth largest in the entire country. PVSC treats wastewater generated by approximately 1.3 million people, approximately 270 significant industrial users and thousands of small industrial and commercial users in 48 municipalities in northern New Jersey. Pursuant to federal and state laws, PVSC also acts as the regulatory body for the enforcement of wastewater discharge and pollution control laws and regulations.

PVSC's budget for FY 2008 was over \$160,000,000. PVSC receives no operating capital from the State of New Jersey; rather, PVSC raises all of its operating capital itself. Nevertheless, PVSC continues to have the lowest user charges in New Jersey for wastewater treatment and disposal, averaging approximately \$110 per household per year. During my tenure, PVSC has been able to cut its number of employees from 700 to less than 600, saving approximately \$8.4 million in salaries and benefits. At the same time, PVSC has expanded its operation including receiving over \$25 million per year in revenues from the treatment of wastewater generated outside of PVSC's treatment district.

PVSC has won numerous awards on both the state and federal levels for operation and innovation in the wastewater treatment field. We are also the lead agency in the clean up of the Passaic River.

My employment at PVSC is "at-will". Specifically, I may be terminated without cause, for any reason, at any time. Those reasons may include which way the political winds happen to be blowing at any given moment. As a life-long professional in the wastewater industry, it would be foolhardy and a disservice to my family and to me to accept employment under such conditions without an employment agreement that provides some measure of protection from such winds which, as you are no doubt aware, can change suddenly and arbitrarily.

I submit this letter the SCI because of its failure to present the facts in its proposed Commission report in a complete and unbiased manner. Instead of accurately portraying the facts as stated above, the SCI, in tabloid fashion, chooses only to present two components of my negotiated employment agreement with PVSC under the heading, "Excessive Benefits and Payout." That employment agreement was approved by Commissioners who are appointed by the Governor and who possess impeccable credentials.

I anticipate that the Commission will give all due consideration to the facts provided herein.

Please do not hesitate to contact me for any additional information or to further discuss this matter.

Very truly yours,



Bryan Christiansen

10/17/09

## EMPLOYMENT AGREEMENT

This employment agreement ("Agreement") is dated as of the 11<sup>th</sup> day of February, 2009, between Passaic Valley Sewerage Commissioners ("PVSC"), a body politic and corporate created by the State of New Jersey pursuant to N.J.S.A. 58:14-1 et seq., having an office at 600 Wilson Avenue, Newark, New Jersey 07105, and Bryan J. Christiansen, residing at 505 Ellery Court, Edgewater, New Jersey 07020 ("Christiansen").

### 1. Purposes of the Agreement.

- 1.1 PVSC is a body politic and corporate created by the State of New Jersey to manage and regulate the collection and disposal of wastewater generated in a four-county area along the Passaic Valley River Basin. PVSC's ongoing mission is to relieve the streams and rivers of the Passaic Valley River Basin from pollution. In furtherance of this purpose, PVSC maintains an extensive sewer system and operates a wastewater treatment plant in Newark, New Jersey with the capacity to treat 330 million gallons of wastewater per day. PVSC treats wastewater generated by approximately 1.2 million people, approximately 270 significant industrial users and over 4,000 small industrial and commercial users in approximately 48 towns and cities in Northern New Jersey.
- 1.2 Pursuant to N.J.S.A. 58:14-6, PVSC is authorized to appoint such officers and employees as PVSC may deem necessary to carry out its statutory purposes.
- 1.3 Bryan J. Christiansen ("Christiansen") has served as the Executive Director of PVSC since March 15, 2004, (with succeeding Employment Agreements dated September 14, 2005, and June 14, 2007, entered into between PVSC and Christiansen).
- 1.4 PVSC wishes to provide for continuity in the management of PVSC. PVSC acknowledges that, historically, a written contractual relationship for the Executive Director enhances PVSC's ability to attract high caliber personnel to conduct and administer PVSC's statutory obligations, improves employee morale and performance, and reduces the rate of turnover, all to the distinct advantage of PVSC and its ongoing environmental mission.

1.5 PVSC is of the opinion that Christiansen has fully demonstrated the necessary qualifications, experience and ability to continue to serve as the Executive Director of PVSC and wishes to continue to employ Christiansen on the terms and conditions as set forth in this Agreement.

1.6 Christiansen wishes to continue his employment with PVSC, on the terms and conditions as set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement, PVSC and Christiansen hereby agree as follows:

### 2. Employment, Title, Previous Employment Agreement Superseded, and Term.

- 2.1 Employment and Title. PVSC hereby appoints and continues the employment of Christiansen as the Executive Director of PVSC. Christiansen hereby accepts such appointment and continued employment under the terms and conditions set forth herein.
- 2.2 Previous Employment Agreement Superseded. The previous Employment Agreement dated June 14, 2007, between PVSC and Christiansen is superseded in all regards by the terms and conditions of this Agreement.
- 2.3 Term. Subject to Section 6.1, below, the term of this Agreement shall be five (5) years from the date of execution, at which time this Agreement shall expire if it has not previously been terminated in accordance with the terms and conditions of this Agreement.

### 3. Duties, Exclusivity and Limitation of Authority.

- 3.1 Duties. Subject always to the supervision and direction of PVSC, Christiansen shall perform such services and have such duties and responsibilities as are customarily associated with the position of Executive Director of PVSC, and as otherwise determined by PVSC. Christiansen shall devote his full business time and attention and his best efforts, and apply all of his skill and experience, to the proper performance of his duties under this Agreement. Christiansen shall promote and further the good name of PVSC to the best of his ability. In the event of separation or termination for any reason from PVSC, or upon the expiration of this Agreement, Christiansen shall assist PVSC in an orderly transition of his duties to his successor.

- 3.2 Exclusivity. Christiansen shall not, without the prior written approval of PVSC, either directly or indirectly engage in any business other than that specified herein or accept any other employment. Notwithstanding the same, Christiansen shall not be precluded from engaging in the activities of trade associations or similar groups so long as the devotion of attention to such activities does not interfere with the performance and discharge of Christiansen's duties under this Agreement.
- 3.3 Limitation of Authority. Christiansen shall have limited authority to execute contracts without PVSC's prior approval consistent with PVSC resolutions currently in effect.

4. Compensation.

4.1 Salary. Compensation for the services to be rendered to PVSC by Christiansen shall be paid at Range 25 of the PVSC Annual Salary Schedule, starting at Step 5 and progressing to Step 6 during the term of this Agreement. Range 25 shall also be increased by the same percentage as that granted to all other full time PVSC employees each year, and in no event shall Range 25 be decreased from its current level at any time for purposes of this Agreement.

4.2 Benefits. Christiansen shall be entitled to all employee benefits as enumerated in the PVSC Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto. This includes, but is not limited to, vacation time, health benefits, Pension Programs, and life insurance.

4.3 Car Allowance. In accordance with the past policy of PVSC, Christiansen shall be assigned a car for use without restrictions.

4.4 Expense Reimbursement. PVSC shall reimburse Christiansen for all reasonable and necessary expenses actually incurred by him in the performance of his duties under this Agreement upon the presentation of such bills, expenses, statements, vouchers and other supporting information as PVSC may require. Christiansen shall maintain adequate records, in such form and detail as the PVSC may reasonably request, of all such expenses to be reimbursed and make such records available to PVSC for copy and inspection at any time.

4.5 Withholding. Christiansen acknowledges that all taxes, social security and employee contributions for benefits will be withheld from his salary.

4.6 Severance Benefit. In addition to any other benefits provided for in this Agreement, and in the event that PVSC terminates this Agreement and the employment of Christiansen with PVSC without cause only, Christiansen shall be entitled to a severance benefit, as more fully provided for in Section 6.2 of this Agreement. PVSC acknowledges that such a severance benefit is compensation for past services provided by Christiansen. Christiansen acknowledges that any compensation paid as a severance benefit shall be subject to withholding as provided in Section 4.5 above.

5. Termination.

5.1 Termination Without Cause. PVSC may terminate this Agreement and Christiansen's employment with PVSC at any time, without cause and immediately upon notice to Christiansen.

5.2 Termination Upon Death of Executive Director. Christiansen's employment shall terminate upon his death. Christiansen's beneficiaries shall be entitled to all death benefits as enumerated in the PVSC Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto.

5.3 Termination For Cause. PVSC may terminate Christiansen's employment for "cause". "Cause" may be defined as, but is not limited to, any of the categories identified as "Causes for Disciplinary Action" under the "Employee Conduct" section of the PVSC Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto. If Christiansen's employment hereunder is terminated for cause, Christiansen shall be entitled to the same rights as any PVSC employee as enumerated in PVSC's Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto.

5.4 Termination for Good Reason. Christiansen may terminate his employment for "good reason". "Good reason" may be defined as, but is not limited to, Christiansen's voluntary resignation following the initial occurrence of: (a) a material breach by PVSC of its obligations under this Agreement; (b) requiring Christiansen to perform duties not customarily performed by the executive director of a business entity comparable in size of operations to PVSC; (c) requiring Christiansen to report to or be accountable to anyone other than either the Chairman or Vice Chairman of PVSC; or (d) establishing Christiansen's primary office to a location other than at PVSC's headquarters at 600 Wilson Avenue, Newark, NJ. Notwithstanding the foregoing, Christiansen must assert any

termination for good reason by written notice to PVSC no later than twenty (20) days following the initial existence of the event giving rise to good reason, and PVSC must have an opportunity within thirty (30) days following delivery of such notice to attempt to rescind or correct the matter giving rise to good reason (the "Cure Period"). If PVSC does not rescind or correct the conduct giving rise to good reason to Christiansen's reasonable satisfaction by the expiration of the Cure Period, Christiansen's employment will then terminate with good reason.

**6. Severance Benefit: Applicability.**

6.1 Severance Benefit Payable Upon Termination Without Cause or upon Termination for Good Reason. In the event that PVSC terminates this Agreement and the employment of Christiansen with PVSC without cause, or in the event Christiansen terminates this Agreement and his employment hereunder for good reason, Christiansen shall be entitled to a severance benefit, payable within forty-five (45) days after the date of termination, to be calculated as follows:

- a. For every twelve (12) months of employment with PVSC, including employment prior to the effective date of this Agreement, Christiansen shall accrue a severance benefit equal to six (6) months' salary. The severance benefit shall be calculated based on Christiansen's salary as of the date of termination.
- b. The maximum severance benefit that may accrue to Christiansen shall not be greater than twenty-four (24) months' salary, as calculated based on Christiansen's salary as of the date of termination.
- c. For the purpose of calculating the severance benefit to which Christiansen may become entitled, the parties agree that Christiansen's employment commenced March 15, 2004.
- d. The severance benefit shall be based on pre-tax and pre-withholding salary only and shall not include the value of any other benefits Christiansen may receive under this Agreement.

6.2 Applicability of Severance Benefit. Any severance benefit under this Agreement is only payable if either (a) Christiansen is terminated by PVSC without cause or (b) Christiansen terminates his employment for good reason. Christiansen acknowledges that no

severance benefit shall be paid to him if he is terminated or ceases employment with PVSC for any other reason.

**7. Miscellaneous.**

7.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes all prior agreements and understandings, written or oral, with respect thereto.

7.2 Amendment; Waiver. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), so long as said amendment or waiver is in writing and signed by both parties.

