

Date of Hearing: December 15, 1997

Location of Hearing: Sheriff's Office
Wauseon, Ohio

Present for the Factfinding: Steven A. Graf
Clemans, Nelson &
Associates, Inc.
Representing Fulton County Sheriff
Sheriff D. Merillat
Chief Deputy R. Buchs

Jackie Wegman
Staff Representative
The Fraternal Order of Police,
Ohio Labor Council, Inc.
Representing Deputies in Fulton County
Rick Brock
Max Nofziger
Nick Rubel

Note that for purposes of identification in this document, The Fulton County Sheriff and their representatives will be referred to as the **EMPLOYER** and representatives of The Fraternal Order of Police, Ohio Labor Council, Inc. and their representatives will be referred to as the **Union**.

Time: The Factfinding started about 9:00 a.m. and concluded about 4:15 p.m.

BACKGROUND

Before the Factfinding began, the persons present were asked to affirm that what they said was the truth and the whole truth. They all so affirmed.

The collective bargaining unit in this matter consists of sixteen (16) employees in the classification of Road Deputy.

There is no current collective bargaining agreement with the OPBA. July 10, 1997, the Bargaining Unit was certified. There is no Collective Bargaining Agreement at the present time.

The Sheriff of the County is the Appointing Authority for employees of the Sheriff's Office. The Sheriff is the chief law enforcement officer of the County. The Sheriff is also the minister of the County courts.

Road Patrol Deputies, under general supervision, patrol an assigned area to maintain order, enforce laws and perform other processes and related duties as assigned.

Prior to the Factfinding and until early afternoon, the representatives of the Employer and the Union continued to mediate issues and a number of the unresolved issues were resolved. The Factfinding followed this. The unresolved issues submitted to Factfinding were as follows.

- Issue 1 Dues Deduction
- Issue 2 Grievance Procedure
- Issue 3 Rights of Bargaining Unit Members
- Issue 4 Overtime Call-Out Procedure
- Issue 5 Past Practices/Prevailing Rights
- Issue 6 Uniforms
- Issue 7 Insurance
- Issue 8 Sick Leave Conversion
- Issue 9 Shift Differential
- Issue 10 Longevity
- Issue 11 Wages
- Issue 12 Hours of Work and Overtime

The Employer and the Union presented the Factfinder with statements regarding their positions on the unresolved issues.

The Employer and the Union negotiated a number of items that were tentatively agreed to by both parties. This list was given to the Factfinder. The Factfinder asked the representatives, Steven Graf and Jackie Wegman, to number these items as articles, as well as the unresolved issues and order all of them appropriately.

FACTFINDING CRITERIA

In determining the facts and making the recommendations contained in this document, the Factfinder considered the applicable criteria as required by the Ohio Revised Code Section 4117.14 and the Ohio Administrative Code Section 4117-9-05. These criteria are:

- (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 interest and welfare of the public, and 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;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties; and,
- (6) Such other factors, not confined to 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.

FINDING of FACT and RECOMMENDATIONS

The unresolved issues submitted by the Employer and the Union to the Factfinder will be considered in what follows.

Below, the finding of fact will be presented for each issue, followed by the Factfinder's recommendation in respect to that issue and when applicable, the language recommended for the bargaining agreement. The Factfinder's report needs to be considered in its entirety as to the overall effect on the parties and their bargaining positions.

UNRESOLVED ISSUES

Issue 1 DUES DEDUCTION

The main differences between the Union's and the Employer's positions were the fair share fees and the deduction of dues when an employee does not earn sufficient pay to have funds for dues left after all other required legal deductions have been taken.

It seems reasonable and the general practice in collective bargaining agreements to have fair share fees. Nothing was presented to the Factfinder to suggest that a fair share fee should not be included in this collective bargaining agreement. The Factfinder recommends the wording proposed by the Union.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, the Factfinder's recommendation is that the collective bargaining agreement include the following wording.

DUES DEDUCTION

Section 1 The Employer agrees to deduct from the wages and salaries of the bargaining unit members dues required by the FOP/OLC by payroll deduction. All members of the bargaining unit shall either become dues paying members of the FOP/OLC, or as a condition of continued employment, remit to the FOP/OLC a fair share fee in the amount set by the FOP/OLC per person per month in accordance with the provision of O.R.C. 4117.09 (c), starting the thirty-first day of employment with the employer or the execution date of this Agreement, whichever comes first.

