

**FACTFINDING TRIBUNAL
STATE EMPLOYMENT RELATIONS BOARD
COLUMBUS, OHIO**

IN THE MATTER OF	:	
FACTFINDING BETWEEN	:	
	:	
HANCOCK COUNTY SHERIFF,	:	
PUBLIC EMPLOYER	:	REPORT OF THE
	:	FACTFINDER
-AND-	:	DEPUTY I -
	:	CORRECTIONS UNIT
OHIO PATROLMEN'S BENEVOLENT	:	
ASSOCIATION,	:	
EMPLOYEE ORGANIZATION	:	

SERB CASE NUMBER(S): 2013-MED-11-1543

BARGAINING UNIT:

Included: All full-time Employees in the classification of Deputy I – Corrections.

Approximate Number of Members in this Bargaining Unit – 32

Excluded: All Others

Certified July 10, 2008 (08-REP-03-0048)

**MEDIATION / FACT-
FINDING SESSION:**

June 19, 2014; Findlay, Ohio

FACTFINDER:

David W. Stanton, Esq.

APPEARANCES

FOR THE SHERIFF:

Aaron K. Weare Senior Consultant - CNA
Wendy Schimmoeller, Consultant - CNA
Roger Treece, Captain, Sheriff's Office
Joseph M. Hartman, Operations Lieutenant
Ryan C. Kidwell, Jail Administrator

FOR THE OPBA:

Jonathan J. Winters, Special Counsel
Kevin Keefe, Asst. Representative

ADMINISTRATION

By E-mail correspondence dated May 5, 2014, from Donald M. Collins, General Counsel, for the State Employment Relations Board, Columbus, Ohio, the undersigned was notified of his mutual selection to serve as Factfinder to hear arguments and issue recommendations relative thereto pursuant to Ohio Administrative Code Rule 4117-09-05 (J) in an effort to facilitate resolution of those issues that remain at impasse between these Parties. The impasse resulted after numerous attempts to negotiate a successor Collective Bargaining Agreement proved unsuccessful.

Through the course of the administrative aspects of scheduling this matter, the Factfinder discussed with these Parties the overall collective bargaining atmosphere relative to the negotiations efforts engaged in by and between them and learned that overall these Parties have enjoyed, and likely will continue to enjoy, what can best be characterized as a mature and amicable, yet achieved by incremental measures, collective bargaining relationship.

On June 19, 2014, at the Offices of the Hancock County Engineer, the Parties engaged in mediation facilitated by the Factfinder, wherein the remaining unresolved issues were resolved subject to tentative agreement. The Parties have stipulated that those Tentative Agreements, reached prior to the Factfinding/Mediation, as identified herein, be included in the successor Collective Bargaining Agreement upon its ratification and approval. Additionally, the Parties have indicated the mediated fact-finding positions of the Parties be set forth in the Fact-Finding Report as agreed to by and between them during the course of the June 19, 2014 Hearing/Mediation session. During the course thereof, each Party was afforded a fair and adequate opportunity to present

testimonial and/or documentary evidence supportive of positions advanced. The evidentiary record of this proceeding was subsequently closed upon the conclusion of the Mediation session. Those issues that were at impasse were ultimately resolved during the mediation efforts engaged in by the Parties and the Undersigned culminating in the Tentative Agreement reached and are the subject matter for the issuance of this Report.

STATUTORY CRITERIA

The following findings, as mutually agreed to by the Parties, are hereby offered for consideration by the Parties; were arrived at based on their mutual interests and concerns; and, are made in accordance with the statutorily mandated guidelines set forth in Ohio Administrative Code Rule 4117-9-05(k) which recognizes certain criteria for consideration in the Factfinding component of the statutory dispute –resolution process as follows:

1. Past collectively-bargained agreements, if any, between the Parties;
2. Comparison of unresolved issues relative to the employees in the Bargaining Unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. The interests and welfare of the public and the ability of a Public Employer to finance and administer the issues proposed and the effect of the adjustment on a normal standard of public service;
4. The lawful authority of the Public Employer;
5. Any stipulations of the Parties; and,
6. Such other factors not confined in those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute settlement procedures in the public service or in private employment.