7.3 Binding Effect. This Agreement calls for the personal services of Christiansen and no part of his rights or obligations hereunder may be assigned by Christiansen. This Agreement shall bind and inure to the benefit of and be enforceable by the parties hereto and their respective successors, heirs, legal representatives and permitted assigns.

7.4 Governing Law; Jurisdiction. This Agreement shall in all respects be interpreted, enforced and governed by the laws of the State of New Jersey. Any action to enforce the terms of this Agreement may be brought only in the Superior Court of the State of New Jersey or the United States District Court for the District of New Jersey.

7.5 Notices. All notices, demands and other communications regarding this Agreement shall be in writing, delivered personally, sent by registered or certified mail, postage prepaid and return receipt requested, or delivered by recognized overnight carrier (e.g., Federal Express) to the address of such party as set forth on the first page of this Agreement, unless changed by a notice given as provided herein. Delivery shall be deemed given upon receipt or when delivery is refused.

7.6 Severability. If any provision of this Agreement or its application to any party or circumstance is held invalid, the invalidity does not affect any other provisions or applications of this Agreement that can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

7.7 Captions. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

7.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

7.9 Representation. Christiansen represents and warrants to PVSC that his retention hereunder and performance of the terms of this Agreement as an employee of PVSC does not and will not breach any other agreement of Christiansen.

7.10 Attorney Review, Knowing and Voluntary Agreement. Each party represents that it has had the opportunity to consult an attorney to review this Agreement. The parties further represent and acknowledge that they have had a reasonable amount of time to fully consider this Agreement, and that in executing this Agreement, they rely entirely upon their own judgment, beliefs and interests and the advice of their respective counsel, and they do not rely and have not relied upon any representation or statement made by the other party, or by any agents, representatives or attorneys of the other party, with regard to the subject matter, basis or effect of this Agreement or otherwise, other than as specifically stated in this Agreement.

7.11 Negotiated Agreement. No Construction Against Any Party. Each party to this Agreement has read this Agreement and has freely and voluntarily executed it. No ambiguity that may arise in this Agreement shall be resolved by construing the Agreement against any of the parties as drafter of same.

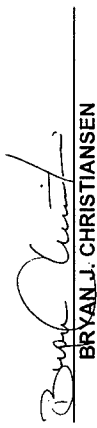
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first written above.

Passaic Valley Sewerage Commissioners

By: 

Title: CHAIRMAN

  
Anthony Ardis, Clerk

  
BRYAN J. CHRISTIANSEN

RECEIVED

2009 NOV 10 AM 10: 51

STATE COMMISSION OF  
INVESTIGATION

November 4, 2009

State of New Jersey  
Commission of Investigation  
28 West State Street  
PO Box 045  
Trenton, NJ 08625-0045  
Attention: Alan A. Rockoff, Executive Director

re: HARRY DEBUTTS  
BOROUGH OF AVALON  
NOTICE OF PROPOSED REPORT  
DISSEMINATION NO. 09-10-009

Dear Mr. Rockoff:

I acknowledge receipt of your letter dated October 23, 2009 (received by me on October 27, 2009) pertaining to the Notice of a Proposed Report.

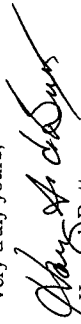
Your letter informs me that the Commission is conducting an investigation and issuing a report on the results thereof.

Your letter informs me that I may submit a written response which the Commission shall, in accordance with the provisions of the Act, include in the report.

Accordingly, enclosed please find Affidavit under oath setting forth my response.

I respectfully request that this response be included in the Commission's report.

Very truly yours,



Harry deButts  
10B Fourth Avenue  
Cape May Court House, NJ 08210

**AFFIDAVIT OF HARRY DEBUTTS**

STATE OF NEW JERSEY:  
COUNTY OF CAPE MAY:

Harry deButts, being duly sworn upon his oath, deposes and says:

1. I reside at 10B 4<sup>th</sup> Avenue, Cape May Court House, Cape May County, New Jersey.
2. I acknowledge receipt of a letter dated October 23, 2009 of the State of New Jersey Commission of Investigation received by me on October 27, 2009, pertaining to a Notice of Proposed Report under Dissemination No. 09-10-009.
3. The Commission's letter notifies me that I may submit a written response which the Commission shall in accordance with the law include in a report to be issued in connection with its investigation.
4. Accordingly, the following constitutes my Response that I request be included in the Commission report:

"The payment received by me from the Borough of Avalon upon my retirement was not made possible by unique contractual provisions applicable only to me. I was employed by the Borough on July 1, 1987 and retired on August 1, 2007. After these 20 years of service to the Borough, I was entitled to certain terminal leave benefits.

Section 3.6 1a. of the Avalon Personnel Policy Manual provides in pertinent part that employees "who retire in accordance with the Rules of the Public Employees Retirement System ("PERS")...shall receive terminal leave immediately prior to retirement . Such leave shall be computed at a rate of four (4) calendar days for each calendar year of service. Added to such leave shall be any compensatory time off and vacation time which is owed to the retirement employee..."

As a result of my 20 years of dedicated service to the Borough, I was paid \$78,124.95 for Terminal Leave and other accrued but unused leave. This amounts to approximately \$3,900.00 per year of service.

Over the years, I was committed and dedicated to my work at the Borough. I only used sick leave when it was seriously needed. Thankfully, I did have 72 days available when I became seriously ill prior to my retirement. My understanding is that the 15 sick days I received each year from the Borough is

MR. ROBERT DeNARDO  
618 Evergreen Avenue  
Bradley Beach, New Jersey 07720  
732-620-3758

the same amount of sick leave that New Jersey regulations require civil service municipalities to provide to their employees. Unfortunately, even with that time I was unable to recover to the point at which I could resume my position as Director of Public Works that I had held for so many years and was forced to retire."

5. I certify that the information contained in this Affidavit is true and correct to the best of my knowledge and belief.

Sworn and Subscribed to before me this 6th day of November, 2009.



AMY W. KLEUSKENS  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXP. 1-28-2013



Harry deButts

October 29, 2009

Alan A. Rockoff, Executive Director  
State of New Jersey  
Commission of Investigation  
28 West State Street  
P.O. Box 045  
Trenton, New Jersey 08625

Re: Notice of Proposed Report  
Dissemination No. 09-10-010

Dear Mr. Rockoff:


Kindly accept this letter as a response to yours of October 23, 2009.

I reached a contractual agreement with my prior employer, the Borough of Bradley Beach that was within the existing law. My receiving remuneration was based upon past labor practices, and my accumulation of sick time was over a career of thirty-three (33) years. I find it difficult to comprehend how my following the existing rules has now become something that places me in the public spotlight and infers that my agreement with my prior employer is to be retrospectively examined as a public policy to be questioned.

It should also be noted that during my thirty-three (33) years of service there were many occasions that I came to work when not feeling particularly well because my calling in sick would have created the need and burden for others of a small municipal police department to work extended shifts and cause the Borough to pay resulting overtime salaries.

I would like to thank you in advance for allowing me to comment.

Very truly yours,

  
ROBERT DeNARDO

THIS 2ND DAY OF  
NOVEMBER, 2009



RAYMOND BLOETJES  
ID # 2209703  
NOTARY PUBLIC OF NEW JERSEY  
Commission Expires 2/15/2013

1017938

RECEIVED

2009 NOV 12 AM 9:39

COMMISSIONER OF INVESTIGATION

Chief Walter A. Kimble  
*Retired*  
2769 Independence Way  
Gastonia, N.C. 28056

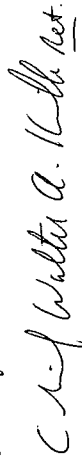
The Honorable Alan A. Rockoff  
Executive Director  
State of New Jersey Commission of Investigation  
28 West State Street  
P.O. Box 045  
Trenton, N.J. 08625-0045

Re: Report 09-10-016

I am writing in response to the aforementioned report under N.J.S.A. 52:9M-12.2. I have reviewed the text forwarded to me and find that with the limited amount of content that has been provided to me with which to base my response, this task is difficult at best. I would however like to point out the following for your review.

The accumulated time to which you refer in your report was accrued over a twenty-five year police career. The amount of time accumulated was compiled and paid by my employer as part of a contractual obligation. I paid all applicable federal and state taxes associated with this payment. This agreement was approved by the governing body as part of the police contract and as such was public record. Other officers were entitled to the same benefit of payment for accumulated time at the time of retirement.

Sincerely



Chief Walter A. Kimble Ret.

RECEIVED

2009 NOV -4 AM 9:49

COMMISSIONER OF INVESTIGATION

JAMES M. KRONE  
20 Morrell Place  
Garfield, NJ 07026

October 28, 2009

Alan A. Rockoff, Esq.  
Executive Director  
State of New Jersey  
Commission of Investigation  
28 West State Street  
PO Box 043  
Trenton, NJ 08625-0045

Re: Notice of Proposed Report  
Dissemination No. 09-10-017

Dear Mr. Rockoff:

This letter under oath is in response to your notice of October 23, 2009, in which you indicate that the State Commission of Investigation ("SCI") intends to criticize an Employment Severance Agreement between Passaic Valley Sewerage Commissioners ("PVSC") and me. A copy of the Employment Severance agreement is attached to this letter.

Your criticism is unwarranted, unfair and without merit. Your notice that you intend to criticize my Employment Severance Agreement with PVSC reflects a lack of investigation on the part of the SCI and a blind failure to recognize an agreement that inures to the benefit of PVSC and its service community.

If an appropriate investigation was conducted, the SCI would ascertain that I had an employment agreement with PVSC as the Deputy Executive Director with a termination date of April 1, 2008. Ten months prior to the termination date, in an arm's length transaction, PVSC negotiated a severance agreement with me whereby I waived the balance of my contractual agreement in exchange for a lump sum payment calculated at 50% of the value of my remaining salary. The lump sum payment calculated in the amount of 88,423.04.

From what I am able to glean from the excerpt provided by your office, the SCI fails to disclose that PVSC saved an equal amount of money by entering into this Employment Severance Agreement with me, i.e., PVSC saved \$88,423.04 that it was contractually obligated to pay me.

10/17/09



RESOLUTION

After the arm's length negotiation, a seven (7) page Employment Severance Agreement was negotiated between counsel, which was approved by resolution of the Commissioners of PVSC at a public meeting on March 8, 2007. If the SCI, consistent with its charter, would have performed an appropriate investigation, it would have discovered that, as part of the resolution approving my severance and release of my contractual rights with PVSC, the Commissioners of PVSC directed that the position of Deputy Executive Director be eliminated as a cost-effective service to its rate payers.

In fact, the position of Deputy Executive Director was eliminated at PVSC and remains eliminated to this day, at a savings of more than \$210,000 annually.

If the SCI wants to present an honest and factually correct report to the people of New Jersey you would report that PVSC, by entering into the Employment Severance Agreement with me, has saved to date in excess of \$403,000. That is real dollars saved to PVSC rate payers. Instead, the SCI has provided me with notice that you intend to "criticize" the Severance Agreement. Nothing can be further from the truth.

Finally, the SCI has advised that they are also going to be critical of the fact that I received approximately \$7,100 for unused accumulated sick time. This sick time payout was earned by me and paid by PVSC in accordance with the same policy utilized by the State of New Jersey for unused sick time.