Section 2 Dues and Fair Share Fees shall be paid over by the Employer once each month to the FOP/OLC at 222 East Town Street, Columbus, Ohio 43215-4611 or such address as set by the FOP/OLC from time to time.

Section 3 An employee shall have the right to revoke such authorization by giving written notice to the Employer and the FOP at any time during the fifteen (15) days period preceding the termination of this agreement, and the authorization card shall state clearly on its face the right of the employee to revoke during that period.

Section 4 The Employer's obligation to make deduction shall terminate automatically upon timely receipt of revocation of authorization or upon termination of employment or transfer to a job classification outside the bargaining unit.

Section 5 The FOP will indemnify and hold the Employer harmless from any action growing out of deductions hereunder and commenced by an employee against the Employer.

Section 6. All bargaining unit employees who are not members of the FOP/OLC shall pay a fair share fee to the FOP in the amount of employees dues as set by the FOP/OLC from time to time. The deduction to the fair share fee from any earnings of the employee shall be automatic and does not require a written authorization for payroll deduction. Payment to the FOP of fair share fees shall be made in accordance with the regular dues deductions as provided herein.

Issue 2 GRIEVANCE PROCEDURE

In reviewing the proposals presented by both parties, it seems to the Factfinder that the proposals differ basically in respect to which party shall pay the costs of the arbitrator. Considering similar collective bargaining agreements, the losing party most often is required to pay the costs of the arbitrator.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, the Factfinder's recommendation is that the collective bargaining agreement contain the wording proposed by the Employer, listed as Proposal #2, Article 10. However, it is to be noted that the number of the Article shall be determined by both parties as stated above in the Background section. A copy of this proposal is attached as Exhibit 1.

Issue 3

RIGHTS OF BARGAINING UNIT MEMBERS

The Union's proposal is rather lengthy and goes more into depth than seems to be required by the subject being addressed. The proposal, in the opinion of the Factfinder, would seem to create situations that are open to more than one interpretation. This could create more problems that it solved. A number of collective bargaining agreements examined by the Factfinder do not have an article on the rights of the bargaining unit members but rather address this concern under an article on discipline. The Factfinder also considered the argument presented by the Employer as to Constitutional Law.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, the Factfinder's recommendation is that the collective agreement contain no article on the Rights of Bargaining Unit Members.

Issue 4

OVERTIME CALL-OUT PROCEDURE

The Union is requesting specific language to determine the distribution of overtime. The Employer is requesting the distribution of overtime to be as it is done at the present time with an assurance that there will be a reasonable effort for an equal distribution of the overtime.

The process proposed by the Union is rather involved and would require considerable time by the Chief Deputy to implement it. However, it is the contention of the Union that the overtime in the past has not been equally distributed. There is a question of management rights involved in the issue but at the same time there is a need to distribute the overtime equally among the deputies. This will be addressed again in Issue 12, Hours of Work and Overtime.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, it is the Factfinder's recommendation that there be no article for Overtime Call-Out Procedure.

Issue 5 PAST PRACTICES/PREVAILING RIGHTS

The Union is proposing language to maintain current practices not identified by the collective bargaining agreement. The Employer rejects this proposal for two reasons. First, this would infringe on the rights of management and the proposal is not specific but refers to current practices.

The Factfinder agrees with the Employer in so far as the Union's proposal in referring to current practices without identifying them lacks specificity and could possibly lead to grievances on the part of both parties. Collective bargaining agreements ought to spell out in detail rights and obligations of both parties to the agreement.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, it is the Factfinder's recommendation that the collective bargaining agreement not contain an article for Past Practices/Prevailing Rights.

Issue 6 UNIFORMS

Both parties reached an agreement on this issue but it was decided that the Factfinder would include the wording in his report. The language agreed upon is as follows.

Section 1 Deputies of the Fulton County Sheriff's office shall receive a general uniform issue, to include leather gear, insignia, and required equipment, as recommended by the sheriff at the time of employment. Items of general uniform issue shall be replaced as needed, subject to the approval for such replacement by the Sheriff.