**THE BARGAINING UNIT DEFINED:
ITS DUTIES AND RESPONSIBILITIES TO THE COMMUNITY; AND,
GENERAL BACKGROUND CONSIDERATIONS**

The Hancock County Sheriff's Office, hereinafter referred to as the "Public Employer" and/or the "Employer" is Party to a Collective Bargaining Agreement, Joint Exhibit 1, with the Ohio Patrolmen's Benevolent Association, hereinafter referred to as the "Employee Organization" and/or the "Union". The Deputy I – Corrections, Collective Bargaining Agreement addresses full-time positions otherwise known as "Corrections Officers" numbering approximately thirty-two (32) members. The Collective Bargaining Agreement expired on March 7, 2014.

Hancock County is located in northwest Ohio and its County seat is located in Findlay, Ohio. The Appointing Authority, under Ohio law, is the Hancock County Sheriff. Located therein are Marathon Petroleum, Cooper Tire & Rubber, the Whirlpool Corporation, and various smaller business entities. The 2013 US Census Report estimated its population at approximately 76,000 recognizing a 2010 Median Household income of \$49, 350.00 and a per capita income of \$25, 785.00. In its report to the State of Ohio, (CAFR), the County reported General Fund Revenues of \$20,201,210.00 and General Fund Expenditures totaling \$16,949,694.00. The Sheriff's Office and the Employees in this Bargaining Unit are responsible for providing care and ensuring the security of individuals held in the County Jail of Hancock County.

The Factfinder is required to consider comparable Employee Units with regard to their overall make-up and services provided to the members of their respective communities. As is typical, and as is required by statute, the Parties in their respective Pre-hearing Position Statements, filed in accordance with procedural requirements of the

statutory process, and the supporting documentation provided at the Fact-finding/Mediation session, each have relied upon comparable jurisdictions and/or municipalities concerning what they deem “comparable work/jurisdictions” provided by this Bargaining Unit. While there are indeed certain similarities among the jurisdictions cited there are no “on-point comparisons” relative to this Bargaining Unit concerning the statutory criteria. In other words, while their duties and responsibilities as Corrections Officers may be exact to other jurisdictions relied upon, the overall makeup of the public entity will differ with respect to geography, infrastructure, staffing and the makeup of the employees performing these and other functions.

It has been and remains the position of this Factfinder/Mediator that the Party proposing any addition, deletion, or modification of either current Contract language; or, a *status quo* practice wherein an initial collective bargaining unit/Agreement may exist, bears the burden of proof and persuasion to compel the addition, deletion, or modification as proposed. Failure to meet that burden will result in a recommendation that the Parties maintain the *status quo* whether that represents a previous policy, collective bargaining provision or a practice previously engaged in by the Parties.

The Parties met in pursuit of negotiating a successor Collective Bargaining Agreement on March 19; 24; 27; and, April 16, 2014 wherein Proposals were exchanged and certain Tentative Agreements were reached regarding numerous Articles recognized in the predecessor Collective Bargaining Agreement. As requested by the Parties, the following Articles of the Corrections Officers’ Bargaining Unit are recognized as Tentative Agreements and are to be included as such in the successor Collective Bargaining Agreement:

I. Articles that remain unchanged for inclusion in the successor Collective Bargaining Agreement:

Article 3	Recognition
Article 4	OPBA Representation
Article 5	Dues and Fair Share Fees Deductions
Article 6	Management Rights
Article 7	No Strike/No Lockout
Article 8	Work Rules
Article 9	Hours of Work and Work Schedule
Article 10	Labor Relations Meetings
Article 13	Promotions and Transfers
Article 17	Family and Medical Leave
Article 24	Uniforms, Allowances and Reimbursement
Article 26	Education
Article 28	Emergency Waiver
Article 30	Miscellaneous
Article 31	Application of Ohio Civil Service Law