Very truly yours,

*James M. Krone*  
JAMES M. KRONE

*Virginia D. Moreno*  
October 31, 2009

VIRGINIA D. MORENO  
Notary Public  
State of New Jersey  
My Commission Expires October 09, 2011

WHEREAS, pursuant to N.J.S.A. 58:14-6, the Passaic Valley Sewerage Commissioners ("PVSC") may appoint such officers and employees as they may deem necessary to carry out the purposes for which PVSC was created; and

WHEREAS, on October 11, 2001, PVSC entered into an Employment Agreement (the "Agreement") with James Krone ("Krone"), pursuant to the terms of which Krone was employed by PVSC in the position of Deputy Executive Director; and

WHEREAS, the Agreement called for Krone to serve as Deputy Executive Director for a term beginning October 15, 2001, and ending on October 15, 2005; and

WHEREAS, on September 14, 2005, PVSC and Krone entered into an Amendment to the Agreement, pursuant to which amendment the ending date of the term of the Agreement was extended from October 15, 2005, to April 1, 2008; and

WHEREAS, PVSC, in furtherance of providing cost-effective service to its rate payers, desires to eliminate the position of Deputy Executive Director; and

WHEREAS, Krone has agreed to enter into a contract to sever his employment relationship with PVSC, waive the balance of the contractual term of the Agreement, and retire from PVSC in consideration for a lump sum payment equal to fifty percent (50%) of the value of the remaining salary that would have been due to Krone under the Agreement from the date of his retirement until April 1, 2008, a sum which is substantially less than that which would be due and owing to Krone if he remains employed by PVSC until the end of the term of the Agreement, as amended; and

WHEREAS, the payment of above-stated sum to Krone would be solely in consideration for his promise to retire and waive any contractual rights he may have to remain employed with PVSC, and would not constitute salary for any services performed; and

WHEREAS, the acceptance of Krone's retirement from PVSC under the above-stated conditions and the elimination of the position of Deputy Executive Director would create substantial savings to PVSC and its rate payers in the future.

NOW, THEREFORE, BE IT RESOLVED as follows:

- I. PVSC accepts the retirement of James Krone, effective June 1, 2007, subject to the following terms and conditions:
  - A. Krone, whose adjusted annual salary is \$212,215.29, shall be paid a lump sum payment of \$88,423.04 in consideration for his retirement from the position of Deputy Executive Director on June 1, 2007, said amount to be calculated as 50% of the value of his remaining salary from June 1, 2007 to April 1, 2008 (\$17,684.61 per month x 10 months x 50%); and

RESOLUTION NO. \_\_\_\_\_  
PASSAIC VALLEY SEWERAGE COMMISSIONERS

**RESOLUTION**

- B. Krone shall receive compensation for accrued sick time, up to a maximum of \$15,000, and for any unused vacation time accrued as of June 1, 2007; and
  - C. PVSC shall make all required deductions for Federal, State and Social Security taxes from all amounts paid to Krone; and
  - D. In further consideration of the above, Krone agrees to waive any claims he may have to additional or further salary and/or compensation from PVSC under the terms and conditions of the Agreement, as amended, including but not limited to, any salary increases; and
  - E. No later than June 1, 2007, Krone shall surrender any and all PVSC property in his possession, custody or control, including, but not limited to any vehicle owned, leased or rented by PVSC and which vehicle is made available for Krone's use.
  - F. Specific Authority is hereby given to the Executive Director to enter into a contract with Krone to sever his employment relationship with PVSC under the terms and conditions as set forth herein.
2. The position of Deputy Executive Director is hereby eliminated, effective June 1, 2007.

*[Handwritten signatures]*

MEETING DATE: **MARCH 8, 2007**

	YES	NO	ABSTAIN	ABSENT	OTHER	REMARKS
Comm. Calandriello			<input checked="" type="checkbox"/>			
Comm. Flynn	<input checked="" type="checkbox"/>					
Comm. Levine	<input checked="" type="checkbox"/>					
Comm. Luna	<input checked="" type="checkbox"/>					
Comm. Paserchia	<input checked="" type="checkbox"/>					
Comm. Pengitore	<input checked="" type="checkbox"/>					
V.Chmn. Czapliski				<input checked="" type="checkbox"/>		
Chmn. Powell	<input checked="" type="checkbox"/>					
<b>TOTAL</b>	<b>6</b>		<b>1</b>	<b>1</b>		

RESOLUTION NO. **27**  
 PASSAIC VALLEY SEWERAGE COMMISSIONERS RESOLUTION

**EMPLOYMENT SEVERANCE AGREEMENT**

- 1. Parties. The parties to this Employment Severance Agreement ("Agreement") are James M. Krone ("Krone") and the Passaic Valley Sewerage Commissioners ("PVSC"), a body politic and corporate of the State of New Jersey.
- 2. Intent of the Parties. Krone and PVSC are parties to an employment agreement dated October 11, 2001, as amended by the parties in writing dated September 14, 2005. The employment agreement, as amended, contains the terms and conditions of Krone's employment with PVSC as Deputy Executive Director. It is the specific, mutual intent of the parties to sever Krone's employment with PVSC by and through the execution of this Agreement.
- 3. Retirement from PVSC. Krone will retire from employment as Deputy Executive Director of PVSC, effective June 1, 2007 (hereafter, the "effective date of retirement"). By signing this Agreement, Krone hereby tenders his resignation from that position and any other position with PVSC as of the effective date of retirement. Krone acknowledges that PVSC shall have no obligation to employ or re-employ Krone now or in the future in any capacity.
- 4. Consideration. Krone acknowledges that PVSC, in consideration of Krone's promise to retire and waive any contractual rights he may have with PVSC, will make the following payments and provide the following benefits, conditioned on his agreement to be bound by the terms of this Agreement, including the general release in paragraph 4, his compliance with these terms, and his satisfactory performance of his job duties through the effective date of retirement.
  - a. Severance Payment – PVSC will pay to Krone, whose adjusted annual salary is \$212,215.29, a lump sum payment of \$88,423.04, said amount calculated as 50% of the value of Krone's remaining salary from June 1, 2007 to April 1, 2008 (\$17,684.61 per month x 10 months x .50%).
  - b. Vacation Days – Krone shall be entitled to receive payment from PVSC for all of his accrued, earned and unused vacation through the effective date of retirement, in accordance with the policies and procedures of PVSC.
  - c. Sick Days – Krone shall be entitled to receive payment from PVSC for all of his accrued, earned and unused sick days through the effective date of retirement, up to a maximum of \$15,000, in accordance with the policies and procedures of PVSC.

Initials:  
 James Krone: *J.K.*

PVSC: *[Signature]*

- d. Health Benefits - Krone shall be entitled to a continuation of PVSC group health benefits and premium payments based on his age and length of continuous service with PVSC as calculated through the effective date of retirement, in accordance with the policies and procedures of PVSC.
- e. Outstanding Expenses - PVSC will reimburse Krone for any as-yet unreimbursed business expenses consistent with PVSC policy and provided Krone submits appropriate documentation and receipts within 10 (10) days of the effective date of retirement. Business expenses submitted for reimbursement after that date will not be reimbursed.

5. Full Release of All Claims. In exchange for the consideration described in Paragraph 4 of this Agreement, which Krone acknowledges is not otherwise owed, Krone, for himself, his agents, attorneys, heirs, administrators, executors, and assigns, and anyone acting or claiming on his or their joint or several behalves, hereby waives, releases and forever discharges PVSC, its Commissioners, Officers, agents, attorneys, successors, and assigns, jointly and/or severally (collectively, the "Released Parties"), from any and all known or unknown claims, causes of action, demands, damages, costs, expenses, liabilities or other losses whatsoever to the full extent permitted by law and that in any way arose from, grew out of, or are related to events or circumstances that occurred prior to the date of Krone's execution of this Agreement, including, but not limited to, any matter that relates to Krone's employment with PVSC or the termination thereof. This release includes, without limitation, any claim of discrimination or harassment on any basis, including race, color, national origin, religion, sex, age, handicap or disability arising under any federal, state, or local statute, ordinance, order or law, including without limitation the Age Discrimination in Employment Act, as amended; the Older Workers Benefit Protection Act; Title VII of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act; the Family and Medical Leave Act; the Employee Retirement Income Security Act, as amended; all state law discrimination claims; any and all claims under federal or state statute or common law including any contract claims, tort claims or wrongful discharge claims, including constructive discharge claims; and any other claims which in any manner arise out of Krone's employment or his termination of employment with PVSC. Additionally, Krone certifies and warrants that Krone is not presently aware of any workplace injury suffered while in PVSC's employ. Krone further certifies and warrants that he has received all leave time to which he is entitled and has been paid for all hours worked and properly compensated for all hours worked in excess of forty per week.

6. No Unresolved Claims. This Agreement has been entered into with the understanding that there are no unresolved claims of any nature which Krone has against PVSC and/or any Released Party. Krone acknowledges and agrees that, except for future benefits expressly set forth in Paragraph 4 of this Agreement, all compensation and benefits due him by PVSC have been paid in full. Krone further agrees that the representations in this paragraph have been relied upon by PVSC in offering the consideration specified in Paragraph 4.

7. No Admission of Liability or Wrongful Conduct. Krone acknowledges that the consideration provided by PVSC in this Agreement is given solely in exchange for the promises and representations made by Krone in this Agreement and that such consideration does not constitute an admission by PVSC of liability or of violation of any applicable law or regulation or any wrongful conduct whatsoever. PVSC expressly denies any such liability, violation or other wrongful conduct.

8. Nondisclosure of Confidential Information.

a. Krone acknowledges that by reason of his position with PVSC, he has received access to various types of confidential operational, regulatory, business, medical, and personnel information relating to PVSC, its operations, its internal policies and procedures, users of its Treatment Works, and its employees (collectively, "Confidential Information"). PVSC represents that it has made reasonable and appropriate efforts to maintain the confidentiality of all such Confidential Information and that it will continue to do so. Krone acknowledges that such Confidential Information is of a regulatory, proprietary and sensitive nature and understands that PVSC and the State of New Jersey have a legitimate interest in continuing to maintain the confidentiality of all such Confidential Information.

b. Krone agrees that, except in the limited circumstances described herein, he shall not disclose any Confidential Information in his possession, or under his control, in any form or in any manner whatsoever to any other person or entity without the express prior written consent of PVSC. Further, Krone may disclose Confidential Information only to the extent required by a court order or other compulsory process. Upon Krone's receipt of any order, subpoena or other compulsory process demanding production or disclosure of any Confidential Information, Krone agrees that he will promptly notify PVSC in writing of the requested disclosure, including the proposed date of the disclosure, the reason for the requested disclosure, and the identity of the individual or entity requesting the disclosure, no later than ten (10) business days prior to the date that such disclosure is to be made, if

Initials:  
James Krone: J.K.

Page 2 of 7

J.K.

PVSC: 

Initials:  
James Krone: J.K.

Page 3 of 7

J.K.

PVSC: 

possible, but in any event within a reasonable time before such disclosure is to be made.

c. Krone agrees that the disclosure of Confidential Information by him shall result in irreparable harm to PVSC, and that PVSC shall be entitled to injunctive relief to restrain the disclosure or contemplated disclosure of Confidential Information in violation of this Agreement, and PVSC may also be entitled to pursue legal action for damages against Krone.

