



STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT  
RELATIONS BOARD

2008 AUG 13 A 11: 39

In the Matter of the Fact-Finding Between:

Ohio Patrolmen's Benevolent Association	)	
	)	
and	)	Case No. 07-MED-06-0679
	)	
Delaware County Sheriff	)	
	)	

APPEARANCES:

*For the Union:*

Joe Hegedus, Union Representative  
Chris Burden, Sergeant

*For the Sheriff:*

Christina Corl, Employer Representative  
Walter C. Davis, III, Delaware County Sheriff  
Judy Fransen, assistant to sheriff  
Pat Freeman, administrative assistant

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Before Sarah Rudolph Cole, Fact-finder

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**REPORT AND RECOMMENDATIONS**

The parties to this Fact-Finding proceeding are the Ohio Patrolmen's Benevolent Association (the "Union") and the Delaware County Sheriff ("Sheriff" or "Employer"). The

bargaining unit consists of full-time regular deputy sheriffs at the rank of Captain, Lieutenant and Sergeant. There are two captains, one lieutenant and eight sergeants. For purposes of this report, the bargaining unit at issue will be described as “supervisors”. The collective bargaining agreement (“Agreement”) discussed in this report is the first agreement between the two parties following the State Employment Relations Board’s certification of the bargaining unit on May 22, 2007.

The parties filed a timely notice to negotiate on June 15, 2007, but negotiations did not commence in part because of the appointment of a new sheriff, Walter C. Davis III, and because of the appointment of new counsel by the new sheriff.

The fact-finding hearing took place on July 24, 2008 and was conducted in accordance with Ohio Collective Bargaining Law and applicable SERB Rules and Regulations. Mediation successfully resolved some issues. The remaining issues were submitted for fact-finding. The fact-finder addresses both the resolved and unresolved issues in her underlying report. The following issues are discussed: Article 6, Article 7, Article 15, Article 16, Article 19, Article 22, Article 23, Article 24, Article 25, Article 27 (wages and longevity) and Article 31.

Fact-finders must consider the criteria articulated in Ohio Revised Code § 4117.14(C)(4)(e) and Ohio Administrative Code § 4117-9-05(K) when making a decision.

Criteria to be considered are:

- (a) past collectively bargained agreements, if any, between the parties;
- (b) comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

- (c) the interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (d) the lawful authority of the public employer;
- (e) the stipulation of the parties;
- (f) such other facts, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution proceedings in the public service or private employment.

## **FACT-FINDING REPORT AND RECOMMENDATIONS**

### **Article 6 - Corrective Action and Records**

The parties agree that section A4 should read, “A suspended employee may use comp time, holiday time, vacation time, and personal time in lieu of suspension being taken without pay at the discretion of the Sheriff. If the use of such paid leave in lieu of suspension is approved by the Sheriff, the employee shall actually work the suspension time, being paid by a deduction from the above accrued leave(s).”

### **Article 7 -Discipline Meetings**

The parties agree that section D should read, “When the CVSA is administered to a Supervisor, it will not be administered by a Deputy of lesser or equal rank. If there is no Deputy of greater rank qualified to administer the CVSA, the CVSA will be administered by an outside law enforcement agency, not an employee of the Delaware County Sheriff’s Office.” The parties

agree that section J should have an additional sentence that states, "If a tape recording is made, the Employee shall provide a copy to the Sheriff."

#### **Article 15 - Miscellaneous**

The parties agree that the language on trading shifts and assignments should remain the same. The language should read, "An employee may trade regularly scheduled work hours with another employee and he may trade days off with another employee provided that the days off traded must occur within the same pay period. In the event of any problems associated with the trade, the trade must be approved in writing by the Sheriff or his designee."

#### **Article 16 - Uniform Allowance**

The only issue in the uniform allowance article is whether the detective-supervisor and/or task force supervisor should receive an allowance to support the purchase and maintenance of plain clothes for their service as supervisors.