II. During negotiations, the Parties tentatively agreed to the following Articles or portions thereof, and as such, they are to be incorporated into the successor Collective Bargaining Agreement:

Article 1	Agreement
Article 2	Non-Discrimination
Article 11	Grievance Procedure
Article 12	Probationary Periods
Article 14	Sick Leave and Leaves of Absence
Article 15	Jury Duty
Article 16	Military Leave
Article 18	Layoff and Recall
Article 19	Vacation
Article 20	Holidays
Article 21	Wages, Sections 21.2-21.12
Article 25	Discipline
Article 27	Personnel File

III. The Parties bargained to impasse regarding the following issues:

Article 21	Wages
Article 22	Insurance
Article 23	Internal Review Procedures/Employee Rights
Article 29	Drug/Alcohol Testing
Article 32	Duration.

The Parties reached Tentative Agreement during Mediation regarding the following issues and are incorporated in this Fact-finding Report as follows:

(Deletions/Negotiated Changes are designated by “strike-through”)

(New Contract language is set forth in “bold print” and/or “Highlights”)

IV. ARTICLE 21 - WAGES

Section 21.1. All employees who are covered by this Agreement shall be paid in accordance with the following hourly rate schedule:

Effective March 8, 2014

Classification	Start	After 120 Days	After 1 Year
Corrections Officer (Deputy I)	\$17.87	\$18.05	\$19.65 (5% increase, this step only)

Effective March 8, 2015

Classification	Start	After 120 Days	After 1 Year
Corrections Officer (Deputy I)	\$17.87	\$18.05	\$19.90 (1.25% increase, this step only)

Effective March 8, 2016 (1.25% Increase)

Classification	Start	After 120 Days	After 1 Year
Corrections Officer (Deputy I)	\$18.09	\$18.28	\$20.15

Section 21.2. In addition to the base wages set forth each member covered by the terms of this Agreement shall be entitled to receive additional payment for longevity to be added to the member’s base hourly wage rate for each hour paid to that member. After completing five (5) years of service with the Sheriff’s office, or five (5) years of combined credited service if previously employed in a full-time capacity with another law enforcement agency and the Sheriff’s Office service, in any full-time job capacity, each member shall receive on-half percent (1/2%) of their classification’s base wage rate.

For each subsequent year of completed service up to a maximum of twenty (20) years an additional one-half (1/2%) on the anniversary date of the member's employment by the Sheriff's Office.

Section 21.3. Wage adjustments as set forth in Section 21.2 which are scheduled to occur upon an employee's anniversary date will be made upon the following timetables.

January 1 through March 31, both inclusive
April 1 through June 30, both inclusive
July 1 through September 20, both inclusive
October 1 through December 31, both inclusive

All wage and longevity adjustments will be made with respect to each member at the beginning of the above designated quarter in which the employee's anniversary date falls. The Employer shall provide each employee with a printout showing the manner in which the wage adjustment set forth in Section 21.2 is calculated. The printout shall be provided with the first paycheck in which the wage adjustment is made.

Section 21.4. An employee's classification shall be determined by the member's position description.

Section 21.5. Any employee required to work more than forty (40) hours per week or eighty (80) hours in any one payroll period who is not otherwise exempted from such compensation will, at the option of the employee, be compensated for the excess hours or portion thereof, at one and one-half (1½) times the employee's hourly rate of pay or may receive compensatory time-off at a rate of one and one-half (1½) hours for each hour of overtime. For purposes of this section hours worked, that is holiday hours, and vacation hours shall be counted as time worked for computation of overtime.

Section 21.6. All overtime must be approved and initialed on the employee's timecard to the left of the day the overtime is worked and must be initialed by the employee's immediate supervisor. Any overtime not initialed or approved will not be paid.

Section 21.7. Compensatory time may not be accumulated to exceed 120 hours, nor may compensatory time be used to extend sick leave. An employee working overtime under a grant is not eligible for compensatory time for such overtime worked and will be paid.

