



**STATE OF NEW JERSEY
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February 25, 2010

MEMORANDUM

TO: Commissioners

FROM: Ira W. Mintz
General Counsel

SUBJECT: Supplemental Report on Developments in the Counsel's Office Since January 28, 2010

Other Cases

In PBA, Local No. 11 v. City of Trenton, App. Div. Dkt. No. A-2303-08T3 (2/24/10), a split panel of the Appellate Division reversed a trial court decision that had vacated an arbitration award sustaining a grievance. The grievance claimed that the City violated the parties' contract by requiring police officers and detectives to report ten minutes before their shifts for muster without additional compensation. The arbitrator sustained the grievance finding that: (1) the contract addressed this time period stating that it would not be eligible for overtime compensation; and (2) only one section of the contract provided that the officers were not to be compensated for a specific activity: certain training. The arbitrator concluded that the officers were to receive straight-time for the ten-minute muster period. The Law Division Judge found that the arbitrator rewrote the contract and that the matter was not "debatable, at all." The majority opinion reversed, finding that the arbitrator's interpretation of the contract was "reasonably debatable" given the actual text of the contract and fundamental principles of construction, and did not violate any clear mandate of public policy. Accordingly, it was entitled to deferential treatment. The dissenting opinion found the arbitrator's conclusion to be illogical and inconsistent with the contract. Because there was a dissenting opinion, the City has a right of appeal to the New Jersey Supreme Court.