9. No Disparagement. Krone agrees not to make any false statement or communication to any third party regarding PVSC or Released Parties and not to make any statement regarding PVSC or Released Parties that could be reasonably construed as malicious, disparaging or defamatory.

10. Nondisclosure of Terms of Agreement.

a. Krone specifically acknowledges that PVSC is a "public agency" as defined under the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1, et seq., and thus subject to OPRA and/or common law rights of citizens to access government records and/or public information. Krone specifically acknowledges that this Agreement and/or any part thereof may be subject to disclosure to third parties by PVSC pursuant to OPRA and or other applicable laws, without notice to him of such disclosure.

b. Krone agrees that he will keep the terms and conditions of this Agreement strictly confidential. Except as specifically set forth below, Krone shall not disclose the terms of this Agreement in whole or in part to any individual or entity without express prior written consent of PVSC.

c. Krone agrees that he will not disclose the terms of this Agreement to any other person except: (i) to the extent required by a court order or other compulsory process; (ii) to any federal, state, or local taxing authority as necessary to comply with tax-related obligations; and (iii) as otherwise may be necessary to implement or enforce the terms of this Agreement.

d. Upon Krone's receipt of any order, subpoena or other compulsory process demanding production or disclosure of any term of this Agreement, Krone will promptly notify PVSC in writing of the requested disclosure, including the proposed date of the disclosure, the reason for the requested disclosure, and the identity of the individual or entity requesting the disclosure, no later than ten (10)

business days prior to the date that such disclosure is to be made, if possible, but in any event within a reasonable time before such disclosure is to be made.

11. Surrender of PVSC Property - No later than June 1, 2007, Krone shall surrender any and all PVSC property in his possession, custody and/or control, including, but not limited to, any vehicle owned, leased or rented by PVSC, which vehicle is made available for Krone's use. Krone agrees to immediately return his PVSC-provided identification card and any access card or keys he has to PVSC or to any PVSC-related facilities or units and/or cabinets or file cabinets. Krone also agrees to immediately return all original and duplicate documents, files, reports, computer files and records, medical records, financial records, personnel records, policies and procedures and all other tangible things in his possession, or over which he has control, that were created, collected or received by Krone while employed at PVSC.

12. Cooperation with PVSC. In consideration for the receipt of any benefit under this Agreement or as part of his past compensation, Krone agrees to make himself fully available to, and to fully cooperate with, PVSC concerning pending and future investigations and litigation matters arising out of or relating to his employment with PVSC or other matters concerning PVSC about which Krone had or has knowledge.

13. Entire Agreement. Krone agrees that no promises or agreements have been made to him except those contained in or referenced by this Agreement and that this document constitutes the entire agreement and understanding between the parties concerning its subject matter.

14. Severability. The parties agree that the terms of this Agreement are intended to be severable. If any term, provision, clause or item of this Agreement is declared to be invalid or unenforceable by any court or administrative body of competent jurisdiction, the term, provision, clause or item should be reformed (if possible, or severed if not) to give maximum effect to the intentions of the parties, and the remaining portions of the Agreement shall be enforced to give effect to the parties' intentions to the maximum extent possible.

15. Controlling Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of New Jersey.

16. Review Period. Krone acknowledges and understands that he has twenty-one (21) days from the date this Agreement is first presented to him in which to review and consider this Agreement. Krone further understands that while he may sign this Agreement before the expiration of twenty-one (21) days, he is not required to do so.

17. Right to Counsel. Krone acknowledges and understands that he has the right to have his legal counsel review this Agreement, and Krone is advised to consult with an attorney prior to executing this Agreement.

Initials:  
James Krone: JLK

PVSC: [Signature]

Initials:  
James Krone: JLK

PVSC: [Signature]

PVSC: [Signature]

18. No Assignment of Claims. Krone represents and warrants that he has not previously assigned or purported to assign or transfer to any person or entity any of the claims or causes of action herein released.

19. Notices. Any notices called for by this Agreement shall be given in writing, via hand-delivery, overnight delivery, and or facsimile (with a simultaneously mailed hard copy to follow via United States Mail, first class postage pre-paid), as follows:

If to PVSC:

Passaic Valley Sewerage Commissioners  
Attention: Executive Director  
600 Wilson Avenue  
Newark, New Jersey  
Fax:

With a copy to:

Chasan Leyner & Lamparello, PC  
Attention: Ralph J. Lamparello, Esq.  
300 Harmon Meadow Boulevard  
Secaucus, New Jersey 07094  
Fax: (201) 348-6633

If to Krone:

James Krone  
20 Morrell Place  
Garfield, New Jersey 07026  
Fax:

20. Headings. Headings are included herein solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

21. Voluntary and Informed Consent. Krone expressly acknowledges that he has carefully read and understands the terms of this Agreement; that PVSC has advised him to consult with counsel prior to executing this Agreement; that he has had an opportunity to consult with an attorney prior to executing this Agreement; and that he has signed this Agreement voluntarily of his own free will, with a full understanding of its significance and intending to be bound by its terms.

Initials:  
James Krone: JLK

PVSC: [Signature]

IN WITNESS WHEREOF, the parties have executed this Agreement this 21<sup>st</sup> day of MAY, 2007.

Signed in the presence of:

[Signature]  
Witness

[Signature]  
James Krone

Passaic Valley Sewerage Commissioners

[Signature]  
Witness

By: [Signature]  
Title: Executive Director

Initials:  
James Krone: JLK

PVSC: \_\_\_\_\_

November 5, 2009

Via Certified Mail

Mr. Alan A. Rockoff  
Executive Director  
State of New Jersey  
Commission of Investigation  
28 West State Street  
PO Box 045  
Trenton, NJ 08625

Re: Notice of Proposed Report  
Dissemination No. 09-10-018

Dear Mr. Rockoff:

Thank you for the opportunity to respond to the Notice of Proposed Report Dissemination No. 09-10-018. I believe that if the Commission considers the information presented below, it will conclude that the criticism leveled against me, as set forth in the excerpt provided to me, is unwarranted and that no specific personal reference to me is necessary or appropriate.

First, the contract I had with the City of Hoboken expressly provided that as the Chief of Police I was *not* subject to the same one-year limitation on the lump-sum payment for terminal leave and accumulated vacation time that is placed on police officers in the rank of patrolman, sergeant, lieutenant and captain. As correctly indicated in the proposed report, the PBA Local #2 and PSOA Local #2 contract language included a retirement payout limitation not to exceed an amount equal to the officer's salary for one year. That agreement in pertinent part reads:

"An employee shall have the option to accumulate vacation time prior to his retirement. He may accumulate a maximum of three years of vacation. The accumulated vacation time shall be paid in a 100% lump sum payment on retirement or at the employee's request he shall receive this accumulated vacation and all other time on consecutive days just prior to his retirement. The maximum of lump sum payment for terminal leave and accumulated vacation shall not amount to more than a year's salary at the time of the employee's retirement...."

However, the specific provision in my contract addressing terminal leave, vacation pay and compensation excluded this limitation. The relevant language in my contract was in effect since

March 5, 2003, and was in effect at the time of my retirement. The relevant provision states in pertinent part:

"The Chief of Police shall be permitted to carry all vacation time, time owed and compensation time. However, upon retirement, relative to vacation time, he shall only be permitted to sell back to the City of Hoboken three years of vacation days. All other time will be due the Chief of Police upon retirement if not used."

It is important to note that this agreement is a public document, was available for review upon request in the City Clerk's Office as of March 5, 2003 and was in fact given to citizens of Hoboken by the City of Hoboken.

Second, your reference to me being the "one notable exception to the maximum-payout rule" is inaccurate. Please allow me to explain.

1. Upon [NAME REDACTED] retirement, he informed me that his severance package exceeded his yearly salary. In fact, he informed me that he sold back to the City of Hoboken in excess of 300 unused vacation days.
2. At least one other member of the Hoboken Department of Public Safety of which I am aware had the benefit of contract language similar to mine; that is, he was entitled to receive a lump sum payment for terminal leave and accumulated vacation which exceeded a year's salary. It is my understanding that this individual exercised his contractual right and received a lump sum in an amount greater than his annual salary.
3. At least one other member of the Hoboken Department of Public Safety received more compensation than me upon retirement pursuant to a negotiated severance agreement that contained a confidentiality provision like mine which precluded disclosure of the agreement's terms.

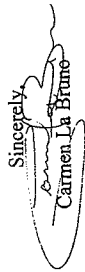
It is important to reiterate that while my severance agreement is confidential, the terms relating to my severance compensation are consistent with and reflect contractual provisions that were available for public inspection. Prior to my retirement, there were occasions when certain aspects of police officers' separation from service were protected from public view. Finally, my decision to retire as Chief of Police and my negotiated severance agreement with the City of Hoboken involved sensitive issues beyond compensation provisions that led attorneys for both sides to conclude that a confidentiality clause was appropriate.

In summary, the compensation I received was consistent with the provisions of the publicly filed agreement I had in place with the City of Hoboken at the time of my retirement. The payment of money upon my retirement for unused terminal leave and vacation time in excess of one year of salary was not unique to me. The City of Hoboken paid me only as much as I was legally and contractually entitled to receive, and I submit there is no cause for the Commission to "criticize" my conduct in its public report. Although retired from the City of Hoboken, I continue to seek employment in the private sector and the personal and inaccurate reference to me in the proposed report will certainly be viewed with disfavor and is further likely to be misconstrued.

Therefore, for the reasons cited above, I respectfully request that the Commission modify its

#1017431

proposed report to exclude references to me personally and to my situation as a "one notable exception." Thanking you in advance for your consideration, I remain

Sincerely,  
  
Carmen La Bruno

**CERTIFICATION**

I certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
Carmen La Bruno

Dated: November 5, 2009

November 10, 2009

RECEIVED

2009 NOV 12 AM 9:39

INVESTIGATION

of [NAME REDACTED]

Thank you again for your time and consideration, I remain

*Via Certified Mail*

Mr. Alan A. Rockoff  
Executive Director  
State of New Jersey  
Commission of Investigation  
28 West State Street  
PO Box 045  
Trenton, NJ 08625

**Re:** Notice of Proposed Report  
Dissemination No. 09-10-018

Dear Mr. Rockoff

Please accept this letter and attachments as a follow-up to my transmittal letter of November 5, 2009. I apologize for not enclosing these documents in my original letter. I requested them in a timely fashion from the City of Hoboken, however, I received them subsequent to the November 5, 2009 mailing of my original letter. These documents, with the exception of Document #5, were provided to me by Mr. Steven W. Kleinman, Corporate Counsel, City of Hoboken.

The official City of Hoboken documents confirm my position as outlined in my November 5, 2009 letter to you. That is, my compensation was consistent with my negotiated contract which is different than the PBA and PSOA contract and I was neither the first nor the last member of the Hoboken Public Safety Department to receive such compensation. I am also not the last member of the Hoboken Public Safety Department to have a confidentiality clause. Again, I respectfully request that you remove all references to me from your proposed report.