Section 21.8. An employee entitled to overtime pay or compensation must exercise the option to either take the overtime pay or the compensatory time-off in each payroll period in which the overtime was accumulated. Compensatory time shall be taken at a time mutually agreeable to the Sheriff and the employee so as not to interfere with normal operations of the Department. Each employee will be required to execute a form in each payroll period that the overtime is worked designating that the employee desires to receive overtime pay or compensatory time-off. Once the employee has exercised this option the overtime must be used as designated on the holiday-vacation form. An employee shall not receive cash payment for unused compensatory time-off, except at the

time of any employee termination, retirement or death; the employee may elect to receive cash for accumulated compensatory time not to exceed 120 hours.

An employee, who requests the use of compensatory time off, must submit such request to the Employer no less than twenty-four (24) hours and/or no greater than sixty (60) days prior to the date of the request.

The Employer will consider requests for compensatory time off submitted less than twenty-four (24) hours that are occasioned by special circumstances.

Section 21.9. All employees covered by the terms of this agreement who are called in to work from off duty, other than those assigned regularly scheduled overtime, when required to appear in Court or to appear before the Prosecutor at pre-trial conferences at a time when the member is not on duty, or are required to attend a Sheriff's meeting or function when the member is not on duty shall be paid at least three (3) hours of pay at their applicable rate of pay, straight time or overtime, or such hours may be taken as compensatory time pursuant to the provisions of this Article. Hours in excess of three (3) hours shall be paid at one and one-half (1½) times the employees regular rate of pay or such hours in excess of three (3) may be taken as compensatory time off pursuant to the compensatory time provisions as set forth herein. Any call-in which starts prior to the regular shift and continues into the employee's regular shift or time worked immediately following the regular shift shall not be eligible for the minimum as provided above.

Section 21.10. A member who is scheduled to work during the regional change to Day Light Savings Time shall report for work one (1) hour prior to his normal work shift start time for that shift which is in progress during the switch to Day Light Savings Time and shall be paid for the hours of work he/she is normally scheduled to work. Each member which is scheduled to work on the shift during which the switch back to Eastern Standard Time occurs shall report to work at his regularly scheduled shift start time and will be paid for eight (8) hours at his/her regular hourly wage and for the extra one (1) hour at one and one-half (1½) times their straight time hourly wage. This section does not affect any earned overtime which may occur during the switch from or the switch back to Eastern Standard Time.

Section 21.11. The Sheriff may credit employees for pay purposes, for prior continuous service (continuous service means no more than thirty (30) days break in service) with another law enforcement agency in the same position. For purposes of this Section, an employee may be credited for prior service for one-half (½) year per year of prior service up to four (4) years maximum.

Section 21.12. In the absence of the Sheriff, Captain, Lieutenant, or Sergeant on a shift, a Deputy I may be designated as the Officer in Charge to assume the duties and perform in the capacity of the in-charge officer on the shift. The designated Officer in Charge, in addition to his or her current rate of pay, will receive one dollar and ten cents (\$1.10) per hour for each hour worked as Officer in Charge, as compensation for the added responsibility. To be eligible to be Officer in Charge, the member shall have at least one

(1) year of prior service within the Deputy I classification of the Sheriff's Office, and possess the applicable hours of the basic corrections training. If there are no eligible members on a shift as determined, the Sheriff or his designee shall be on an "on call" status as Officer in Charge. The need for an Officer in Charge status shall be determined by the Sheriff or his designee.

V. ARTICLE 22 - INSURANCE

Section 22.1. Employees shall pay the same amount in premiums, except that the employee share shall not exceed twenty percent (20%) of premium costs, and shall receive the same level of benefits as other county employees under the Hancock County Commissioners' Insurance Plan. The employee's contributions for insurance shall be deducted from the employee's pay.