Union position

The Union states that plain clothes supervisors should be entitled to \$900 each year, paid in one lump sum in January, to support the purchase and maintenance of clothing that they use as part of their job as plain clothes officers. The Union contends that plain clothes officers must not only do desk work, but are also out in the field, conducting investigations that sometimes result in excessive wear and tear to their clothing. The Union also notes that the new collective bargaining agreement between the Delaware County Sheriff and the deputy sheriffs provides \$900 per year to each deputy sheriff to use for the purchase and maintenance of plain clothes and uniforms for his/her service as a deputy. (Union Ex. 1, at page 13). In an effort to maintain

equity among the bargaining units, the Union believes that its plain clothes members should be entitled to the same benefit that the deputy sheriffs received. Moreover, the Union noted, the IRS now taxes uniform allowance payments. As a result, the net benefit of whatever amount is ultimately received is less than it used to be

#### Employer position

The Employer opposes the creation of a uniform allowance for the bargaining unit. The Sheriff is attempting to save money where possible and is not certain that the supervisors need any allowance because they do not typically chase criminals or engage in other activity where their clothes might become soiled or damaged.

**Recommendation: Create an annual clothing allowance for plain clothes officers (detective and task force supervisors) of \$900. The language would read: “Each Detective Supervisor or Task Force Supervisor shall receive \$900 per year for the purchase and maintenance of plain clothes.” The parties should also retain the existing dry cleaning reimbursement practice. In addition, the provision that requires that two pairs of shoes be given to each employee at the time of hire should be deleted.**

#### Rationale

According to both parties, only one or two employees could possibly make use of the benefit this recommendation confers. Thus, at most, the cost of this benefit per year is \$1,800. In these difficult economic times, it makes sense for the Sheriff to look for opportunities to decrease the budget. However, the Union was convincing on the point that plain clothes officers are much more active during the course of a shift than an office worker and much more likely to damage their clothing.

Moreover, the statute requires consideration of this issue as “related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.” Applying that principle here suggests adopting the clothing allowance because other plain clothes officers *in Delaware County* are already receiving this benefit.

#### **Article 19 – Standard Workweek and Overtime**

The parties agree that section B should state, “Overtime - For the purposes of this section, all paid leave shall count as hours worked, except sick leave.”

#### **Article 22 – Paid Leaves**

In Article 22, “Paid Leaves,” the parties agree that, in section A(4), the definition of “immediate family” should include the employee’s spouse, children, parents, step-children, grandparents, siblings, grandchildren, mothers-in-law, and fathers-in-law. The parties also agree that the Union’s proposals on sections A(7) and A(8) are acceptable. For Article 22, section B, funeral leave, the parties agree that the definition of “immediate family” shall include grandparents, grandparents-in-law, brothers, sisters, brothers-in-law, sisters-in-law, parents, father-in-law, mothers-in-law, spouse, children, grandchildren, and legal guardian or other persons who stand in the place of a parent to the employee. For section D, the parties agree to the Injury leave provision attached hereto - prepared by Chris Russell and entitled, “Work Related Injuries/Transitional Duty.” (attached at the end of the opinion).

In Article 22, “Paid Leaves,” the parties disagree about how much time a supervisor should have to report sick leave absences prior to the start of his shift, according to section A(5). The parties also disagree about whether the supervisors should continue to receive an additional

day of compensatory time for every six months supervisors do not utilize sick leave, according to section A(10).

#### Union Position

The Union contends that it is difficult for a supervisor to report sick leave absences much more than an hour before the start of his shift. Often, bargaining unit members are not certain they are sick enough to miss work until it is about time to report to work. Moreover, the current practice is to require supervisors to report that they would like to use sick leave at least an hour before the beginning of their shift. The Union would like to continue this practice. The Union would also like to maintain the current policy that allows supervisors to earn an additional day of compensatory time for every six months they do not utilize sick leave. The Union asserts that the supervisors try not to use sick leave and appreciate that their employer, also interested in avoiding excessive use of sick leave, rewards them for their efforts to get to work.