An explanation of the documents is as follows:

- 1) Document #1 is the City of Hoboken resolution ratifying my contract and the PSOA contract amendments.
- 2) Document #2 is the amendment to the PSOA contract.
- 3) Document #3 is my contract amendment.
- 4) Document #4 is the contract of recently retired [NAME REDACTED] and contains language identical to mine regarding vacation time, time owed and compensation time. His 2009 separation agreement includes a confidentiality clause.
- 5) Document #5 is a document I located which is a copy of a letter I was ordered to prepare by former [NAME REDACTED] and ordered to submit by former [NAME REDACTED] relative to the retirement

Sincerely,  
Carmen V. La Bruna



sponsored by Joseph LaBruno  
represented by Joseph S. Sherman

**CERTIFICATION**

I certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
Carmine La Bruno

Dated: November 10, 2009

RESOLUTION NO. 03-895

**RESOLUTION AUTHORIZING THE CITY OF HOBOKEN TO ENTER INTO A LABOR CONTRACT WITH THE POLICE SUPERIOR OFFICERS ASSOCIATION (PSOA), and CHIEF OF POLICE**

WHEREAS, the labor contract between the City of Hoboken and the Police Superior Officers Association (PSOA) expired on December 31, 2001; and  
WHEREAS, the employment contract with the Chief of Police expired on December 31, 2001; and

WHEREAS, the City of Hoboken has engaged in negotiations on behalf of the City with the PSOA regarding the labor contract and seek to ratify the labor contract today, to be effective April 3, 2003; and

WHEREAS, the Mayor and Business Administrator have engaged in negotiations on behalf of the City with the Chief of Police and seeks to ratify this agreement today, to be effective April 3, 2003; and

WHEREAS, the terms resulting from said negotiations have been memorialized in the attached correspondence and Memorandum of Agreement between the parties; and

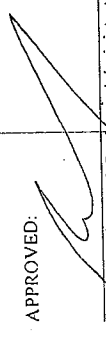
WHEREAS, the City of Hoboken Business Administrator and Chief of Police recommend that the terms memorialized in the attached correspondence and Memorandum of Agreement be incorporated into the labor contract with the PSOA; and

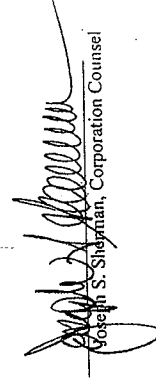
WHEREAS, the Mayor and Business Administrator recommend that the terms memorialized in the attached Memorandum of Agreement be incorporated into the employment contract with the Chief of Police.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hoboken, that:

1. The above recitals are incorporated as if fully set forth at length.
2. The Council hereby authorizes the Mayor or his designee to execute any and all documents and take any and all actions necessary to complete all actions necessary to complete and realize the intent and purpose of this resolution.
3. This resolution shall be effective immediately.

APPROVED:

  
Robert K. Drashteff, Business Administrator

  
Joseph S. Sherman, Corporation Counsel

DATE: March 5, 2003

MEMORANDUM OF AGREEMENT

Between the City of Hoboken and Police Superior Officers Association

1. The contract shall cover a three-year period beginning January 2002 and expire on December 31, 2004.

2. Court Time – Reduce the minimum guarantee from four (4) hours to two (2) hours and increase base pay of all members of the bargaining unit \$1,000.00 effective January 1, 2003.

3. Emergency Leave – Reduce from three (3) occasions of three (3) days each to one (1) occasion of three (3) of the three days per year effective January 1, 2002.

4. Marital Leave – reduced from eight (8) to six (6) consecutive workdays effective January 1, 2002.

5. Blood Days – Effective January 1, 2002; Blood days earned must be used in the first eleven (11) months of the calendar year. Blood days earned in December may be used in December of the first quarter of the following year. In the event an officer is denied the use of a blood day as outlined herein, the day shall accumulate toward terminal leave. The maximum amount of blood days in any year is five (5) days.

6. Bereavement Leave – Delete time off for guardian add spouses grandparents effective January 1, 2002.

7. Vacation – Delete requirement that all police officers will be required to take five (5) vacation days between January 2, and May 1 in the event that a member of the bargaining unit has less than five (5) years of service effective January 1, 2002.

8. Retirement – The City will furnish a retirement badge to any member of the bargaining unit who retires after twenty (20) years of service in good standing and upon return of all issued equipment. This shall be effective January 1, 2002.

9. Tuition Reimbursement – Effective January 1, 2002 the City shall implement a program for reimbursement for college tuition at 100% of the tuition costs at a maximum of \$1,500.00 per semester and \$3,000.00 in a calendar year for all courses completed a grade B or better. The courses must be a part of a degree program in criminal justice or a police related course of study as approved in advance by the Chief of Police and the Director of Public Safety. The following amount shall be added to base pay upon attaining the applicable degree.

Associate Degree	\$2,000.00
Bachelors Degree	\$3,000.00
Masters Degree	\$4,000.00
Doctorate/Law Degree	\$5,000.00

The total reimbursement received by each officer shall be as stated above. Such terms are not cumulative (i.e., officers with a masters degree shall receive a total of \$4,000.00 reimbursement).

10. Work Schedule – See addendum (B); Effective January 1, 2002

11. Longevity – Effective January 1, 2002 amend to provide beginning of the 25<sup>th</sup> year of service, an additional one (1%) and effective January 1, 2003, beginning of the 26<sup>th</sup> year an additional one (1%).

12. Outside Employment Program – Effective January 1, 2002 the Chief will continue to monitor the number of hours earned by bargaining unit members in the Outside Employment Program. The caps on how much an individual bargaining unit member can earn are still in place. The Chief of Police will review all waiver requests of the cap for dire financial emergencies.

13. Medical Benefits – Effective January 1, 2003 add Vision Care Program for retirees.

14. Effective January 1, 2003, change retirement date from April 1 to January 1.

15. Time Off for Same Sex Couple – Effective January 1, 2002; To be eligible to use same sex spousal time off as provided for in this Agreement, the employee bargaining unit member must indicate by sworn affidavit that the bargaining unit member and the employee's life partner 1) have an intimate, committed relationship, 2) have shared the same principal place of residence for at least twelve (12) months and will attempt to do so permanently, 3) the employee and domestic partner are both over age eighteen (18) not married to anyone else, and or not related by blood. To be eligible, the following additional information shall be required: 1) Evidence of joint home ownership or mortgage, 2) designation of the domestic partner as a beneficiary in the employee's will, 3) mutually granted Power of Attorney for property or health care proxies, 4) joint ownership of savings or bank account, 5) evidence of bill paying at the primary residence (electric, telephone etc.)

16. Time off for Participation in Religious Ceremonies – Effective January 1, 2002; The employee shall be relieved if the event occurs during the twenty-four (24) hours of the day the employee is scheduled.

17. Vacancies – Effective January 1, 2002; Article eliminated – In Addition to the deletion of the language, City agrees to increase the base pay of each title by \$1,000.00 effective January 1, 2002 and PSOA agrees to withdraw any and all grievances, including AR – 2002-590.

PSOA Mem of Agree  
2/11/03

PSOA Mem of Agree  
2/11/03

17. **Rank for Replacement** – Effective January 1, 2002; Modify the current language as follows: The city agrees to allow time off to any employee who provides a qualified substitute officer of the same rank within the same Bureau. The Chief shall not unreasonably deny approval of such requests. The Chief retains discretion to approve non-rank for rank replacement (lieutenant for sergeant, for example).

18. **Grievance Procedures** – Effective January 1, 2002; Step 2 – All grievance shall be filed within sixty (60) days of the event that caused the grievance. Step 4. The PSOA must submit the grievance to PERC within thirty (30) days of the denial of the grievance by the Director of Public Safety.

19. **Wages** – Effective January 1, 2002, 2003 and 2004, all members of this bargaining unit shall maintain their rank differential above that of a top patrolman's salary.

20. **Re-opener Clause** – In the event that all contracts between the City and its Unions are settled the re-opener clause shall no longer be effective. The elimination of the re-opener clause shall not be effective until the PSOA has had the opportunity to reopen bases on the final contract between the City and the last union agreeing to eliminate that re-opener.

21. Effective January 1, 2003, The City, at its sole discretion, may waive steps in the rank for those entering their 25<sup>th</sup> year of service.

22. Effective January 1, 2002; The Union agrees to a monitoring program as outlined in Addendum (A).

**Dated:** February 24, 2003

**ATTEST:** CITY OF HOBOKEN

City Clerk \_\_\_\_\_

Approved as to Form: \_\_\_\_\_

Corporation Counsel \_\_\_\_\_

PSOA Mem of Agrec  
2/11/03

by: \_\_\_\_\_  
Business Administrator

HOBOKEN POLICE OFFICERS  
ASSOCIATION

By: \_\_\_\_\_  
PSOA President



DAVID ROBERTS  
MAYOR

**City of Hoboken**  
**Office of Corporation Counsel**  
94 Washington Street  
Hoboken, N.J. 07030  
(201) 420-2058

JOSEPH S. SHERMAN  
CORPORATION COUNSEL



February 12, 2003

Cohen, Leder, Montalbano & Grossman L.L.C.  
1700 Galloping Hill Road  
Kenilworth, New Jersey 07033

ATTN: Bruce Leder, Esq.  
Re: Memorandum of Agreement/PSOA

Dear Mr. Leder:

The attached form of Memorandum of Agreement has been revised based upon the meeting which took place in my office on February 11, 2003. Present were Chief La Bruno and this writer for the City of Hoboken. You were accompanied by Walter Wehrhahn, PSOA President, as well as Daniel LoBue and Mark Competello.

It was agreed that "work day and work week", was Article IX, not Article X in the PSOA contract. It was further agreed that ¶6 of Article IX was to be removed.

It was agreed that "sick leave", Article XXIX; ¶4 (Monitoring) was to be amended to limit monitoring calls to after 6:00 a.m., and not later than 11:00 p.m.

It was further agreed that the following grievances would be withdrawn/dismissed when the parties ratify the memorandum:

1. As to Outside Employment  
[NAME REDACTED]  
[NAME REDACTED]
2. As to Vacancies  
[NAME REDACTED]  
[NAME REDACTED]  
[NAME REDACTED]
3. As to Work Schedule  
[NAME REDACTED]

February 12, 2002  
Re: Memorandum of Agreement/PSOA

Please contact me if you require any additional correspondence.

Yours very truly,

Joseph S. Sherman  
Corporation Counsel



Carmen V. La Bruno  
Chief of Police



CITY OF HOBOKEN  
ONE POLICE PLAZA  
HOBOKEN, NJ 07030-5787



Telephone: (201) 420-2002  
Facsimile: (201) 714-9415

Compensation Agreement for Chief of Police

- Cc: [NAME REDACTED]  
Carmen LaBruno, Police Chief  
[NAME REDACTED]  
[NAME REDACTED]
1. Chief of Police shall receive the same benefits and compensation as those received by members of the Police Superior Officer's Association except as herein modified.
  2. Article X, section one amended to include Chief of Police to receive six vacation days more than next lower rank.
  3. Article III, section 8 amended to read: "blood days" may be "banked" towards retirement pay out.
  4. Article IX, as modified in 2002-2004 contract. Chief of Police shall be required to work his current work schedule. However, all days worked in excess of those worked in Police Superior Officer's Association work schedule shall be "banked" by the Chief of Police towards retirement pay.
  5. Chief of Police will be required to work a 42 hour work week as opposed to current 35 hour work week of Police Superior Officer's Association. All hours worked beyond 42 hours per week shall be carried as compensation time owed to the Chief of Police.
  6. The current compensation plan for the 42<sup>nd</sup> and 42<sup>nd</sup> hour shall remain in effect. However, in the year prior to the Chief of Police's retirement or the year 2010 whichever comes first, this compensation plan shall be "rolled" into the base pay of the Chief of Police.
  7. The Chief of Police shall be permitted to carry all vacation time, time owed and compensation time. However, upon retirement, relative to vacation time, he shall only be permitted to sell back to the City of Hoboken three years of vacation days. All other time will be due the Chief of Police upon retirement if not used.