Section 2 Non-uniform Deputies shall be entitled to reimbursement, not cash, of four hundred dollars (\$400.00) per year of the contract for wearing apparel, upon presentation of receipts.

It is understood that the Employer shall continue to provide cleaning of the uniforms at the Employer's expense.

Issue 7 INSURANCE

The Employer and the Union agreed to the following. It was also agreed that the Factfinder should include the agreement in his report.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, it is the Factfinder's recommendation that the collective bargaining agreement contain the following sections on Insurance.

INSURANCE

Section 1 Fulton County will provide at county expense a life insurance program and an accidental and dismemberment program. The benefit limit is fifteen thousand dollars (\$15,000.00) for each program.

Section 2 Under the 1998 Fulton County Health Care Program base costs to employees will remain the same as the previous year. Any costs above the county cap of four hundred and seventy-two dollars and fifty cents (\$472.50) will be split equally by the Employer and the employee, in no event shall the employee be responsible for more than two hundred and fifty dollars (\$250.00) per year.

Section 3 Each employee can choose from a Medical Mutual HMO, formerly known as Blue Cross Blue Shield HMO program, an Anthem Traditional program or an Anthem PPO plan or any other program offered by the Fulton County Health Care Program. Should an employee choose not to participate in a county health insurance program, the employee shall receive five hundred dollars (\$500.00).

Issue 8 SICK LEAVE CONVERSION

The Union proposes an employee who has ten or more years of service with the Employer, or ten or more years of public service with any political subdivisions of the state of Ohio, who retires from active service with the Employer, shall be paid thirty-three and one third percent (33 1/3%) of the value of the employee's accrued but unused sick leave, up to a maximum payment of thirty-three and one third percent

(33 1/3%) of one hundred and fifty (150) days. The payment is to be based on the employee's base rate at the time of retirement.

The Employer's proposal offers twenty-five percent (25%) and limits it to one hundred and twenty (120) days.

Examining other collective bargaining agreements and similar units, the sick leave conversion should be as follows.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, the Fact-finder's recommendation is that the collective bargaining agreement contain the following sick leave conversion.

SICK LEAVE CONVERSION

Section 1 An employee with ten (10) or more years of service with the Employer, or ten (10) or more years of public service with any political subdivisions of the State of Ohio, who retires from active service with the Employer, shall be paid for thirty-three and one third percent (33 1/3%) of the value of the employee's accrued but unused sick leave, up to a maximum payment of thirty-three and one third (33 1/3%) of one hundred and twenty (120) days. Payment shall be based on the employee's base rate of pay at the time of retirement. As used in this section, "retirement" means disability or service retirement under a state retirement system in Ohio.

Issue 9 SHIFT DIFFERENTIAL

The Union proposes a fifty cents (\$0.50) per hour shift differential bonus for persons scheduled to work second and third shift. The arguments offered are that this bonus is compensation for health considerations as well as the effects on family life caused by shift leave.

The Employer proposes no shift leave since the work shifts rotate equally. The Employer also presented exhibits to show that shift premiums are not paid in similar collective bargaining agreements.

Examining other collective bargaining agreements and considering the other economic recommendations of the Factfinder, the Factfinder makes the following recommendation.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, The Factfinder's recommendation is that the collective bargaining agreement contain no Shift Differential premium.

Issue 10 LONGEVITY

The Employer proposes no longevity pay as the Employer's current rates of pay for senior employees is already higher than the average top pay rates for similar agencies and the longevity is already built into the Employer's pay rates.

The Union proposes longevity pay to be awarded as follows:

After 3 years	0.5% annual salary per year
After 6 years	1.25 % annual salary per year
After 12 years	1.50% annual salary per year
After 18 years	1.75% annual salary per year
After 24 years	2.25% annual salary per year

The Union argument is that longevity is a means of retaining existing employees and a tool for recruiting new employees.

After consulting existing collective bargaining agreements in similar situations, the Factfinder makes the following recommendation.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, the Factfinder's recommendation is that the collective bargaining agreement contain the following section on Longevity.

LONGEVITY

Section 1 Employees shall receive a lump sum payment of \$250.00 on the first pay period in December, each December after their Twelfth (12th) Anniversary. The longevity payment is to be rolled into the base pay as part of the salary compensation.