#### Employer position

The Employer is concerned that if employees do not report at least eight hours in advance that they are going to take sick leave, public safety may be jeopardized. The Employer is worried that a supervisor might not be able to be at the scene of a crime if sufficient notice is not given before sick leave is used. In an effort to save additional monies, the Employer also wishes to curtail granting supervisors a compensatory day for every six months that they do not use sick leave.

**Recommendation: The collective bargaining agreement should read, “(A)(5) An employee who is absent due to one of the above reasons must report his absence to the Sheriff’s office at least one (1) hour before his shift begins or prior to reporting off sick while on duty. . .**

**(A)(10) An employee shall be credited with an additional eight (8) hours of compensatory time each time they do not utilize any sick leave for a period of six (6) months. . . “**

Rationale

The Employer's proposal to require employees to report that they are going to use sick leave eight (8) hours before the start of their shift is unworkable and would encourage the use of sick leave. It is unworkable because employees often do not know whether they are sick enough to miss work until an hour or so before work. Given that the parties' mutual interest is to ensure that healthy employees do not use sick leave and report to work, it makes little sense to implement a policy that would force the employee to guess whether, eight hours from the time they first feel a bit sick, they will be unable to work. Since going to work ill is in no one's best interest, the responsible employee would have to call in sick just in case he thought he might still be sick at the time his shift began. Thus, he would be forced to err on the side of using sick time, a practice the Employer does not wish to encourage. It is in both parties' best interest to maintain a policy that is workable and reduces abuse of sick leave. The recommendation above should accomplish both of these goals.

Moreover, the existing standard operating procedure in the Delaware County Sheriff's office supports this finding. According to Union Ex. 13 at p. 31, Delaware County employees are required to report sick leave absences "as soon as possible, but no later than one-half (1/2) hour after the employee's regularly scheduled start time . . ." While the fact-finder acknowledges the Employer's concerns about safety, it does not appear that the public's safety will be jeopardized if this provision is adopted. The Union stated that the first responders, the deputy sheriffs, are available to be at the scene of the crime. Moreover, even if that were not true, the

Employer would have enough time, with one hour notice, to secure the services of another supervisor if it became necessary to have a supervisor at the scene of a crime.

The fact-finder would also recommend maintaining the current practice of granting each employee a compensatory day every six months that employee does not use sick leave. The Union testified that both the dispatchers and corrections officers currently receive two personal days a year and that the patrol receives one day per year. (Union Ex. 13 at p.4). The Union also asserted that the proposed practice is consistent with the current practice in the office, i.e. that the supervisors already receive this benefit. Taken together, these points support a continuation of the practice. Moreover, the policy seems unlikely to result in the sick leave abuse about which the Sheriff has expressed concern. The employer stated several times that he considers the supervisors some of his “best” employees and that he does not believe they abuse sick leave. The Employer also wishes to discourage use of sick leave generally. The policy currently in place does both – rewards good employees and discourages sick leave abuse. Thus, the fact-finder finds no reason to deviate from the existing policy.

## **Article 23 – Vacations**

The parties disagree about how much notice an employee should provide prior to taking short and long term vacations.

### **Union position**

The Union proposes maintaining the current practice, which requires a deputy to request any amount of vacation leave not more than ninety (90) days in advance, nor less than three (3) days in advance. The Union offered evidence that this policy is identical to the Delaware County Employee Handbook Standard Operating Procedure (see Union ex. 13, Request for Leave Form) and the collective bargaining agreement between the deputy sheriffs and the Delaware County Sheriff. In order to assure consistency among the bargaining and non-bargaining units, the Union wishes the benefit to remain unchanged.

### **Employer position**

The Employer proposes to change the current procedure for scheduling vacations. Instead of the current policy, the Employer proposes establishing two vacation application periods each year, one in January and one in July for vacations that would last 7 days or more. During each period, employees would request any vacation of seven days or more that they planned to take during the next six months, and requests would be granted on the basis of seniority. Other requests for vacation leave could be made no more than thirty (30) days nor less than twenty-one (21) days in advance and would be approved at the Employer's discretion.