Section 22.2. The Employer agrees to provide \$20,000 of term life insurance for the bargaining unit employees. This amount will be the greater amount if the Commissioners increase it to a greater amount for all Hancock County employees.

Section 22.3. Should the coverage provided to other County employees, by and through the Hancock County Commissioners Office, be changed or altered such changes shall be applicable to the coverage herein provided effective and concurrent with its application to all other County employees.

Notwithstanding, the employees will continue to be offered the option of a PPO plan until December 31, 2016. For as long as the employees are offered a high deductible health plan, as defined by the Internal Revenue Service, the employer shall fund the health savings accounts of employees who elect such coverage at a rate of at least 30% of the maximum annual pre-tax contribution for the applicable single or family contribution HSA contribution levels. Should the County fund more than 30% of the maximum annual pre-tax HAS contribution amounts for other County employees, bargaining unit employees shall receive the same level of funding.

Section 22.4. The Sheriff will maintain and provide for all Bargaining Unit members personal liability insurance in like form and coverage as presently provided to those Sheriff's Office employees who are now covered by such personal liability insurance.

Section 22.5. Reference is hereby made to the Hancock County group plan for specific details as to coverage, exclusions and definitions of coverage provided, subject to the limitations contained in Section 22.3.

Section 22.6. At the time of open enrollment, the Employer will allow bargaining unit employees that are currently receiving the benefit to opt-out of the Employer's Health Care Plan. Re-enrollment of a bargaining unit employee into the Employer's plan shall only be allowed at open enrollment or at the loss of alternative coverage. If the alternative coverage is lost, the employee shall not have to wait until open enrollment.

Section 22.7. Any bargaining unit employee who opts out of the Employer's health care plan will be eligible to receive seven hundred and fifty dollars (\$750) in any full year in which the member opted out under this section. Such payment shall be made twice a year by a separate check. The Employer and bargaining unit will meet to mutually agree to a written procedure for the implementation of the terms of the opt-out program.

Section 22.8. The County shall maintain a Health Insurance Committee with employee participation, wherein one (1) employee from the bargaining unit will be a member of the Committee and permitted to participate in the Committee's meetings. Such a Committee shall meet at least once annually. Any grievance arising out of this Section may not be grieved past Step Two of the Grievance Procedure in Article 11 of this Agreement.

VI. ARTICLE 23 - INTERNAL REVIEW PROCEDURES/EMPLOYEE RIGHTS

Section 23.1. A bargaining unit employee has the right to the presence of a representative of his bargaining unit, if he so requests, the right to an explanation of the evidence and the opportunity to present his side of the story at disciplinary hearings before the Sheriff or the Sheriff's designee.

Section 23.2. A bargaining unit employee who is to be questioned as a suspect in any investigation that may lead to criminal charges against him shall be advised of his constitutional rights in accordance with law. If an employee is a suspect of criminal investigation, he shall be afforded the same constitutional rights to which any other individual is entitled.

Section 23.3. Before an employee may be charged with insubordination for refusing or failure to answer questions or participate in an investigation involving violation of the Employer's policies, procedures, rules or regulations he shall be advised that his refusal to answer questions, or participate in such investigation, may be the basis of such a charge.

Section 23.4. Any interrogation, questioning, or interviewing of a bargaining unit employee shall be conducted at a reasonable hour, preferably related to his normal shift hours. Interrogation sessions shall be for reasonable periods of time, and time shall be allowed for rest periods and for other physical necessities.

Section 23.5. A bargaining unit employee shall be informed of the nature of the investigation prior to questioning.

Section 23.6. When a single anonymous complaint is made against a bargaining unit employee, and if after an investigation there is no corroborative evidence of any kind, then the complaint shall be classified as unfounded.

Section 23.7. No public disclosure of any disciplinary action taken or contemplated against any employee will be initiated by the Sheriff until after an investigation and hearing is complete or unless criminal charges have also been filed.

Section 23.8. No less than twenty-four (24) hours prior to the scheduled starting time of a pre-disciplinary hearing, the Sheriff will provide to the employee a written outline of the charges which may be the basis for disciplinary action. This provision does not apply to verbal warnings and written reprimands.

Section 23.9. The Employer shall not in the course of an investigation obtain evidence through the use of coercion or threats.

Section 23.10. Employees may be given a polygraph examination and/or voice stress analyzer examination only if they are the primary focus of an investigation, a known witness to an incident, or at the employee's written request directly to the Sheriff. No employee shall be subject to disciplinary action solely on the basis of results of a polygraph examination.

Section 23.11. The parties recognize that sergeants have authority, in the interest of the Employer, to supervise, direct, and recommend personnel actions with regard to subordinates. Such authority carries with it the responsibility to direct the implementation of policies and procedures and enforce Sheriff's Office rules and regulations.

Section 23.12. Any bargaining unit employee subject to investigation or required to submit to an interrogation has the right upon request to have present a bargaining unit representative.

Section 23.13. If the provisions of this Article are violated, the violation shall be subject to the grievance procedure, but limited to Step Two-Sheriff.

Section 23.14. Any employee charged with or under indictment for a felony who is not disciplined or discharged by the Employer, may be placed on a leave of absence without pay or reassigned until resolution of the court proceedings. An employee may use accrued but unused vacation, holiday, or compensatory time during the leave. An employee found guilty by the trial court of a felony shall be summarily discharged and have no appeal over such action. Where charges are reduced to a misdemeanor or the employee is found innocent of the charges, the employee may be subject to discipline. The Employer shall continue to pay the Employer's share of the insurance premiums during the unpaid leave of absence.

Section 23.15. When an employee suspected of a violation of the Employer's policies, procedures, rules or regulations is being interviewed or interrogated, such interview shall be recorded at the request of either party. The employee may record at his own expense. All recording devices must be visible to both parties.

Section 23.16. Internal investigations of a suspected violation of the Employer's policies, procedures, rules or regulations will be commenced and completed in an expeditious manner.

VII. ARTICLE 29 - DRUG/ALCOHOL TESTING

Section 29.1. Drug/Alcohol testing may be conducted on employees based upon reasonable suspicion that an employee used or is using a controlled substance or alcohol in an unlawful or abusive manner. Reasonable suspicion may be based on, but not limited to:

- A. Observable phenomena, such as direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol;
- B. A pattern of abnormal conduct or erratic behavior, including abnormal leave patterns;
- C. Arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug or alcohol possession, use or trafficking;
- D. Information provided either by reliable and credible sources or independently corroborated;
- E. Evidence that an employee has tampered with a previous drug test; and
- F. Facts or circumstances developed in the course of an authorized investigation of an accident or unsafe working practice.

A bargaining unit employee may of the employee's own volition, even if not ordered to do so, undergo a drug and/or alcohol screening test if the employee is involved in an on-duty incident or accident involving bodily injury, extensive property damage, or death. Testing done under these circumstances will be treated in the same manner as if the employee had been ordered to undergo screening.

Section 29.2. All drug screening tests shall be conducted by medical laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) or certified by a (SAMHSA) recognized certification program. No test shall be considered positive until it has been confirmed by a gas Chromatography/Mass Spectrometry full scan test or its equivalent. The procedures utilized by the Employer and testing laboratory shall include an evidentiary chain of custody control. All procedures shall be outlined in writing and this outline shall be followed in all situations arising under this Article. The split sample method of collection shall be used following prescribed testing procedures.

Section 29.3. Alcohol testing shall be done to detect drivers operating a motor vehicle under the influence. A positive result of a blood alcohol concentration of .03% or above shall entitle the Employer to proceed with sanctions as set forth in this Article.

Section 29.4.