Issue 11 WAGES

The Employer proposes a pay schedule that provides a three percent (3%) pay increase at the signing of the Agreement with three percent increments between pay steps. Further, there would be a one percent (1%) pay increase in each of the second and third years of the Agreement.

The Union proposes an initial adjustment for the starting pay through five (5) years of completion. Further there would be an additional four percent (4%) at the signing of the Agreement and six percent (6%) increases in the second and third year of the Agreement.

Exhibits were presented by both parties. The Factfinder examined other current contracts, reviewed the arguments and concerns of both the Employer and the Union.

Further, the Factfinder looked at the total Agreement in respect to the economic implications of the recommendations being made.

Therefore, the Factfinder, consulting other agreements of similar units, considering the overall economic impact of all the recommendations being offered, makes the following recommendation.

RECOMMENDATION

After considering the findings of fact above and the statutory criteria, the Factfinder's recommendation is that the collective bargaining agreement contain the following wage rates, schedules and wage increases.

Wages (cont)

WAGES

Section 1 Effective the first full pay period after the signing of this Agreement, the hourly wage , base pay, for the position of Deputy shall be as follows:

Starting pay	\$11.00 per hour
Completion of one year	\$11.55 per hour
Completion of two year	\$12.13 per hour
Completion of three years	\$12.74 per hour
Completion of four years	\$13.38 per hour
Completion of five years	\$14.05 per hour

Effective the full pay period after the signing of the Agreement, there shall be an additional four percent (4%) increase to the hourly wage schedule above.

In both the second and third year of the Agreement there shall be an additional four percent (4%) pay increase for the Deputies.

Section 2 The anniversary date of the Deputy shall be used to determine completion date for the above schedule. All employees shall normally progress through the rates upon completion of one (1) year of service in the assigned pay rate.

Issue 12 HOURS OF WORK AND OVERTIME

Both the Union and the Employer accepted the proposal as part of the tentative agreement. However, the Factfinder was asked to include it in the report. There was some concern on the part of the Employer that a part of this section could be interpreted to grant triple time for holidays in some situations. The Union assured the Employer that this was not the intent and both the Union and the Employer agreed to review and make an adjustment, if necessary, in this article and the article on Holiday.

Also, the Employer and the Union agreed to a fifty cents (\$0.50) per hour increase over the canine officer's pay rate to cover the cost for caring for the dog. This item may be included in this article or the article on the Canine Unit. The article on the Canine Unit may need some adjustment to reflect the tentative agreement reached by the Employer and the Union. The Factfinder leaves these details to these parties to work out.

Therefore, the article on Hours of Work and Overtime should be as follows.

HOURS of WORK and OVERTIME

Section 1 Shift rotation shall be every twenty-eight (28) days with the following rotation:

- Day Shift
- Midnight Shift
- Afternoon Shift

The Employer shall maintain the current practice of scheduling days off.

Section 2 All work in excess of eight (8) hours in any one day, or forty (40) hours in any one work week, shall be paid for at time and one-half (1 1/2) the regular hourly rate. A day will be considered from the start of a member's shift for twenty-four (24) hours.

Section 3 Work schedules for a given month will be posted at least twenty-eight (28) days in advance. Changes in work schedules by the Employer are subject to five (5) days in advanced notice when practicable to do so, except in the case of emergency that does not permit such advance notice; however schedule changes cannot be made to avoid payment of overtime.

Section 4 Holidays, vacation days, and other time off which an employee is entitled to, under this contract, shall be considered as time worked and compensated for accordingly, except sick time.


Raymond J. Navarre, Factfinder

Dated December 26, 1997

CERTIFICATE OF SERVICE

Originals of the foregoing Factfinding Report and Recommendations were served upon Jackie Wegman, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc., 545 Dussel Drive, Maumee, Ohio 43537, and upon G. Thomas Worley, Administrator, Bureau of Mediation, Ohio State Employment Relations Board, 65 East State St., Columbus, Ohio 43215-4213, each by United States mail, sufficient postage prepaid, this 26th day of December, 1997. Originals of the foregoing Factfinding Report and Recommendations were personally served upon Steven A. Graf, Senior Consultant, Clemans, Nelson & Associates, Inc., 1519 North Main St., Suite 6, Lima, Ohio 45801, this 26th day of December, 1997.