**Recommendation: Retain the current practice governing scheduling of vacation benefits as follows: “A Supervisor may request any amount of vacation leave not more than ninety (90) days in advance, nor less than three (3) days in advance.”**

#### Rationale

The Employer offered no business or economic reason for altering the current practice for granting vacation leave. Moreover, the employer’s proposed practice, which would require even short term vacations of a day or two to be approved at least twenty-one days in advance, would be unwieldy. Often, one or two day vacations are scheduled closer to the time of the vacation. Thus, a three-week notice requirement would be very difficult to satisfy. If the proposed vacation interferes with the Employer’s operations, the Employer, according to current practice, has discretion to restrict, deny, or cancel vacations. Thus, the current practice grants the Employer sufficient discretion so that work can continue, while also enabling employees to take vacation, with reasonable notice.

#### **Article 24 – Education**

The Employer initially proposed a new article to the Agreement that would provide economic incentives to members of the unit when they complete certain educational degrees. In their position statement, the Employer withdrew the proposed new article. While the Union appeared interested in the adoption of the new education policy, the fact-finder recommends that no new policy be adopted in order to avoid imposing additional financial obligations on the Employer at this time.

## **Article 25 – Holidays**

The current holiday schedule allows the supervisors twelve eight-hour holidays. Specific holidays are not designated. Instead, for each month a supervisor is on the payroll he earns an eight-hour holiday. In addition, supervisors are entitled to an additional “personal day” each calendar year, bringing the total holidays and personal days to 13.

### **Union Position**

The Union would like to retain the current holiday and personal day schedule. They note that the deputy sheriffs enjoy this same schedule. The Corrections Officers and Dispatchers, as well as the non-union employees, also receive one holiday compensatory day for each completed month on active payroll. (Union Ex. 13 at p. 3). Deputies and non-union employees also receive one personal day per year. (Union Ex. 13 at p. 3). Dispatchers and corrections officers, as noted above, receive two personal days per year. (Union Ex. 13 at p. 3).

### **Employer position**

The Employer proposes to change the current system rather dramatically. The Employer would establish a traditional system of ten designated holidays plus any other day declared by the Governor of Ohio or the President of the United States. The proposal would not authorize a supervisor to earn personal days.

**Recommendation: Maintain the current practice.**

### **Rationale**

The Employer’s proposal would reduce the total holiday time from 13 to 10 days. This three-day reduction represents a major change in a current benefit. The Employer offered no

evidence to support adopting the change. Fiscal responsibility is important. However, for a small unit to bear the burden of a major change in policy, when no other department in the office is experiencing that change, would be inequitable. Under the statute, such changes, in the absence of evidence supporting them, must be rejected.

## **Wages**

The parties disagree both as to whether the supervisors should receive any increase in wages and, if they do receive an increase, how much that increase should be.

### **Union position**

The Union proposes to increase wages over the course of the three years of the Agreement and make this increase retroactive to January 1, 2008. During the first and third years of the Agreement, the wage increase would be 3.5%. During the second year the wage increase would be 3.25%. (Union Ex. 1). These wage increases track the increases a fact-finder granted to the deputy sheriffs on April 26, 2008. (Union Ex. 12). These wage increases also are consistent with the wage increases given to non-bargaining unit employees. (Union Ex. 18).

In addition, the Union emphasized that there is little separation in wages between Delaware County Sergeants and the deputy sheriffs who work under them. (Union Ex. 19). According to the Union's data, while the average contiguous municipal sergeants' top hourly rate is 17% higher than the average contiguous municipal police officers' top hourly rate, in Delaware County, the sergeants' top hourly rate is only 6% higher than Delaware County Deputy Sheriffs' top hourly rate. (Union Ex. 19). Moreover, the average Delaware County Sergeants' top hourly rate is only 14% higher than the average Delaware County Deputy Sheriffs' top hourly rate. Given that the deputies have already received a wage increase, the Union is

concerned that giving the supervisors a smaller raise or no raise will decrease the gap further between the deputies and the sergeants and lessen the incentive deputies have to achieve a higher rank. Moreover, the Union claims, giving the supervisors a smaller raise than the deputies and non-bargaining unit personnel will demoralize the supervisors' unit.