- A. The results of the testing shall be delivered to the Employer and the employee tested. An employee whose confirmatory test result is positive shall have the right to request a certified copy of the testing results in which the vendor shall affirm that the test results were obtained using the approved protocol methods. The employee shall provide a signed release for disclosure of the testing results. Refusal to submit to the testing provided for under this Agreement may be grounds for discipline.
- B. The Employer may suspend the employee without loss of pay before the time the confirmatory test results are complete. If the screening test and confirmatory test are positive, the Employer may discipline the employee. The use of illicit substances, on or off duty, will ordinarily result in termination. The improper use of prescription drugs and/or alcohol may result in a lesser discipline, depending upon the relevant circumstances.

In the Sheriff's discretion, any Employee that is arrested for the possession, use, distribution, or manufacture of illegal drugs, may be placed on an unpaid administrative leave of absence from the Employee's position with the Employer awaiting the resolution of the criminal arrest. An Employee who is convicted, enters into a plea arrangement, or otherwise admits guilt regarding the possession, use, distribution, or manufacture of illegal drugs, in the Sheriff's discretion, may be terminated. If an Employee is found to be not guilty of the criminal charges described in this Section, the Employee shall be paid for the amount of time spent on unpaid leave at the Employee's base hourly rate of pay. However, the Employer may discipline the Employee for any other policy and/or work rule violations that may have occurred. Nothing within this Section shall be construed as a waiver of any rights to appeal in accordance with Article 11 herein; however, an Arbitrator shall be limited to determining whether the conviction, plea arrangement, or admission of guilt occurred and if so, shall be without any power to modify the termination.

Section 29.5.

- 1. If a drug screening test is positive, the employee may, upon written request have the split sample retested by a (SAMHSA) certified laboratory. This request shall be presented within seventy-two (72) hours upon being notified of a positive result.

2. In the event the retested split sample confirms the results of the first test, the Employer may proceed with the sanctions as set forth in this Article.
3. In the event that the retested split sample contradicts the result of the first test, the retested split sample result is determined to be the final result. The results of this test, if positive, shall allow the Employer to proceed with sanctions as set forth in this Article. If the results are negative, the employee shall be given the benefit of the doubt and no sanctions shall be imposed.

Section 29.6. The name of the testing laboratory shall be maintained by the Employer. This laboratory shall conduct any testing directed by the Employer.

Section 29.7. If the testing required above has produced a positive result, the employee may be subject to dismissal. The Employer may require the employee to participate in any rehabilitation or detoxification program that is covered by the employee's health insurance. An employee who participates in a rehabilitation or detoxification program shall be allowed to use sick time, compensatory days, and vacation leave for a period of the rehabilitation or detoxification program. If no such leave credits are available, the employee may be placed on medical leave of absence without pay for the period of the rehabilitation or detoxification program. Upon completion of such program, and upon receiving results from a retest demonstrating that the employee is no longer abusing a controlled substance, the employee may be returned to his former position. Such employee may be subject to periodic retesting upon returning to the employee's position for a period of one (1) year from the date of the employee's return to work. Any employee in a rehabilitation or detoxification program in accordance with this Article will not lose any seniority or benefits, should it be necessary for the employee to be placed on medical leave of absence without pay for a period not to exceed ninety (90) days.

Section 29.8. If the employee refuses to undergo rehabilitation or detoxification, or if the employee tests positive during a retesting within one (1) year after return to work from such a program, the employee shall be subject to disciplinary action up to and including termination of his employment. The employee may be subject to retesting up to four (4) times during the one (1) year following return to work.

Section 29.9. Costs of all drug screening tests and confirmatory tests shall be borne by the Employer except that any test initiated at the request of the employee shall be at the employee's expense.

Section 29.10. Those officers whose duties involve the potential for drug interdiction may be tested twice annually for drugs.

Section 29.11. Employees may be tested prior to promotion.