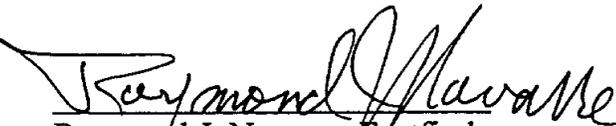

Raymond J. Navarre, Factfinder

EXHIBIT 1

FULTON COUNTY SHERIFF

EMPLOYER PROPOSAL #2

FOP/OLC

ARTICLE 10

GRIEVANCE PROCEDURE

Section 10.1. The term "grievance" shall mean an allegation by a bargaining unit employee that there has been a breach, misinterpretation, or improper application of this Agreement. Any dispute or grievance which would change the terms of this Agreement or is an issue pertaining to the discipline or the acceptance or rejection of a probationary employee is not a "grievance" and is not subject to this grievance procedure.

Section 10.2. Where a specific administrative agency of a judicial or quasi-judicial nature is provided by the statutes of the State of Ohio or the United States for review or redress of specific matters, such as workers' compensation, unemployment compensation, etc., such matters shall not be the subject of a grievance or be processed as such. Where the alleged grievance is over discipline that qualifies for appeal under the Civil Service laws of the state, the aggrieved employee must choose whether to appeal through the grievance procedure or through the State Personnel Board of Review (SPBR). Such matters shall not be appealable through both procedures. A signed waiver must be presented to the Employer waiving the employee's right to appeal to the SPBR if the employee elects to appeal through the Grievance Procedure.

FULTON COUNTY SHERIFF
EMPLOYER PROPOSAL #2
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GRIEVANCE PROCEDURE - CONTINUED

Section 10.3. Where a group of bargaining unit members desire to file a grievance for a situation affecting more than one (1) member of the bargaining unit in a similar manner, one (1) member should be selected to file the grievance and each member who desires to be included in the grievance shall sign the one (1) grievance.

Section 10.4. All grievances shall contain the following information to be considered and must be filed using the grievance form mutually agreed upon by both parties:

- a. Aggrieved employee's name and signature;
- b. Aggrieved employee's classification;
- c. The date the grievance was discussed and the name of the supervisor with whom the grievance was discussed;
- d. The date the grievance was filed in writing;
- e. The date and time the grievance occurred;
- f. The location where the grievance occurred;
- g. The names of all persons, in addition to the grievant, having knowledge of the incident or occurrence giving rise to the grievance;
- h. The specific Article(s) and Section(s) of the Agreement alleged to have been violated; and
- i. The desired remedy to resolve the grievance.

GRIEVANCE PROCEDURE - CONTINUED

Section 10.5. All grievances must be processed at the proper step in order to be considered at subsequent steps. Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect or by permitting the time requirements at each step to lapse without further appeal. Any grievance, which is not processed by the employee within the time limits provided, shall be considered resolved based upon the Employer's last answer. Any grievance not answered by the Employer within the stipulated time limits may be advanced by the employee to the next step in the grievance procedure. All time limits on grievances may be extended upon mutual consent of the Employer and the Union.

Section 10.6. WHEN AN EMPLOYEE COVERED BY THIS AGREEMENT CHOOSES TO REPRESENT HIMSELF IN THE PRESENTATION OF A GRIEVANCE, NO ADJUSTMENT OF THE GRIEVANCE WILL BE INCONSISTENT WITH THE TERMS OF THIS AGREEMENT. PRIOR TO THE ADJUSTMENT OF ANY SUCH GRIEVANCE, THE APPROPRIATE FOP GRIEVANCE REPRESENTATIVE WILL BE NOTIFIED OF THE RIGHT TO BE PRESENT AT THE ADJUSTMENT.

Section 10.67. For purposes of this Article, a "day" shall be defined and shall mean calendar days excluding Saturdays, Sundays, or holidays as provided in this Agreement.

FULTON COUNTY SHERIFF
EMPLOYER PROPOSAL #2
FOP/OLC

GRIEVANCE PROCEDURE - CONTINUED

Section 10.78. Grievances must be submitted to the first step in the grievance procedure within seven (7) calendar days of the incident giving rise to the grievance.