#### Employer Position

The Employer did not propose any wage increase for the supervisors. The Employer is deeply concerned about the financial situation for Delaware County over the next several years. After years of record growth, the Delaware County Auditor predicts a decrease in sales tax collections of 4.64% (sales tax represents Delaware County's largest source of revenue); a decrease in income from conveyances of 7.09%, a decrease in revenue from local government taxes of 17.24%; a decrease in interest of 21.33% and a decrease in real estate tax collection of 2.07%. (Employer Ex. 1). Overall, the general fund, from which the Delaware County Sheriff gets his resources, may decrease moderately over the next year. If the economy continues to slide in a negative direction, those who receive funds from the general fund will likely be asked to reduce their budgets. The Sheriff believes that he will have to cut his budget this year and that if he gives the supervisors the raise they request, that layoffs may have to occur.

**Recommendation: The fact-finder recommends that during the first and third years of the Agreement, the wage increase would be 3.5%. During the second year, the wage increase would be 3.25%.**

While the fact-finder takes note of the changes to the economy, she nevertheless recommends that the supervisors receive the same wage increase that the deputy sheriffs and non-bargaining unit employees receive and that the wage increase be made retroactive to January

1, 2008. It is compelling that these wage increases track the increases a fact-finder granted to the deputy sheriffs on April 26, 2008 (Union Ex. 12) and that these wage increases also are consistent with the wage increases given to non-bargaining unit employees. (Union Ex. 18).

The fact-finder takes note that the economy in Delaware County is not as strong this year as it was last year and that it is possible that the Delaware County Sheriff will have to make cuts to his budget that may ultimately include layoffs. The Sheriff would like to avoid this possibility by giving the supervisors either no increase or a smaller wage increase than other units because he would prefer this option to laying off employees. The Sheriff obviously cares a great deal about his work force and does not relish the idea of laying off anyone. However, the budget numbers discussed at the fact-finding do not reveal that a layoff is imminent. While Delaware County is experiencing an economic downturn, it is still a prosperous county compared to other counties in Ohio and is likely to have a strong economic future. Unquestionably, the reserve currently maintained by the County is sufficient to ward off any "rainy day" problems for some time to come.

Delaware's strong economic picture convinced another fact-finder to grant the same wage increase to the deputy sheriffs that is recommended here for their supervisors. (Union Ex. 12). To treat the supervisors differently than the deputies or the non-bargaining unit employees (who also received a 3.5% increase to wages) because of the timing of the supervisors fact-finding (occurring after a somewhat bleaker economic picture was revealed) is unfair. The statute requires the fact-finder to examine each issue as "related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved." Applying that principle here suggests that the employer should adopt the same wage increase structure for the supervisors as it did for the deputies and non-bargaining

unit employees because these other employees are already receiving this benefit. The wage increase should be retroactive to the first of the year because the Union issued a timely notice to negotiate and have been attempting to resolve these issues in good faith for over one year.

## **Longevity**

### **Union Position**

The Union would like to develop a longevity system for supervisors that would be effective retroactive to January 1, 2008 and would be paid at the following rates:

5 to 9 years of service with the Sheriff's Office -- \$500

10 to 14 years of service with the Sheriff's Office -- \$1000

15 to 19 years of service with the Sheriff's Office -- \$1,500.00

20 to 24 years of service with the Sheriff's Office -- \$2,000.00

25 years of service with the Sheriff's office or more -- \$2,500.00

The Union believes the creation of a longevity system is fair because the deputy sheriffs, corrections officers and dispatchers already have longevity payments. (Union Ex. 1). The Union also submitted evidence demonstrating that the majority of sheriff's offices in the counties of Ohio already have in place a system of longevity payments, either lump-sum or increases to hourly wages for their employees.

### **Employer Position**

Concerned about the recent economic downturn, the Employer prefers not to institute a longevity payment system.

**Recommendation: The Fact-finder recommends the adoption of the following payment system:**

**5 to 9 years of service with the Sheriff's Office -- \$500**

**10 to 14 years of service with the Sheriff's Office -- \$1000**

**15 to 19 years of service with the Sheriff's Office -- \$1,500.00**

**20 to 24 years of service with the Sheriff's Office -- \$2,000.00**

**25 years of service with the Sheriff's office or more -- \$2,500.00**

#### Rationale

The Employer is clearly concerned about the current and future economic picture in Delaware County. At the same time, though, the fact-finder must take into account how comparable employees within and outside of Delaware County are paid. Other units within Delaware County already receive the longevity package the Union proposes. Moreover, other county sheriffs routinely pay longevity to their employees. In addition, as discussed more fully below, the fact-finder is changing the take-home vehicle benefit significantly. Because those vehicles were given to the supervisors in lieu of a raise several years ago, the adoption of a longevity system should prevent the supervisors from losing any significant economic ground.

#### **Take home vehicles**

##### Union Position

The Union proposes no change in the take-home vehicle provision. The Union explained that in 2001, the supervisors were given take-home vehicles rather than a raise. According to the Union, the take-home vehicles comprise a part of the overall economic package for the supervisors.

## Employer Position

The Employer proposes changing the take-home vehicle policy so that the Sheriff maintains discretion over who takes home sheriff vehicles. The Employer is concerned about increasing gas prices and testified that even though his budget does not cover the cost of gas, that it is nevertheless important for him to demonstrate that in all areas he is acting in a budget conscious manner.

**Recommendation: The Sheriff has discretion to determine which supervisors may take home county vehicles.**

## Rationale

The fact-finder is aware that one of the most significant economic changes occurring during the past year has been the increase in the price of gas. (Employer Ex. 4). Thus, the cost to the county when supervisors take home vehicles when work does not require them to do so, is increasing dramatically. While the take home vehicle may well have been given to the supervisors in lieu of a raise in 2001, the cost of that benefit is increasing at an unpredictable rate. With the longevity provision in place, the supervisors should not lose economic ground if the Sheriff is given discretion to decide who can take home a vehicle on any given night. This change in policy should not harm public safety since the Sheriff is charged with ensuring public safety and will make decisions about who should take home vehicles on a particular night

accordingly. But the new policy should curtail the use of vehicles as a convenience. While this benefit will likely be missed, the public will welcome such a change as it demonstrates the willingness of government employees to reduce use of natural resources.

This concludes the Fact Finder's Report and Recommendations.

Respectfully submitted

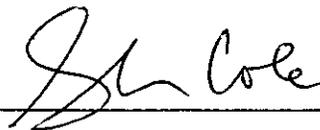
A handwritten signature in black ink, appearing to read "S. Cole", written over a horizontal line.

Sarah Rudolph Cole, Fact Finder

Columbus, Ohio  
August 8, 2008

### Certificate of Service

This is to certify that a true copy of the Fact-Finding Award for the Delaware County Sheriff and the OPBA was sent to the parties by electronic and regular mail and to the State Employment Relations Board by regular U.S. mail on this day, August 8, 2008. The Fact-Finding Award was served upon: Christina L. Corl, Crabbe, Brown & James, LLP  
500 South Front Street, Suite 1200, Columbus, OH 43215 and Joseph M. Hegedus, Ohio Patrolmens' Benevolent Association, 92 Northwoods Blvd., Suite B-2, Columbus, Ohio 43235 and Administrator, Bureau of Mediation, 65 East State Street, 12<sup>th</sup> Floor, Columbus, Ohio 43215-4213.



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Sarah Rudolph Cole, Fact Finder

## **WORK-RELATED INJURIES/TRANSITIONAL DUTY**

(Proposed Replacement for Provision Entitled "Injury Leave"  
Currently found in Article 23, Section D of the Deputies' Contract)

The parties acknowledge and agree that employees of the Delaware County Sheriff's Office sustaining injuries in the course of and arising out of the scope of their employment should understand their rights, and that efforts should be made to keep the employees actively employed by the Sheriff's Office even if their work-related injuries prevent them from temporarily performing their former position of employment. For purposes of this provision, "former position of employment" refers to the job that was being carried out at the time of a work-related injury.

As a preliminary matter, the parties understand and agree that the processing and compensability of Workers' Compensation claims is governed by Chapter 4123 of the Ohio Revised Code. If an employee of the Sheriff's Office believes that he/she has sustained a work-related injury, he/she should immediately report the injury, complete and submit an accident report to the Sheriff, and proceed to file a Workers' Compensation claim if he/she desires to do so. Assistance with the processing of the Workers' Compensation claims will be provided through the County, but not necessarily by the Sheriff's Office.

Any determinations as to the compensability of a Workers' Compensation claim will be made by the Bureau of Workers' Compensation and/or the Industrial Commission of Ohio. The parties recognize that the ability to pursue and/or contest a Workers' Compensation claim are governed by Chapter 4123 of the Ohio Revised Code, and are not subject to modification by this collective bargaining agreement.

Although an employee's entitlement to benefits stemming from a work-related injury will be governed by the Ohio Workers' Compensation Act, the parties agree that every reasonable effort should be made to try and assist the employee with his/her return to work following a claimed work-related injury. Accordingly, it will be practice of the Sheriff's Office to assist and encourage an employee's return to work through the use of transitional or alternative duty job opportunities.

If, after the compensability of a claim has been determined, an employee is advised by his or her physician that he/she is unable to return to his/her former position of employment, the employee should immediately notify the Sheriff of this fact, and he/she should present the Sheriff with written notice of his/her medical restrictions. If the employee is claiming that he/she is temporarily and totally disabled, then he/she should be permitted to pursue temporary total disability compensation pursuant to R.C. 4123.56. If, on the other hand, an employee is advised by his/her physician that he/she is unable to return to his/her former position of employment, but is capable of working in some capacity, then the Sheriff will attempt to make every reasonable effort to place the employee in a transitional/alternative duty position consistent with the employee's medical restrictions. If, for any reason, the Sheriff questions the employee's physical restrictions outlined in any documentation provided by a medical practitioner who has seen or who is treating the employee, the Sheriff shall have the right to schedule an independent medical evaluation to address the issue of the employee's work capabilities. If, as the result of the Sheriff's decision to schedule the employee for an independent medical examination, the employee is obligated to remain off of work despite a desire to return to work, the employee shall remain eligible to pursue benefits through R.C. 4123.56.

The parties acknowledge and agree that having an employee who has sustained a work-related injury gainfully employed in some capacity is preferable to having the employee remain off of work. Through this provision, the Sheriff supports and endorses the concept of transitional/alternative duty work (i.e. work in some capacity other than the employee's position of employment at the time that he/she was injured), and the Sheriff commits to assisting employee's return to gainful employment following a work-related injury. If, for any reason, the Sheriff's Office is unable to accommodate the medical restrictions of an employee claiming a work-related injury, then the Sheriff agrees to provide the employee with a written statement, upon the employee's request, confirming the inability to return the employee to a transitional/alternative duty position. It is understood and agreed that the employee can use said statement to support any request for benefits that he/she may pursue through R.C. 4123.56.

Lastly, the parties herein incorporate by reference R.C. 4123.90. It is understood and agreed that the Sheriff's Office will not take any type of retaliatory action against an employee as the result of his/her pursuit of an Ohio Workers' Compensation claim. To the contrary, it is acknowledged and agreed that if a determination is made that an employee has a valid work-related injury, then the Sheriff will make every reasonable effort to assist the employee with a return to work within the employee's medical restrictions. Employees will continue to receive insurance benefits, accrue seniority, sick leave and vacation time credit while off work as a result of a valid Workers Compensation claim.