Section 29.12. An employee may voluntarily enter a chemical dependency program. Knowledge gained by the employee's voluntary admission or participation in a chemical

dependency treatment program shall not be used as the basis for discipline. The employee may however be subject to discipline if they have violated Employer policies, procedures, rules, or regulations. An employee found temporarily unfit for duty due to chemical dependency, and who is under treatment for chemical dependency in a program approved by the Employer, shall be treated as are those similarly situated (sick leave, leave of absence, use of compensatory time). Once the employee successfully completes rehabilitation and is fit for duty the employee shall be returned to his or her regular duty assignment. The Employer may require the employee to submit to a physical or mental examination, including drug testing, prior to his or her return to regular duty. The employee may also be retested up to four (4) times during the year following return to regular duty.

VIII. ARTICLE 32 - DURATION

Section 32.1. This Agreement shall upon its execution by duly authorized representatives of the OPBA and the Sheriff's Office become effective as of March 8, 2014 and shall remain in full force and effect to and including midnight March 7, 2017.

Section 32.2. If either party desires to modify or amend this Agreement, it shall notify the other in writing of such intent no earlier than one hundred and twenty (120) calendar days prior to the expiration date, nor later than ninety (90) calendar days prior to the expiration date of this Agreement.

Section 32.3. Written notice provided herein shall be given by personal service, electronic mail, or by certified mail to be served upon or mailed to the Hancock County Sheriff, 200 West Crawford Street, Findlay, Ohio 45840 and if upon the OPBA, by serving same upon the President of the local unit or by mailing to the OPBA. Either party may, by like written notice, change the address to which the notification referenced in this section shall be given.

Section 32.4. The parties acknowledge that during the negotiations which resulted in this Agreement each had the right to make proposals on any subject matter not removed by law from the area of collective bargaining. The entire understandings and agreements reached by the parties during such negotiations are set forth in this Agreement.

* * * * *

As indicated by and between the Parties, the aforementioned represents the mediated Factfinding positions of the Parties, and are to be included in the successor Collective Bargaining Agreement. Such takes into consideration the data presented, the

evidence of record, and the positions articulated to the Factfinder/Mediator during the course of the Hearing Session that occurred on June 19, 2014.

IX. ARTICLES NOT SPECIFICALLY ADDRESSED HEREIN

Those issues/Articles, if any, not subject to the presentation of evidence, or identified/addressed during the course of the Mediation session, or those not referenced by either Party, shall be subject to a *status quo* recommendation relative to whatever policy, practice, contractual provision, or procedure that may have existed, relative to the predecessor Collective Bargaining Agreement. Such shall be maintained for consideration/inclusion in the successor Collective Bargaining Agreement ratified, approved and implemented by these Parties.

X. CONCLUSION

The recommendations contained herein, and those stipulated by the Parties as set forth in the mediated Factfinding positions of these Parties, are indeed deemed reasonable in light of the economic and contractual data presented and reviewed by the Factfinder; the presentations made by the Parties; and, are based on the common interests of both entities recognizing the painstaking efforts at the bargaining table resulting in the many Tentative Agreements reached before and during the Hearing/Mediation Session. Such are supported by the comparable data provided; the manifested intent of each Party as reflected during the course of this aspect of the statutory process; the Tentative Agreements reached by and between them during the course of mediation and the negotiations efforts endeavored prior to; the stipulations of the Parties as set forth in the mediated Factfinding positions of the Parties; and, are made based on the mutual interests and concerns of each Party to this successor Collective Bargaining Agreement.

David W. Stanton

David W. Stanton, Esq.,
Factfinder/Mediator

July 30, 2014
Cincinnati, Ohio

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing Factfinding Report, based on the mediated Factfinding Positions of the Parties hereto, has been forwarded by electronic mail to: Aaron K. Weare, Esq., Principal Representative for the Hancock County Sheriff, Senior Consultant with Clemans, Nelson & Associates, 417 North West Street, Lima, Ohio 45801-4237; Jonathan J. Winters, Esq., Principal Representative and Special Counsel for the Ohio Patrolmen's Benevolent Association, 2222 Centennial Road, Toledo, Ohio 43617; and to the State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 42315 on this 30th day of July, 2014.

David W. Stanton

David W. Stanton, Esq. (0042532)
Factfinder / Mediator