~~Section 10.8.~~ INFORMAL STEP. AN EMPLOYEE WITH A GRIEVANCE ~~There~~ shall ~~be~~ MAKE an earnest, honest effort to settle disputes and controversies promptly through oral discussions between the employee and the employee's immediate supervisor. Any matter which cannot be resolved through these discussions and meets the definition of a grievance as herein defined, may be submitted through the formal grievance procedure within two (2) days of the supervisor's verbal answer.

Step 1. Within the time limits stated above, the employee shall submit ~~the~~ A written grievance to the employee's immediate supervisor. It shall be the responsibility of the supervisor to investigate the matter and to provide a written response to the employee within ~~five (5)~~ TEN (10) calendar days following the day on which the matter was submitted to him.

FULTON COUNTY SHERIFF
EMPLOYER PROPOSAL #2
FOP/OLC

GRIEVANCE PROCEDURE - CONTINUED

Step 2. If the grievance is not settled at Step 1, the employee shall submit the grievance to the Employer, or designee, within five (5) work days of the receipt of the Step 1 response. The Employer or designee shall provide a written response to the employee within ~~five (5)~~ TEN (10) calendar days following the day on which the matter was submitted. ~~The decision of the Employer shall be final.~~

Section 10.9. THE UNION, BASED UPON THE FACTS PRESENTED, SHALL HAVE THE RIGHT TO DECIDE WHETHER TO ARBITRATE A GRIEVANCE. WITHIN TEN (10) CALENDAR DAYS FROM THE DATE OF THE FINAL ANSWER ON A GRIEVANCE FROM THE EMPLOYER, THE UNION SHALL NOTIFY THE EMPLOYER OF ITS INTENT TO SEEK ARBITRATION OVER AN UNRESOLVED GRIEVANCE. ANY REQUEST FOR ARBITRATION OR NOTICE OF INTENT TO ARBITRATE WITHIN THE PRESCRIBED PERIOD SHALL CAUSE THE GRIEVANCE TO BE CONSIDERED RESOLVED BASED UPON THE EMPLOYER'S LAST ANSWER.

Section 10.10. AFTER RECEIPT OF A REQUEST TO ARBITRATE, THE REPRESENTATIVES OF EACH OF THE PARTIES (THE FOP AND THE EMPLOYER) SHALL SELECT AN ARBITRATOR. THE ARBITRATOR SHALL BE SELECTED IN THE FOLLOWING MANNER: THE FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) SHALL BE JOINTLY REQUESTED TO SUBMIT A PANEL LIST OF NINE (9) ARBITRATORS FROM FMCS AREA #15 (OHIO). THE PARTIES SHALL

GRIEVANCE PROCEDURE - CONTINUED

ALTERNATELY STRIKE THE NAMES OF THE ARBITRATORS UNTIL ONLY ONE (1) NAME REMAINS. THE PARTY REQUESTING ARBITRATION WILL BE RESPONSIBLE FOR PAYING THE COST OF THE LIST FROM FMCS AND SHALL STRIKE THE FIRST NAME. EACH PARTY MAY ONCE REJECT THE REMAINING NAME(S) AND REQUEST FROM THE FMCS ANOTHER LIST OF NAMES UNTIL A MUTUALLY AGREEABLE ARBITRATOR IS SELECTED.

Section 10.11. THE ARBITRATOR SHALL LIMIT DECISIONS STRICTLY TO THE INTERPRETATION, APPLICATION, OR ENFORCEMENT OF THE SPECIFIC ARTICLES AND SECTIONS OF THIS AGREEMENT, AND SHALL BE WITHOUT POWER OR AUTHORITY TO MAKE ANY DECISION:

- A. CONTRARY TO OR INCONSISTENT WITH OR MODIFYING OR VARYING IN ANY WAY THE TERMS OF THIS AGREEMENT OR OF APPLICABLE LAW;
- B. CONTRARY TO OR INCONSISTENT WITH, CHANGING, ALTERING, LIMITING, OR MODIFYING ANY PRACTICE, POLICY, RULES, OR REGULATIONS, PRESENTLY OR IN THE FUTURE ESTABLISHED BY THE EMPLOYER SO LONG AS SUCH PRACTICE, POLICY, OR REGULATION DOES NOT CONFLICT WITH THIS AGREEMENT;

GRIEVANCE PROCEDURE - CONTINUED

- C. RECOMMENDING ANY RIGHT OR RELIEF ON AN ALLEGED GRIEVANCE OCCURRING AT ANY TIME OTHER THAN THE CONTRACT PERIOD IN WHICH SUCH RIGHT ORIGINATED, OR MAKING ANY AWARD BASED ON RIGHTS ARISING UNDER ANY PREVIOUS AGREEMENT, GRIEVANCE, OR PRACTICES;
OR
- D. ESTABLISHING ANY NEW OR DIFFERENT WAGE RATES NOT NEGOTIATED AS PART OF THIS AGREEMENT.