FILED

MAR - 5 2003

DEPARTMENT

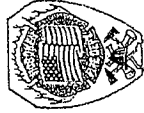


(201) 420-2100  
FAX (201) 714-8415

Police Department  
**CITY OF HOBOKEN, N. J.**  
07030-4585

(NAME REDACTED)

March 26, 1990



DEPARTMENT OF PUBLIC SAFETY  
**DIVISION OF FIRE**  
201 Jefferson Street  
Hoboken, New Jersey  
07030

PHONE (201) 420-2258  
FAX (201) 420-2224

JOHN J. CASSESA  
CHIEF OF DEPARTMENT

**MEMORANDUM of AGREEMENT for FIRE CHIEF**

- Chief of Fire shall receive the same benefits and compensation as those received by members of the Fire Superior Officer's Association Local 1076 except as herein modified.
- Article 10, Vacation. Chief of Fire is to receive six (6) vacation days more than the next lowest rank.
- Chief of Fire agrees to waive compensation for overtime; however, all hours worked beyond the 42-hour workweek of Fire Superiors shall be carried as compensation time owed to the Fire Chief. The Fire Chief presently has 100 days of compensation time due him prior to appointment as Fire Chief. Compensation time owed shall be "banked" by the Fire Chief towards retirement pay.
- Current compensation plan for the Specialization Clause (Article 24-8) shall be added to base pay effective January 1, 2003.
- The Chief of Fire shall be permitted to carry all vacation time, time owed and compensation time. However, upon retirement, relative to vacation time, he shall only be permitted to sell back to the City of Hoboken three (3) years of vacation days. All other time will be due the Chief of Fire upon retirement if not used.
- The Chief of Fire shall receive all benefits, compensation and salary increases negotiated or awarded to members of IAFF Local 1076 retroactive to January 1, 2003.
- The Chief of Fire and the City of Hoboken agree to maintain the provisions of this agreement until such time as a successor agreement is in place.
- All other rights, benefits and privileges established by past practice are protected by this agreement without specifications herein.

Director Thomas M. Kennedy, Sr.  
Department of Public Safety  
City Hall  
Hoboken, N.J.

RE: RETIREMENT BENEFITS DUE  
AS PER WORK CONTRACT -

Dear Director Kennedy:

Please be advised, relative to the retirement of (NAME REDACTED) effective March 1, 1990, his records indicate the following:

1. Accrued Vacation Time:

1981-82	-	13 days
1982-83	-	34 days
1983-84	-	37 days
1984	-	37 days
1985	-	43 days
1986	-	40 days
1987	-	40 days
1988	-	40 days
1989	-	40 days
1990	-	40 days
Total	=	364 Vacation days

*10 if approved*

- Terminal Leave - appointed January 1946 = 44 years, 44 years x 5 consecutive days = 220 consecutive days.
- Retirement Stipend = \$2,000.00
- 1990 Clothing Allowance @ \$50.00 per month = \$100.00
- 1990 Sick Incentive Pay @ \$33.00 per month = \$66.00


Very truly yours,

CARMEN LA BRUNO  
CAPTAIN

I received payment for 54.3 accumulated vacation days, 381.5 hours (54.5 days) of accumulated sick days and 38.4 accumulated personal days. The payments under each of those categories were consistent with the cap limits set forth in the applicable Policies & Procedures Manual and the "White Collar Contract".

Please include this response in your report.

I certify and affirm that all the foregoing statements are true to the best of my knowledge and belief. I understand that if any of the above statements are willfully false, I am subject to punishment.

  
Steven Levinson

Attachments

76 Yacht Club Drive  
Lake Hopatcong, NJ 07849  
October 30, 2009

State of New Jersey  
Commission of Investigation  
28 West State Street, P.O. Box 045  
Trenton, New Jersey 08625-0045

Attention: Allan A. Rockoff,  
Executive Director

Re: Notice of Proposed Report  
Dissemination No. 09-10-019

Dear Mr. Rockoff,

I received your October 23, 2009 letter which enclosed a portion of the above referenced report that specifically named me and the circumstances surrounding my retirement in a critical context. Please accept this letter, signed under affirmation and certification as required, as the written response to that passage. The retirement benefits paid to me by Rockaway Township were and are consistent with the provisions of Rockaway Township's Policies & Procedures Manual and, to the extent applicable, the "White Collar Contract" effective January 1, 2004 through December 31, 2008. Copies of the relevant portions of those documents are attached.

Although there are enhanced retirement benefits for employees hired prior to December 31, 1998 (I was hired in 1981), the retirement benefits that I received were consistent with the less generous provisions of the applicable Policies & Procedures Manual and "White Collar Contract" for employees hired after December 31, 1998.

Contrary to the information set forth in Footnote 19, the "White Collar Contract" and Policies & Procedures Manual permit at retirement a maximum benefit of 75 accumulated vacation days, 1,500 hours (214.3 days) of accumulated sick time, and 75 days of accumulated personal days.

10/19/09

TOWNSHIP OF ROCKAWAY  
EXECUTIVE SESSION  
MAY 5, 1981

Mr. Sternlicht moved to go into Executive Session to discuss personnel and interview the Health Director.

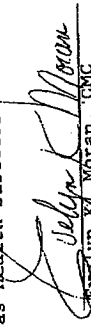
Mr. Galdon seconded the Motion.

ROLL CALL:

Mr. Hendrickson, yes; Mr. Wojtaszek, yes; Mr. Hantman, yes; Mrs. Small, yes; Mr. Geppert, yes; Mr. Galdon, yes; President Clark, yes.  
Dr. Shellenberger was absent.

At this Executive Session the Council interviewed Steven C. Levinson for the position of Health Director in the Township of Rockaway. The Council discussed with Steven his thoughts on the present water problems we have, and discussed with him his ability to handle these problems. Steven expressed confidence that he could handle the situation, and would be most active in trying to solve it.

At the conclusion of the Executive interview, the Council went back into formal session and engaged Steven C. Levinson as Health Director for the Township of Rockaway.

  
Evelyn M. Moran, CMC  
Township Clerk

TOWNSHIP OF ROCKAWAY  
MAY 5, 1981

APPOINTMENTS:

MAYOR TO APPOINT HEALTH DIRECTOR WITH ADVICE & CONSENT OF COUNCIL:  
This will be discussed in Closed Session immediately after this Regular Council Meeting.

CITIZEN LIAISON COMMITTEE FOR COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT:

Mayor Bishop made the following appointments

to this COMMITTEE:

DAVID WASHINGTON (1 person from Planning Bd.)  
CARL MILLER (1 person from Environmental Comm.)  
-- (1 person from Board of Adjustment)

Mayor Bishop commented the Board of Adjustment person will be filled shortly.

Mrs. Hantman asked are these your recommendations or are they from the Chairmen of these Committees? She wanted these names cleared with the Chairmen before the Appointments are made.

Mayor Bishop agreed this was fine with him.

Mayor Bishop, at this time, officially appointed NANCY STUDDI

to the Environmental Commission to replace PETER FOX whose term expires in 1983.

HIGHLAND WATERSHED ASSOCIATION REPRESENTATIVE:

This will be kept on the Agenda. This is a Council President's Appointment.

AGREEMENT

Between

TOWNSHIP OF ROCKAWAY  
MORRIS COUNTY, NEW JERSEY

and

MORRIS COUNCIL VI, N.J.C.S.A.  
(White Collar)

ARTICLE XII  
HOLIDAYS AND PERSONAL DAYS

1. There shall be twelve (12) paid holidays accorded to each employee in this bargaining unit. The following shall be observed by the Township as official holidays:

- |                        |                        |
|------------------------|------------------------|
| New Year's Day         | Martin Luther King Day |
| President's Day        | Good Friday            |
| Memorial Day           | Independence Day       |
| Labor Day              | Columbus Day           |
| Veteran's Day          | Thanksgiving Day       |
| Day After Thanksgiving | Christmas Day          |

If a holiday falls on a Saturday, it shall be observed on the preceding Friday.

If a holiday falls on a Sunday, it shall be observed on the following Monday.

2. In addition to receiving pay for the above holidays, employees shall be granted five (5) personal days with pay during each year of this three (3) year contract. Personal days may be carried over from year to year in accordance with the procedures established for the carry over of vacation time as set forth in Article XVII, Vacation.

3. In addition to the enumerated holidays, the employees shall receive any special unscheduled federal, state, or local holidays declared by The President, the Governor or the Mayor on a one-time basis.

January 1, 2004 through December 31, 2008

WC-18



capable of performing his normal duties and that his return will not jeopardize the health of other employees.

7. Upon cessation of employment with the Township of Rockaway, employees with twenty-five (25) or more years of service shall receive full payment for all unused sick time. Any employee with less than twenty-five (25) years of service shall receive one-half (1/2) pay for all unused sick time. These provisions are subject to the limitations of Paragraph 7A herein.

A. Employees shall continue to be compensated for a maximum of 1,500 hours of unused sick time that has been accumulated by the employee. While additional sick hours may be accumulated the employee will not be compensated for these additional hours in accordance with Paragraph 7, above. The employee will be able to sell back additional hours as stated below in paragraph 8. Current employees with more than 1,500 hours of unused sick time accumulated through 1998, will be permitted to cap their sick time at the level they will reach as of December 31, 1998.

8. The Township agrees to continue a deferred compensation plan, wherein excessive sick, vacation, and/or personal time may be applied thereto or reimbursed to the employee. An employee may not sell back more than a total of twenty five (25) accumulated days per year. The total may include any combination of sick, vacation and/or personal time. The employee must notify the Business Administrator, in writing, no later than November 1<sup>st</sup> of the prior year as to how many days will be sold back. Reimbursed time will be payable within ninety (90) days after the budget is adopted by the Rockaway Township Council. A sick leave bank of sixty (60) days must be maintained by each employee to receive benefits cited above.

WC-24

ARTICLE XVII

VACATION

1. The following vacation schedule will be in effect for the length of this Agreement.

First Year of Service	-	One (1) day per month of service
One to Five Years	-	Twelve days per year
Sixth Anniversary to Tenth Anniv.	-	Fifteen days per year
Eleventh Anniversary	-	Sixteen day per year
Twelfth Anniversary	-	Seventeen days per year
Thirteenth Anniversary	-	Eighteen days per year
Fourteenth Anniversary	-	Nineteen days per year
Fifteenth Anniv. to Twentieth Anniv.	-	Twenty days per year
Twenty-first Anniversary	-	Twenty-one days per year
Twenty-second Anniversary	-	Twenty-two days per year
Twenty-third Anniversary	-	Twenty-three days per year
Twenty-fourth Anniversary	-	Twenty-four days per year
Twenty-fifth Anniversary or greater	-	Maximum of Twenty-five days per year

2. Ten (10) Vacation days per year must be used by all employees. Employees will be allowed to carry over a maximum of seventy-five (75) unused Vacation days from year to year.

Employees with more than seventy-five (75) unused Vacation days saved through December 31, 1998 will be permitted to cap their Vacation Day levels at their 1998 year end level. The sell back of vacation days does not constitute the utilization of ten (10) vacation days per year.

WC-27

**VACATION DAYS**

**FULL-TIME CLASSIFIED EMPLOYEES:** Unless otherwise specified by applicable union contract, full-time classified employees of the Township of Rockaway will receive annual vacation leave as follows:

During 1 <sup>st</sup> year of service:	1 day per month of service
Upon completion of:	12 days per year
1 - 5 years	15 days per year
6 - 10 years	15 days + one additional day for
10 - 25 years	each year of service with a
	maximum of 25 days per year.

(For police, a "day" is equal to eight hours.)

Ten (10) vacation days per year must be used by all employees. Employees will be allowed to carry over a maximum of seventy-five (75) unused vacation days from year to year. Employees with more than 75 unused vacation days saved through December 31, 1998 will be permitted to cap their vacation day levels at their 1998 level. The sellback of vacation days does not constitute the utilization of 10 vacation days per year.

**PERMANENT PART-TIME CLASSIFIED EMPLOYEES:** Unless otherwise specified by applicable union contract, permanent part-time classified employees of the Township of Rockaway will receive vacation leave in accordance with the following formula:

$$\begin{array}{r} \text{No. Hours worked} \\ \text{per week} \end{array} \times \frac{\text{Vacation hours per year for full-time}}{\text{employee, in accordance with years of service}} = 1$$

(or 40 hours Blue Collar or per Union Contract)

i.e. Part-time employee works 13.5 hours a week (4.5 a day) and has 1 year of service.

$$\frac{13.5}{35} \times \frac{84}{1} = 32.4 \text{ hours}$$

$$\frac{32.4 \text{ hours}}{4.5 \text{ hours}} = 7 \text{ part-time days vacation}$$

**FULL-TIME UNCLASSIFIED EMPLOYEES:** Full-time unclassified employees of the Township of Rockaway will receive annual vacation leave as follows:

1. a minimum of 20 vacation days per year prorated on annual basis
2. employees exceeding 20 years of service shall accrue additional vacation time in accordance with classified employees

1. The date of employment with the Township of Rockaway, unless interrupted by resignation, removal or retirement, will determine the number of years of service for vacation purposes.

2. Requests for vacations shall be made, in writing, to the Department Head. Employees shall schedule their vacation, with their Department Head, at least two weeks in advance.

3. Vacations shall be approved by the Department Heads in accordance with the best interest and needs of the Township of Rockaway.

4. If a conflict should occur where more than one employee desires the same time off, the order of request shall prevail. If requests are submitted simultaneously, seniority in the department shall prevail. However, in any instance proper staffing of the units of the department must take precedence over all other considerations in scheduling vacations.

5. Advance salary for vacation leave:
1. may be paid upon request to the Finance Department;
  2. requests are to be made at least two (2) weeks in advance;
  3. advance salary may be paid prior to the scheduled vacation.

6. Accrued vacation leave shall be compensated for upon the separation of an employee, either voluntarily or involuntarily, from the service of the Township of Rockaway.

7. Vacation time for all employees shall be utilized on the basis of a full work day off rather than on an hourly basis unless otherwise approved by Department Head.

8. Where in any calendar year the vacation or any part thereof is not granted by reason of pressure of municipal business such vacation periods or parts thereof not granted shall accumulate as approved by the Business Administrator.

**SICK TIME**

Full-time employees will receive one working day of sick leave for every month of service during the remainder of the first calendar year of service following permanent appointment and 15 working days in every calendar year thereafter, accrued at a rate of one and one-quarter (1 1/4) working days per month worked for each calendar month of employment. (Ten (10) working days for which pay is received shall constitute a month's service for purposes of this Article). There is no limit to the accumulation of sick leave. In accordance with Civil Service law, sick time shall be advanced at the beginning of the year in anticipation of continued employment.

Part-time employees will receive sick time in accordance with the following formula:

$$\frac{\text{No. of hours worked per week}}{35 \text{ or } 40 \text{ hours}} \times \frac{\text{Sick leave hours per year for full-time employee, in accordance with months of service}}{1}$$

1. Employees shall notify their Supervisor or Department Head of absence due to illness prior to starting time.
2. Failure to notify one's Supervisor or Department Head may be cause for denial of sick leave for that absence and may constitute cause for disciplinary action.
3. An employee who is absent on sick leave for five (5) or more consecutive working days may be required to submit a medical certificate from a physician substantiating the illness. (See Chapter II, "Returning to Work Following Sickness, Accident or Injury" for appropriate procedures.)
4. Department Heads shall notify the Business Administrator of the duration and nature of sick leave by employees.
5. Upon cessation of employment with the Township of Rockaway, each and every employee will be paid one-half (1/2) pay for unused sick time. Employees with twenty-five (25) or more years of service with the Township of Rockaway shall receive full payment for all unused sick time within their specified cap.
6. Non-police employees hired after November 1, 1999, shall not receive payment for accrued unused sick time under any circumstances.

#### PERSONAL DAYS

Full-time employees shall be granted five (5) Personal Days (Floating Holidays) per year, which shall be earned in the first year, in accordance with the following schedule:

- Completion of 3 months service one personal day
- Completion of 5 months service two personal days
- Completion of 7 months service three personal days
- Completion of 9 months service four personal days
- Completion of 10 months service five personal days

Part-time employees shall be granted Personal Days in accordance with the following formula:

$$\frac{\text{No. of hours worked per week}}{35 \text{ or } 40} \times \frac{\text{Personal leave hours for full-time employees in accordance with months of service}}{1}$$

1. Requests for Personal Days should be made, in writing, to the Department Head at least three (3) working days in advance of the requested Personal Day.
2. Department Heads will approve requests which do not unduly conflict with the needs of the Township of Rockaway nor the scheduling requirements of the Department.
3. Accrued Personal Days shall be compensated for upon the separation of an employee, either voluntarily or involuntary, from the service of the Township of Rockaway.

#### SEPARATION PAY - ACCUMULATED SICK, VACATION AND PERSONAL TIME

The Township of Rockaway shall compensate employees at separation for their accumulated sick, vacation and personal time in accordance with contract requirements. The employee shall notify the Business Administrator in writing no later than November of the preceding year of intended separation in order to receive compensation in the following year.

#### MEDICAL BENEFIT PLANS

The Township of Rockaway will provide medical insurance coverage as provided by the New Jersey State Health Benefits Program for all employees and their families.

Additionally, the Township makes available to eligible employees a Dental Plan, a Vision Plan and a Prescription Drug Plan, Temporary Disability Plan and a Life Insurance benefit coverage.

Specific information regarding these benefit plans will be provided to each employee upon hiring and whenever the plans are updated or revised.

#### LIFE INSURANCE

The Township of Rockaway shall provide a Life Insurance Plan for all employees working thirty (30) hours or more per week in addition to the Group Life Insurance Plan available under the New Jersey Public Employees Retirement System and the Police and Fire Retirement System in accordance with labor contracts.

1. Full-time employees and part-time employees who work 30 hours or more per week will become eligible for participation in the Municipal Life Insurance Plan on the day following completion of two (2) months continuous employment.
2. During an employee's first year of membership in the Public Employee's Retirement System, he/she is required, by Statute, to participate in the System's Contributory

**LEVINE STALLER** attorneys at law  
 Levine, Staller, Sklar, Chan, Brown & Donnelly, P.A.

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 Atlantic City, N.J.  
 08401-6380  
 (609) 348-1300  
 www.levinestaller.com

RECEIVED

2009 NOV 10 AM 10: 51

JOHN M. DONNELLY  
 jdonnelly@levinestaller.com  
 Fax: 609-347-1166

November 9, 2009

Steven Levinson #190 Jun-81

	Vacation	Personal	Sick
2008 Ending Balance	355.00	253.00	525.00
Earned for 2007	175.00	35.00	105.00
	530.00	288.00	630.00
Used during 2007:			
PP#1 12/23-1/2/31	28.00		
PP#1 1/1-1/5			
PP#2			
PP#3			
PP#4	7.00		
PP#5			
PP#6			
PP#7			7.00
PP#8			
PP#9	28.00		
PP#10			
PP#11			14.00
ACCU VAC pp12			175.00
PP#12			
PP#13			
PP#14			
PP#15			
PP#16			
PP#17			
PP#18			
PP#19			
PP#20			
PP#21			
PP#22			
PP#23			
PP#24			
PP#25			
PP#26			
2007 Balance	467.00	290.00	434.00
	(87.00)	(21.00)	(52.50)
2007 HOURS USED	380.00	269.00	361.50
	35.00		21.00
RETIRE 6/1/07			380.00
subtract 6 months			269.00
minus 87 vac hours			361.50
minus 21 pers hours			1,030.50
minus 52.5 sick hours			

**VIA FEDERAL EXPRESS N.D.A.**  
 Alan A. Rockoff, Executive Director  
 State Commission of Investigation  
 28 W. State Street  
 10<sup>th</sup> Floor  
 P.O. Box 045  
 Trenton, NJ 8625-0045

RE: Investigation into Contracts – Statement of John Mooney, III

Dear Director Rockoff:

Please accept this letter as the official statement of Chief John J. Mooney of the Atlantic City Police Department. Your letter was received on October 27, 2009.

I have been an Atlantic City Police Officer since November 17, 1975. During my 34 years of service to the City of Atlantic City I have served in virtually every capacity in the Department, including Executive Officer for Operations, Patrol Platoon Commander, Narcotics Unit Commander and Legal Affairs Officer.

The Atlantic City Police Force currently constitutes 375 officers and 140 civilians for a total complement of 515 employees. I manage our agency with a budget in excess of \$42 million not including the cost of employee health care and pensions. I maintain a working relationship with other local, county, state and federal law enforcement agencies that have an interest in our municipality. I have officers detailed to the Atlantic

10/19/09

County Major Crimes Squad, the FBI Resident Agency and the US Marshal's Regional Fugitive Task Force.

Under my leadership our agency has been engaged in multiple long term investigations resulting in the arrest of notable defendants for both state and federal charges. Our agency is designated an Operation Cease Fire participant by the State Attorney General's Office. Although the population of Atlantic City is in the range of 40,000 persons, over 30 million visitors visit the city annually. On any given weekend night the City's population is many times multiple of the actual population. Additionally, during the summer, the City's population expands to an estimated 250,000 people per day. I serve as Incident Commander for the Annual Atlantic City Air Show that draws as many as 750,000 people to our municipality in one afternoon. Thus, the City of Atlantic City during the summer and on weekends/holidays becomes a significantly sized city for the State of New Jersey.

During the course of my employment with the City, I have received several citations and commendations. Among those include the following: Combat Cross citation, Life Saving citation, four Exceptional Duty citations, Meritorious Service citation, Chief's Achievement citation, First Class Certificate of Valor, two PBA Certificates of Commendation, Legion of Honor Membership in the Chapel of Four Chaplains, Police Officer of the Year Award from VFW Post 215, Chief Harry Wilde Academic Achievement Award from the NJSACOP. I have also attended the top law enforcement training programs in the United States. I am a graduate of the 193<sup>rd</sup> Session of the FBI National Academy, the 54<sup>th</sup> Session of the FBI Law Enforcement Executive Development Seminar (LEEDS), the NJSACOP West Point Command & Leadership

Program. I have also attained the New Jersey Certified Public Manager (CPM) designation.

I am an active member of the FBI National Academy Associates, the FBI-LEEDA, The Atlantic County Association of Chiefs of Police, South Jersey Police Chiefs Association, the New Jersey State Association of Chiefs of Police and the International Association of Chiefs of Police.

On or about December 6, 2006, I took the examination for Chief of Police for the City of Atlantic City. My score on such examination was 88.310. I outscored the other two individuals seeking the position by the amount of 1.08 pts and 4.25 pts, respectively.

As a result of the Civil Service examinations, I was appointed Chief of Police on March 1, 2007 with permanent NJDOP<sup>1</sup> status. Please note that I served as Acting Chief of Police from December 27, 2005 until April 7, 2006, when I was sworn in as Chief of Police with provisional NJDOP status. As a result of a challenge by two other Eligibles in NJDOP (Dockets Nos. 2007-1308 and 2007-1317), my permanent appointment was delayed for approximately one year. My prior appointment to the rank of Deputy Police Chief with an effective date of January 1, 2005 had additionally been delayed and subject to challenges in NJDOP (Docket No. 2006-1318) and Superior Court (Docket No. L-2875-05) and was not recorded until March 17, 2006.

---

<sup>1</sup> Department of Personnel now known as "Civil Service Commission"

[TEXT DELETED]

On or about June 20, 2008, I entered into negotiations with the Evans Administration with regard to a contract for my services. Traditionally, the Atlantic City Police Chief has had a contract with the City. My [NAME REDACTED] had, to my memory, contracts that ran from May 2000 to April 2006. I also understand, but am not certain, that Police Chiefs who served prior to [NAME REDACTED] also had contracts with the City.

The negotiations of my contract were held between my attorney and the attorneys for the City of Atlantic City and various representatives for the City of Atlantic City Administration depending upon which negotiation session and issue was involved. The negotiations spanned over a period of approximately five months (July through November 2007). Thus, the final agreement contract was fully negotiated.

One delay in reaching an agreement was the City's position that although it had paid me for my accumulated leave in April 2006 and was granting me unlimited annual sick and vacation time with the agreement and expectation of no further accumulation, it also sought to insert an annual 15 days per year sick leave in my agreement. This, I understand was because the City believed that existing regulations required that all employees be allotted at least 15 days of sick leave annually. (See NJAC 4A:6-1.3(a)2

and NJAC 4A:6-1.3(f) for the City's rationale in reinstating my ability to accumulate sick leave). In order to cap further payout, I agreed to set a \$15,000.00 limit on any accumulated sick leave I would accrue in the future. I understood this to be was consistent with the existing New Jersey State government personnel practice. On November 3, 2007, my contract was signed by Mayor Scott K. Evans on behalf of the City of Atlantic City and I have been operating under same since then.

I understand that the Commission's concern is compensation for accumulated sick leave. I want to specifically address that as follows:

First, as you note in your report, the compensation provisions are, I understand, contained in the PBA/City Atlantic City Police Superior Officers' Contract. Upon my appointment to provisional Chief in April 2006, I was entitled to a continuation of the sick leave buy-out procedure that was contained in both the City/PBA and the AC Police Superior Officers collective bargaining agreements. At the City's request, and in conformity with a practice adopted upon the elevation of (now retired) [NAME REDACTED] to Fire Chief, I accepted a payout of my sick leave, vacation and compensatory leave to be paid out at the rate (\$561.30 per day) equivalent to the pre-promotion rank of Deputy Police Chief at a substantial savings to the City of Atlantic City. I also insisted on limiting my buyout to 390 days limit in the then PBA Agreement. This, although other offers had been allowed more days of terminal leave.

I received a total net payout of \$155,024.00. Please also note that the "special provision" you noted in your report was "embedded" in my contract was in fact i) the result of a settlement of litigation; ii) consistent with the buyout provisions provided to all recent retiring officers that I am aware of; and iii) hardly "embedded" as it appears on

the first page of the agreement which was negotiated by the administration and approved by the City Council.

Note also that I received the payout in a year in which I remained actively employed, resulting in a significant tax disadvantage to both myself and my spouse, as we filed joint returns. Further, by paying my leave at the lower rank (Deputy) in 2006, rather than at my Chief rate, the payout was reduced by approximately \$144,402, which I would have received had I received the payout at the end of 2012 when my current contract with the City expires. Also, please note that this estimate assumes no additional accumulation of sick, vacation and compensatory time, even though my predecessor was receiving an additional 20 compensatory days per year. I declined this policy when my current agreement was negotiated. Had accumulation and payout of that additional compensatory time been included, an additional liability to the City of approximately \$106,362.00 would have resulted. The total of the two savings is \$250,764 essentially an amount equal to what I was paid in 2006.

The current agreement that I have is similar to the agreement of my (NAME REDACTED)

However, my understanding is that (NAME REDACTED) contract provided for several benefits that I do not enjoy, including the above noted ability to accumulate an additional 20 compensatory days per year and four personal days per year. I understand that those accumulated days were paid out at the salary level (Chief) at time of retirement as opposed to my situation were previously accumulated days were paid out at my Deputy Chief salary level.

I believe it is unfair on the part of the State Commission of Investigation to attempt to single me out for criticism of a practice that has been in place in New Jersey

municipalities from the early 1970's when the first collective bargaining agreements were established pursuant to changes in PERC law. Following that change, municipal governments entered into agreements with their employees that in effect created deferred compensation in the form of accumulated sick and vacation leave payout at retirement to avoid the fiscal concerns of overtime costs associated with replacing absent employees. Similarly, while entry level salaries remained low well into the 1980's, municipal employees maintained relatively better health benefits than available in the private sector. This was a tradeoff in the negotiation strategies of both the municipalities and the employee unions.

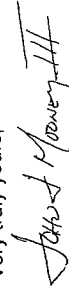
The accumulation of leave time has in the past acted as a motivating factor to encourage qualified persons to remain in public service and conversely, some payouts have been made to encourage persons to retire early. These concepts are not novel to Atlantic City or to me and I believe it is unfair to criticize me personally for a system of incentives I did not create.

I am a member of a proud family of public safety professionals. My father was a police officer before me. His starting salary was \$2,400.00 per year in 1947 with no paid overtime and six 12-hour days per week each summer. My starting salary was \$6,200.00 in 1975 and we were not at that time paid overtime for court appearances. In my 34 honorable years of service to the City of Atlantic City I have seen salary and benefits rise to a level that do indeed warrant public concern and discussion. Without question, the salaries and benefits paid to today's professional police and firefighters have risen dramatically. Starting salaries are approximately \$50,000 with paid overtime for extra work and court appearances.

However, that relatively recent situation should not serve as a basis for personal criticism leveled at me and my contract. Moreover, in reviewing what the appropriate level of compensation should be, please do not discount the tremendous burden that public safety professionals shoulder on behalf of the people they serve and protect. During my career, I survived a shootout that left one of my fellow officers killed in the line of duty. I have been called upon to handle incidents involving multiple fatalities due to criminal homicide, motor vehicle crashes and building collapses. I was the Police Incident Commander during the response to the tragic Tropicana garage collapse as just one example that killed four men and injured 50 others. I also suffered a tragedy of both professional and personal magnitude when my nephew, a third generation public safety professional in our agency, was struck and killed by a bus while directing traffic at a motor vehicle crash scene in 2005.

I hope this statement gives you some incite into the facts and circumstances surrounding my particular case. Thank you for providing me the opportunity to submit this statement.

Very truly yours,

  
JOHN MOONEY, III

LEVINE, STALLER, SKLAR, CHAN,  
BROWN & DONNELLY, PA  
3030 Atlantic Avenue  
Atlantic City, NJ 08401  
(609) 348-1300; Fax: (609) 345-2473

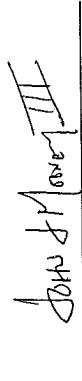
IN RE  
PROPOSED REPORT  
Dissemination No.: 09-10-021

AFFIDAVIT OF  
JOHN J. MOONEY, III

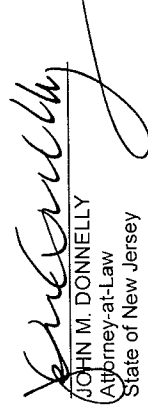
John J. Mooney, III, of full age, being duly sworn according to law, upon his oath, deposes and says:

1. The facts contained in the attached letter to Alan A. Rockoff, Executive

Director, State Commission of Investigation dated November 9, 2009 are true and correct.

  
JOHN J. MOONEY, III

Sworn to and Subscribed  
before me this 9<sup>th</sup> day of  
November 2009.

  
JOHN M. DONNELLY  
Attorney-at-Law  
State of New Jersey



APRIL & MAUDSLEY, P.A.

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INVESTIGATION

JEFFERY A. APRIL  
MARY J. MAUDSLEY  
JANICE A. CIALLELLA  
MARLA MARINUCCI

November 9, 2009

State of New Jersey  
Commission of Investigation  
28 West State Street  
PO box 045  
Trenton, New Jersey 08625-0045  
ATT: Alan A. Rockoff, Executive Director

RE: Notice of Proposed Report  
Dissemination No.: 09-10-028  
My Client: Stephen Sykes

Dear Mr. Rockoff:

Please be advised that I represent Stephen Sykes and have had occasion to review with him your correspondence of October 23, 2009 has lead me to submit a response and relevant factors for hopefully your inclusion in the report.

Stephen was a 32 year officer with Avalon Police Dept. having started in 1975 and went from the rank of Patrolman to Chief of Police. Stephen was a dedicated police officer and but for cancer striking him in 2006, he probably would still be the Chief of Police in Avalon as his retirement was medically necessary.

When Stephen was Chief of Police for the Boro of Avalon, his only administrative officer was a Captain. There was no Lieutenant or Administrative Sergeant. Because of that fact, Stephen was limited in being able to take vacations, holidays and even taking time off from work when he was ill.

When Stephen left the Boro on August 31, 2007, it was necessary for medical reasons as he was being treated for lung cancer. Stephen was being treated for lung

Page Two  
November 9, 2009

cancer starting on December 6, 2006 when he was diagnosed. On January 1, 2007, after discussing this matter with Boro Officials, it was determined that he would go on extended sick leave since he had extensive sick leave built up over the years and he did not want to go on disability. In early March 2007, it became apparent to Stephen that he was not going to be able to return to his position as Chief of the Avalon Police Dept. and he gave the City six months notice that on March 1, 2009, that he would be retiring on August 31, 2007.

When Stephen met with Boro Officials it was determined, jointly, that a lump sum payout of his remaining benefits would be made.

It appears that there was nothing unusual between the contract with Stephen Sykes and the Boro of Avalon as many Chiefs of Police have similar contracts.

It had been Stephen's hope to return to work and remain Chief of Police in Avalon for the rest of his life.

I have advised Mr. Sykes that he is not to reveal the contents of your letter of October 23, 2009 nor the one page of records (with text deletions) with anyone other than myself as his attorney.

Very truly yours,  
Jeffery A. April  
Jeffery A. April

JAA/mar  
Cc: Client







*State of New Jersey*  
*Commission of Investigation*  
*609-292-6767*  
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