IN THE EVENT OF A MONETARY AWARD, THE ARBITRATOR SHALL LIMIT ANY RETROACTIVE SETTLEMENT TO THE DATE THE GRIEVANCE WAS PRESENTED TO THE EMPLOYER IN STEP 1 OF THE GRIEVANCE PROCEDURE.

Section 10.12. THE QUESTION OF ARBITRABILITY OF A GRIEVANCE MAY BE RAISED BY EITHER PARTY BEFORE THE ARBITRATION HEARING OF THE GRIEVANCE ON THE GROUNDS THAT THE MATTER IS NON-ARBITRABLE OR BEYOND THE ARBITRATOR'S JURISDICTION. THE FIRST QUESTION TO BE PLACED BEFORE THE ARBITRATOR WILL BE WHETHER OR NOT THE GRIEVANCE IS ARBITRABLE. IF THE ARBITRATOR DETERMINES THAT THE GRIEVANCE IS WITHIN THE PURVIEW OF ARBITRABILITY, THE GRIEVANCE WILL BE HEARD ON ITS MERITS BEFORE THE SAME ARBITRATOR.

FULTON COUNTY SHERIFF
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GRIEVANCE PROCEDURE - CONTINUED

Section 10.13. THE COSTS AND FEES OF THE ARBITRATOR SHALL BE BORNE BY THE LOSING PARTY. IN THE EVENT THAT THE ARBITRATOR'S DECISION FAILS TO GRANT THE REQUESTED AWARD OF EITHER PARTY AND REPRESENTS A "SPLIT DECISION," THE COST AND FEES OF THE ARBITRATOR SHALL BE BORNE EQUALLY BY THE PARTIES. THE ARBITRATOR SHALL BE REQUESTED TO RULE ON THE ASSIGNMENT OF COSTS AT THE TIME OF PRESENTATION OF THE AWARD. THE EXPENSES OF ANY NON-EMPLOYEE WITNESS SHALL BE BORNE, IF ANY, BY THE PARTY CALLING THE WITNESS. THE FEES OF ANY COURT REPORTER SHALL BE PAID BY THE PARTY ASKING FOR ONE; SUCH FEES SHALL BE SPLIT EQUALLY IF BOTH PARTIES DESIRE A REPORTER, OR REQUEST A COPY OF ANY TRANSCRIPTS. ANY BARGAINING UNIT MEMBER WHOSE ATTENDANCE IS REQUIRED FOR SUCH HEARINGS SHALL NOT LOSE PAY OR BENEFITS TO THE EXTENT SUCH HEARING HOURS ARE DURING NORMALLY SCHEDULED WORKING HOURS ON THE DAY OF THE HEARING.

Section 10.14. THE DECISION OF THE ARBITRATOR SHALL BE FINAL AND BINDING ON THE GRIEVANT, THE FOP AND THE EMPLOYER. THE ARBITRATOR SHALL BE REQUESTED TO ISSUE HIS DECISION WITHIN THIRTY (30) CALENDAR DAYS AFTER THE CONCLUSION OF TESTIMONY AND ARGUMENT OR SUBMISSION OF FINAL BRIEFS.

FULTON COUNTY SHERIFF

EMPLOYER PROPOSAL #2

FOP/OLC

GRIEVANCE PROCEDURE - CONTINUED

IF THE ARBITRATOR DECIDES THE GRIEVANCE IS NON-ARBITRABLE OR
DECIDES FOR THE FOP ON ARBITRABILITY BUT AGAINST THE FOP ON THE
MERITS, THE FOP SHOULD BE CONSIDERED THE LOSING PARTY.

FOR THE EMPLOYER:

Date Submitted: 11/14/97

Date Signed: _____

FOR THE FOP/OLC:

