



2011-2013 Agreement Between the Delaware County Sheriff and OPBA – Dispatchers' Unit

02/06/12
10-MED-10-1425
0631-05
K28279

AGREEMENT BETWEEN
DELAWARE COUNTY SHERIFF
AND
OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
(Dispatchers' Unit)

EFFECTIVE: January 1, 2011
EXPIRES: December 31, 2013

Table of Contents

<u>Article</u>		<u>Page</u>
1	Preamble	1
2	Recognition	1
3	Dues Deduction.....	3
4	Non-Discrimination	3
5	Probation.....	4
6	Corrective Action and Records.....	4
7	Discipline Meetings	5
8	Transfers and Assignments	7
9	Conformity to Law	8
10	Labor Relations Meeting.....	8
11	Standard Operating Procedures.....	9
12	Grievance Procedure.....	9
13	Seniority.....	11
14	Layoff and Seniority	11
15	Miscellaneous	11
16	Uniform Allowance	12
17	Unpaid Leaves of Absence	12
18	Military Leave.....	14
19	Standard Work Week and Overtime	14
20	Call-In Pay	15
21	Training	15
22	Paid Leaves.....	16
23	Vacations.....	19
24	Education	20
25	Holidays	20
26	Health Insurance	21
27	Wages and Pay Steps	21
28	Scope.....	22
29	Management Rights.....	23
30	Substance Abuse Policy (Drug & Alcohol Testing).....	23
31	Duration	29
	Signatures	29

ARTICLE 1
PREAMBLE

This Agreement is entered into this 1st day of January 2011, between the Delaware County Sheriff (hereinafter "The Sheriff" or "The Employer") and the Ohio Patrolmen's Benevolent Association ("OPBA" or "Union"), to establish the wages, hours, terms, and conditions of employment between the parties. The parties intend the terms of this Agreement to supersede any Ohio Revised Code provision on the subjects. The responsibility of the Sheriff with regard to this Agreement is limited to their authority as established by the laws of the State of Ohio.

ARTICLE 2
RECOGNITION

Section 2.1. The Sheriff hereby recognizes the Ohio Patrolmen's Benevolent Association as the sole and exclusive representative for all employees included within the Bargaining Unit described in Section 2.2 of this Article on matters related to wages, hours, and other terms and conditions of employment, and the continuation, modification or deletion of an existing provision in this Agreement, and the solution of questions arising under this Agreement.

Section 2.2. Bargaining Unit. The Bargaining Unit shall include all Full-Time Dispatchers employed by the Sheriff, and excludes the Dispatch Supervisor and all personnel sworn in accordance with Ohio Revised Code Section 311.04, as well as all other civilian employees of the Sheriff's Office.

Section 2.3. Bulletin Boards. The Sheriff will provide an OPBA bulletin board in the following location: one in the Dispatch Center. Only OPBA bulletins will be permitted to be posted on the board.

Section 2.4. Ballot Boxes. The OPBA shall be permitted, upon prior notification to the Sheriff, to place a ballot box in the radio room for the purpose of collecting members' ballots on an OPBA issues subject to ballot. Such box shall be the property of the OPBA and neither the ballot box nor its contents shall be subject to the Office's review.

Section 2.5. Use of Intra-Office Mails. The OPBA shall be permitted to utilize the intra-office mail system (pigeon-holes) for the purpose of providing information pertaining to OPBA business or Bargaining Unit representation to Bargaining Unit Members. The OPBA agrees that the use of the mail system will be reasonable and limited to providing information that is necessary for the normal conduct of OPBA business or Bargaining Unit representation. All mail placed into the mail system by the OPBA shall be the property of the Bargaining Unit member to whom it is addressed, and such mail shall not be subject to the Office's review.

Section 2.6. Grievance/Liaison Representative. The OPBA shall designate not more than one (1) Grievance/Liaison Representative, who shall be a Bargaining Unit Member. There will be one (1) representative voted into the position, with the Director serving as the Chairperson and the second representative. The Sheriff will be notified in writing of the OPBA's designees.

On any shift, the Grievance/Liaison Representative, i.e., Grievance Committee Member or Chairman, may be allowed necessary time off the job, in paid status, to attend a Grievance Committee meeting, related to the processing of grievances or disciplinary investigations, upon prior approval of the Sheriff or his designated representative. Grievance handling or disciplinary investigations outside a Grievance Representative's scheduled shift is not time worked or paid status.

Section 2.7. Grievance/Liaison Chairman.

- A. The parties recognize the position of Grievance/Liaison Chairman, that position being held by the OPBA Director for the Dispatchers' bargaining unit. The Grievance/Liaison Chairman, and a named alternate who shall serve in the absence or unavailability of the Chairman, shall perform the following authorized functions:
 - 1. Serve as an at-large grievance coordinator with responsibility for general supervision and coordination of the grievances;
 - 2. Represent the OPBA in investigating and processing grievances;
 - 3. Replace a Grievance Representative who is absent or unavailable;
 - 4. Maintain the integrity and timeliness of the grievance procedure by such activities as providing advice and counsel to grievants and/or Grievance Representatives;
 - 5. Attend, as necessary, joint meetings of the parties relating to employer relations matters and/or grievances which come within the scope of this Agreement; and
 - 6. Act as Liaison between the OPBA, the Sheriff's office and/or County relative to employee relations matters under this Agreement and/or "grievances under this Agreement.

- B. Negotiating Committee. Dispatchers on the OPBA bargaining team may be given release time for bargaining occurring during their shift or time off from their shift because of their participation in bargaining outside their shift, with a maximum of one per shift, if the Sheriff or his designee determines that their absence will not underman his staff.

ARTICLE 3
DUES DEDUCTION

Section 3. During the term of this Agreement, the Employer shall deduct initiation fees, assessments levied by the OPBA, and the regular monthly OPBA dues from the wages of those employees who have voluntarily signed, written dues deduction authorization forms permitting said deductions. No new written authorization forms will be required from any employees in the bargaining unit for whom the Employer is currently deducting dues. Written authorizations shall remain in effect until revoked in writing by the employee.

Section 3.2. The initiation fees, dues or assessments so deducted shall be in the amounts established by the OPBA from time to time in accordance with its Constitution and Bylaws. The OPBA Executive Director or designee shall certify in writing to the County Auditor the amounts due and owing from the employees involved.

Section 3.3. The Employer shall deduct dues in approximately equal amounts once per month from the second pay of the month in accordance with the Union's written direction, to the extent there are wages owing to the employee to cover the deduction. If an employee is on medical leave, layoff or other extended unpaid absence, dues shall only be deducted for a period when wages are earned. If dues are owing for pay periods when the employee has no earnings or insufficient earnings to cover the deduction, the Employer shall deduct such dues out of future paychecks only upon the express written direction of the OPBA Executive Director or designee.

Section 3.4. A check in the amount of the total dues withheld under this Article shall be tendered to the Treasurer of the OPBA within thirty (30) days from the date of making said deductions.

Section 3.5. The OPBA hereby agrees to defend and hold the Employer, its officials, and employees harmless from any and all liabilities or damages which may arise from the performance of its obligations under this Article and the OPBA shall indemnify the Employer, its officials, or employees from any such liabilities or damages that may arise.

ARTICLE 4
NON-DISCRIMINATION

Section 4.1. The Sheriff agrees not to discriminate against Dispatchers with respect to their hire, terms and conditions of employment, and matters of discipline because of a Dispatcher's race, color, national origin, religion, sex, ancestry, disability, political activity which is not prohibited or limited by Ohio Revised Code Chapter 124, Union Activity, or because he is in a protected age group, defined by federal law.

Section 4.2. Dispatchers have the right to refrain from forming, joining, assisting or participating in Union activity, or to engage in any such activity.

Section 4.3. Any reference to the male gender in this Agreement shall be equally applicable to females.

Section 4.4. The Employer may take any and all actions which are necessary to comply with the Americans with Disabilities Act.

ARTICLE 5 **PROBATION**

Section 5.1. Newly-hired employees and employees transferred into the bargaining unit after the effective date of this agreement must complete a probationary period of one year. This provision will not affect any current employee who had completed his or her probation prior to the effective date of this agreement.

Section 5.2. Probationary employees may be discharged or transferred back out of the bargaining unit, as appropriate, for any reason and at any time prior to the completion of the probationary period. Such action shall not be grievable under the terms of the Agreement or otherwise subject to challenge.

ARTICLE 6 **CORRECTIVE ACTION AND RECORDS**

Section 6.1. The Sheriff or his designee may file charges and administer discipline.

Section 6.2. The Sheriff (or staff officers) will not discipline a non-probationary Dispatcher without just cause. The principles of progressive discipline below will be followed. The Sheriff may determine that higher levels of discipline are required at times. However, any discipline issued is subject to review in the Grievance Procedure.

1. Verbal counseling will be defined as “an exchange between the supervisor and an employee where the intent is to give adequate notice to any employee whose actions are improper and/or inadequate so that the employee may improve his or her performance to acceptable standards.”

2. A verbal warning is a written order stating a deputy’s behavior or job performance is unacceptable or unsatisfactory behavior or performance may result in corrective action being taken. Verbal warnings will be removed from the deputy’s file one (1) year from the date of receipt.

3. A reprimand is a written statement to an employee outlining his unacceptable or unsatisfactory behavior or job performance and noting that as a matter of discipline his activity is being documented for future employer evaluations of him. Reprimands will be removed from the employee’s file after one (1) year providing that a second reprimand of the same nature is not received within that year. Should this occur, reprimands may remain for two (2) years.

4. A suspension is a written statement to an employee outlining his unacceptable or unsatisfactory behavior or job performance and ordering him to suspend his work performance for a specified number of work days without pay. A suspended employee

may use comp time, holiday time, vacation or personal days in lieu of suspension time 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). Suspensions shall be removed from the employee's file after two (2) years.

5. A discharge is a written notification to an employee outlining his unacceptable or unsatisfactory behavior or job performance and terminating the existing employment relationship. A discharged employee must return all property issued to him. Discharges remain in an employee's file indefinitely.

Section 6.3. Review of Personnel Files. Any member shall be allowed upon request to review his personnel file between 8-30 a.m. and 4:30 p.m., Monday through Friday. Such request shall be made to the Sheriff directly and review shall be made in the presence of the Sheriff or his designated representative at a time of mutual convenience. Release of personnel information to the public shall be in accordance with state and federal laws. Any member may copy documents in his file. The Administration may levy a charge for such copying, which charge shall bear a reasonable relationship to actual cost.

Section 6.4. Inaccurate Documents. Should any member have reason to believe that there are inaccuracies in documents contained in his file, he may write a memorandum to the Sheriff explaining the alleged inaccuracy. The Sheriff shall either remove the inaccurate document or. Attach the member's memorandum to the document in his file.

Section 6.5. The Sheriff/Board of County Commissioners will keep only one (1) set of personnel files on any Bargaining Unit Member. This will not include records kept on matters of payroll. This set of files will be kept at the office of the Delaware County Sheriff.

ARTICLE 7 **DISCIPLINE MEETINGS**

Section 7.1. A Dispatcher has the right to be accompanied by an OPBA representative (or designated alternate) when the Sheriff or his designate wants to meet with the Dispatcher to discipline him or conduct investigations where discipline is being considered.

Section 7.2. A Dispatcher is entitled to Union representation at investigatory interviews which the Dispatcher reasonably believes could lead to discipline (the *Weingarten* standard) and at grievance meetings. There is no entitlement to Union representation at other employer-employee meetings that are relevant to the employment relationship.

Section 7.3. Disciplinary meetings will be held on work time except when the matter concerns third shift. If reasonable accommodations cannot be made to have a discipline meeting for a third shift employee during the regular hours of employment of said employee, other reasonable accommodations will be made.

Section 7.4. Polygraph, computerized voice stress analysis (CVSA), mechanical or chemical means to investigate Dispatchers shall first be checked for their accuracy before being used or administered. These methods will not be used unless the Sheriff has reasonable suspicion that a violation of policy, procedures, or unlawful activity has occurred. Questions asked during the course of any test administered pursuant to this Article shall be narrowly tailored to the specific allegations of misconduct by the Dispatcher. When the CVSA is administered to a Dispatcher, it will not be administered by a member of the same Bargaining Unit. Also, the Sheriff acknowledges that the results of any of the testing under this Section will not serve as the sole basis of any disciplinary action taken against the Dispatcher.

Section 7.5. Dispatchers will be given notice, the basis of the charges, and an opportunity to be heard prior to any disciplinary action being taken. A Dispatcher may use an OPBA representative to assist in addressing the charges against him.

Section 7.6. Written results of an official investigation shall be provided to the Dispatcher.

Section 7.7. The Sheriff shall inform a Dispatcher that a complaint has been filed against him, the nature of the complaint, and the outcome of the complaint within a reasonable period of time. Written notification must be given. If, after investigating the complaint the Sheriff decides not to make a formal investigation of a Dispatcher, the information gathered about the complaint shall not be placed in a Dispatcher's personnel file. Nothing in this Section prevents the Sheriff from compiling information on a Dispatcher accused of engaging in, or aiding and abetting any unlawful activity. Anonymous oral complaints may not be utilized as a basis for commencing an investigation unless the complaint is reduced to writing and signed by either the complainant or the person who receives the complaint.

Section 7.8. For the purposes of this Agreement, an official investigation will be defined as any time management compiles written information about the alleged activities of a Dispatcher, whether it relates to conduct allegedly occurring on- or off-duty. To the extent practicable, all investigations and notifications of discipline resulting therefrom will be completed within forty-five (45) days of the time that the Employer receives notice of the conduct in dispute.

Section 7.9. Refusing to answer questions about the Dispatcher's activity or of other Dispatchers' activity is grounds for insubordination. The Dispatcher shall be warned that he could be disciplined if he continues to refuse to answer questions about another Dispatcher or himself. However, *Garrity* warnings shall be rendered when appropriate.

Section 7.10. A Dispatcher who is questioned in the disciplinary process may tape record any such meeting, provided that everyone present is informed that the meeting is being recorded. Individuals, other than the subject of a disciplinary meeting, or the Sheriff or the Sheriff's designee, may not tape record a meeting without the consent of the Sheriff or his designee.

Section 7.11. All disciplinary action shall be conducted in a private and businesslike manner.

Section 7.12. A Dispatcher may choose to waive all steps in the disciplinary process after being informed of the charges against him. This waiver must be voluntary and in writing.

ARTICLE 8
TRANSFERS AND ASSIGNMENTS

Section 8.1. A vacancy occurs when the Sheriff intends to fill an existing bargaining unit position which has become available on an indefinite basis, or when the Sheriff intends to create a new full-time bargaining unit position or add one to an existing classification. The Sheriff is required to fill any position posted pursuant to this Article provided that there are qualified applicants (see 8.2.B below). Any time a position is posted which the Sheriff intends to fill, the posted position shall be filled according to the listed criteria in Section 8.2.B below. However, each position filled pursuant to this Article will be subject to a one-hundred twenty (120) day probationary period. The Sheriff shall have the sole discretion to evaluate the performance of the employee during the probationary period. Any employee remaining in a position subsequent to the one-hundred twenty (120) day period will be deemed to be qualified for the position and may only be removed for just cause. Probationary periods may be extended by agreement of all parties.

Section 8.2. The Sheriff will fill vacancies as follows:

- A. Posting. The Sheriff shall post the vacancy notice, naming the available job, duty hours, days off, and a detailed job description. The posting shall be for five (5) working days ("work day" being defined as Monday through Friday). Interested candidates must submit a written resume/qualifications to the Sheriff during the five (5) day posting period.
- B. Selection. The Sheriff shall select the candidate he deems most qualified based on the candidate's related experience, training, and educational background needed to perform the duties as described in the posted vacancy. His selection must be made in good faith. If two (2) Bargaining Unit Members with comparable qualifications apply for the job posted, the Bargaining Unit Member with the most seniority will prevail.

Section 8.3. Shift Bid.

Dispatchers shall submit their requests for shift schedules and days off two (2) times each year, in the months of January and July, either in person or in writing, on days that are mutually agreed upon by the Sheriff and the bargaining unit. Dispatcher's that submit their request in writing will have their shift schedule and days off assigned by the Division Supervisor if their written request has been selected by a more senior dispatcher. Shift schedules and days off will be assigned by the beginning of the first pay period in February and the first pay period in August. If a change in shift or days off requires a Dispatcher to work more than forty (40) hours, the Dispatcher will be required to use compensatory time or vacation days to avoid overtime. Conversely, if a change in shift or days off requires a Dispatcher to work less than forty (40) hours, the Dispatcher shall be paid his/her full wages for the pay period with no deduction for the time actually worked less than forty (40) hours.

Section 8.4. Filling of Shift Vacancies.

In the event a Dispatcher is moved from his/her present shift or days off for any reason, the most senior Dispatcher shall be given the opportunity to bid for the days off that are vacant, unless it would create a scheduling hardship contrary to minimum staffing requirements. This opportunity shall proceed for two (2) times in seniority until the vacancy is filled, and shall start again for each shift and days off that become vacant as the prior vacancies are filled.

Section 8.5. The Sheriff determines all transfers and assignments. A transfer occurs when the Sheriff moves a Dispatcher from one shift schedule to another, from one division to another, or changes his days off. Assignments are those duties required of a Dispatcher in the position in which he has been placed to work. The Sheriff shall exercise ordinary and reasonable discretion in making transfers and assignments. The Sheriff shall not transfer or assign any Dispatcher without just cause.

Section 8.6. A promotion occurs when the Sheriff increases a Bargaining Unit Member's rank in the Sheriff's Office. The Sheriff determines the promotions. He shall establish standards for promotions and provide them to the OPBA. Promotions shall be made in good faith.

Section 8.7. Vacancies, transfers, assignments, promotions, or changes in shift schedules are subject to the Grievance/Arbitration Procedure.

ARTICLE 9 **CONFORMITY TO LAW**

Section 9.1. This Agreement shall supersede any present and future State and Local laws, along with any applicable rules and regulations, and the invalidity of any provisions of this Agreement by reasons of any such existing or future law or rule or regulation shall not affect the validity of the surviving portions.

Section 9.2. If the enactment of legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portions of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included herein.

Section 9.3. In the event that any portion of this Agreement is rendered invalid or unenforceable, the Employer and the OPBA will, at the request of either party hereto, promptly enter into negotiations relative to the particular provisions deemed or rendered invalid or unenforceable.

ARTICLE 10 **LABOR RELATIONS MEETINGS**

The Sheriff or his designee will meet with OPBA quarterly, if requested by the OPBA or Sheriff, to discuss the application and any problems in the administration of this Agreement. There is no duty to bargain at these meetings. Attendance at these meetings is voluntary and is not paid work time. It is the intention of the parties hereto that such individuals as may be helpful to items to be discussed in such meetings may be in attendance, but normally not more than three (3)

Bargaining Unit Members may attend. Any amendment of this Agreement must be in writing and signed by all parties.

ARTICLE 11
STANDARD-OPERATING PROCEDURES

The Sheriff agrees that, to the extent possible, SOPs shall be reduced to writing and a copy given to the OPBA Director in advance of their enforcement. While the duty to notify has no effect on the Sheriff's authority to promulgate SOPs, the newly promulgated SOP shall not take effect for seven (7) days after its initial posting, unless mutually agreed by the parties in writing. SOPs shall not violate this Agreement. The Sheriff will not selectively enforce SOPs against individual Deputies. Any disagreements over interpretation of SOPs shall be presented to the Sheriff and processed in the Grievance/Arbitration Procedure.

The Sheriff shall provide access to the SOPs, including any future amendments thereto, and shall make the SOP's available in computer form on the Sheriff's office Computer Network for all employees to read and provide one copy on CD ROM to the OPBA. The Sheriff will post changes/additions to the SOPs in paper format on bulletin boards designated by the Sheriff and will provide the changes/additions to the OPBA in computer form in either disk, CD, or email format.

ARTICLE 12
GRIEVANCE PROCEDURE

Section 12.1. Purpose. The grievance procedure is specifically designed to deal with all alleged violations of this existing contract and it replaces any procedure provided by the State Personnel Board of Review. All matters arising out of this contract are to be processed exclusively through the grievance procedure. Grievances must be filed in good faith.

Section 12.2. A Grievance is a timely written complaint concerning the interpretation or application of this Labor Agreement. No grievance can be amended to concern a different fact situation after Step 2 below unless by mutual consent of the parties. The time lines imposed on the grievant herein are to be strictly construed unless the Sheriff expressly extends the time lines. If a grievant fails to meet a time line, the grievance shall be dismissed. If no decision is rendered by the Sheriff or immediate supervisor at any step of the grievance process within the applicable time requirements, the grievance shall proceed to the next successive grievance step. The OPBA is to provide its members with all grievance forms, which must comply with the requisites outlined in Step 2.

Section 12.3. Grievant means a Dispatcher or OPBA.

Section 12.4. Working Day means Monday through Friday, excluding Saturday, Sunday, and recognized holidays. Recognized holidays being defined in R. C. 325.19.

Section 12.5. The grievant is entitled to OPBA representation at any step of the grievance procedure. The availability of the OPBA representative does not affect the running of the time lines at any step of the grievance procedure.

- A. Step 1. The grievant must file a written grievance with his immediate supervisor within five (5) working days of the time that the grievant knew or reasonably should have known of the alleged violation of this Agreement. All written grievances, in order to be effective for consideration, shall contain the following: (1) the facts of the grievance; (2) the specific contract provisions alleged to be violated; (3) the remedy sought; and (4) the signature of the grievant.

The immediate supervisor has three (3) working days from the time the grievance is actually properly received from the grievant to reply to the grievant. If the immediate supervisor denies the grievance or fails to timely respond, the employee may proceed to Step 2 by submitting the grievance to the Divisional Supervisor or other designee as defined by the Sheriff within three (3) working days after receiving the immediate supervisor's decision, or immediately after the three (3) working days period expires.

- B. Step 2. The Divisional Supervisor or other designee as defined by the Sheriff may meet with the OPBA representative, or the grievant or both within three (3) working days, and shall submit a written decision to the grievant within eight (8) working days. If the Divisional Supervisor or other designee denies the grievance or fails to timely respond, the employee may proceed to Step 3 by submitting the grievance to the Sheriff within three (3) working days after receiving the decision of the Divisional Supervisor or other designee, or immediately after the eight (8) working day period expires.

- C. Step 3. The Sheriff or his designee may meet with the OPBA representative, or the grievant or both within three (3) working days, and shall submit a written decision to the grievant within seven (7) working days.

- D. Step 4.

1. Arbitration. If the parties are unable to satisfactorily resolve the grievance at the final step of the Grievance Procedure, it may be appealed to a mutually selected arbitrator. Such appeal must be presented to the Sheriff by the OPBA in writing, within fourteen (14) calendar days from receipt of the Sheriff's final response to the grievance at the final step of the Grievance Procedure. Should the parties be unable to agree upon a mutually selected arbitrator, then FMCS shall be requested to submit a panel of seven (7) qualified arbitrators from Ohio from which one shall be selected. Failing to mutually agree upon an arbitrator from this panel, the parties shall strike names alternately, with the parties' right to strike the first name to be determined by the flip of a coin. All decisions reached by the arbitrator shall be final and binding on both parties. If the arbitrator denies the grievance, his fee and expenses will be paid by the OPBA. If he grants the grievance, the Sheriff will pay the costs.

2. Jurisdiction of the Arbitrator. The arbitrator's jurisdiction is strictly within the four corners of this contract. His authority must be derived from the essence of the provisions within this contract. The arbitrator cannot add to, amend or modify in whole or part any provision of this contract.
3. The OPBA may determine when a grievance will be stopped/denied.

ARTICLE 13 **SENIORITY**

A probationary employee shall have no seniority until he or she satisfactorily completes the probationary period. An employee's seniority shall be terminated when one or more of the following occurs: he resigns, he is discharged for just cause, he is laid off for a period exceeding twelve (12) months, he retires, he refuses a recall or fails to report to work within five (5) days from the date the employer mails the recall notice. Seniority means the length of continuous regular employment by the Sheriff as a full-time Dispatcher.

ARTICLE 14 **LAYOFF AND SENIORITY**

Section 14.1. Layoffs, or recalls after layoffs, will be determined by seniority. The least senior Dispatcher shall be laid off first and the most senior Dispatcher shall be recalled first. However, if the Sheriff, using ordinary and reasonable discretion, determines that an employee whose seniority entitles him or her to be retained or recalled does not have the ability to perform the available work in the Sheriff's Office, the Sheriff need not retain or recall the employee. The Sheriff's determination is subject to the Grievance/Arbitration Procedure. If such a determination were challenged in the Grievance/Arbitration Procedure, the Sheriff would have the burden of showing that he had exercised ordinary and reasonable discretion in determining that the Dispatcher could not perform the available work.

Section 14.2. Sheriff's Office Seniority is continuous service as a Dispatcher since the employee's first employment or re-employment following a break in continuous service.

Section 14.3. For purposes of this Agreement, Sheriff's Office seniority shall govern for layoffs, the accumulation of benefits, selection of paid leave, and shift bidding, etc.

Section 14.4. Recall rights shall exist for one year from the effective date of the layoff.

ARTICLE 15 **MISCELLANEOUS**

Section 15.1. The Sheriff intends to, furnish and maintain in satisfactory working condition, the necessary tools, facilities, supplies and equipment required for members to safely carry out their duties. Members are responsible for reporting unsafe conditions or practices, or avoiding negligence, and for properly using and caring for tools, facilities, vehicles, supplies, and equipment provided by the Sheriff.

Section 15.2. Trading Shifts and Assignments. An employee may trade regular scheduled work hours with another employee and he may trade days off with another employee; however, all trades must occur within the same pay period. In the event of any problems associated with the trade, the employee initiating the trade shall be held accountable. All proposed trades must be approved in writing by the Sheriff or his designee.

Section 15.3. Agreement Copies. As soon as possible following the signing of this Agreement, the County shall have the copies of this Agreement printed, number of copies to be determined by need. Copies will be provided to the County, the OPBA, and the Bargaining Unit Members. Actual cost of printing this Agreement, and any further printing beyond the needed copies, in an amount the parties may later agree is necessary, shall be paid by the County. The OPBA shall be responsible for distributing copies to its members. Copies for any new Dispatchers who are hired during the life of this Agreement will be provided by the County.

Section 15.4. Residency. Dispatchers must live within one hour's driving time of the office.

ARTICLE 16 **UNIFORM ALLOWANCE**

- A. The Employer agrees to provide each employee at the time of hire and maintain thereafter the required uniform garments, including one pair of shoes, five (5) shirts, five (5) pairs of pants, a belt, a jacket, and/or any other items as determined by the employer.
- B. The distribution of equipment and attire to employees will be handled by the use of a "quartermaster system." The Sheriff will designate a quartermaster who will be responsible for the distribution of equipment and attire to bargaining unit members. The quartermaster will be responsible for overseeing the repair and/or replace equipment and attire when said repairs or replacements are needed. The quartermaster will place orders for necessary equipment and attire once a month, unless circumstances warrant the necessity of placing special orders. No employee will be unreasonably denied replacement equipment and attire if existing equipment and attire needs to be replaced or is damaged to the point where it cannot be repaired.

ARTICLE 17 **UNPAID LEAVES OF ABSENCE**

Section 17.1. Disability Leave.

- A. A Dispatcher may request an unpaid disability leave for up to one (1) year if he continues to be injured, ill, or physically or mentally incapacitated from the performance of the regular duties of his position after he has exhausted his accumulated sick leave, comp time and vacation.
- B. The Sheriff may place a Dispatcher on unpaid disability leave after he has exhausted vacation, sick leave and compensatory time if, after an informal hearing concerning his

condition, the Sheriff determines the Dispatcher is unable to perform the regular duties of his position because of illness, injury, or other physical or mental disability. Prior to the hearing, the Sheriff may require the Dispatcher to submit to an examination conducted by a licensed physician, psychiatrist, or psychologist, as appropriate to the circumstances, at the Sheriff's expense. Ordinarily, if the Dispatcher is hospitalized or institutionalized at the time of the request, the disability leave may be granted without examination.

- C. Within one (1) year from the effective date of the unpaid disability leave, the Dispatcher may apply for reinstatement. After receipt of a timely application for reinstatement, the Sheriff may require examination of the Dispatcher by a licensed physician, psychiatrist, or psychologist, as appropriate to the circumstances, and shall designate the person to conduct the examination. The Sheriff shall pay for the examination. If the examination discloses the Dispatcher has recovered from the disability and is otherwise able to perform the regular duties of his position, the Sheriff shall reinstate the Dispatcher to his former or similar available position within thirty (30) calendar days from his written application.
- D. No reasonable request for unpaid leave which is supported by medically justified reasons will be denied by the Sheriff's Office. No unpaid leave request shall initially exceed 30 days. Any supplemental request exceeding thirty (30) days will be considered by the Sheriff's Office with appropriate medical documentation. The unpaid leave referenced in this section is in addition to and separate from unpaid leave under the Family Medical Leave Act. Unpaid leave under this section may not be utilized until leave under the FMLA has been exhausted. If any unpaid leave is granted by the Sheriff's Office, the Sheriff's Office will not be responsible for the payment of any medical or other benefits during the individual's time while on unpaid leave.

Section 17.2. Maternity and Parental Leave.

- A. Dispatchers may use their accumulated sick leave for absence due to pregnancy or for absence due to any medical condition related to pregnancy, childbirth, or postpartum recovery. At their option, Dispatchers may use their accrued paid leave for pregnancy, childbirth, or infant care.
- B. If an employee exhausts her accumulated sick leave, she may extend her maternity leave pursuant to Section 17.2.A above. A Dispatcher's request for a leave of absence for infant care purposes shall be treated as a request for an unpaid leave of absence for personal reasons pursuant to Section 17.3 below.

Section 17.3. Other Unpaid Leaves of Absence.

- A. Dispatchers may request an unpaid leave of absence for educational or personal reasons. The Sheriff decides whether to grant these leaves. They may be granted for up to six months. Educational leave must be used for law enforcement training or specialized law enforcement experience which the Sheriff determines would benefit the Office. Upon

completion of the leave of absence, the Dispatcher will be returned to his former or similar available position.

- B. Where the Dispatcher is unable to pre-determine the exact length of his leave, the Sheriff may approve an indefinite leave to not exceed six (6) months. The Sheriff may permit the Dispatcher to return to work during the six (6) month period, provided he gives the Sheriff at least two (2) weeks written notice of his desire to return.
- C. If a leave of absence is granted for a definite period of time, the Dispatcher may be reinstated before the expiration of the leave.

Section 17.4. Family and Medical Leave. The Sheriff may implement all aspects of the Family and Medical Leave Act in his discretion to the extent allowed by and not inconsistent with this Agreement and the Act.

ARTICLE 18 **MILITARY LEAVE**

Military Leave will be administered in accordance with the Ohio Revised Code Section 5923.05.

ARTICLE 19 **STANDARD WORK WEEK AND OVERTIME**

Section 19.1. Definition. The work week shall normally consist of forty (40) hours based on five (5) consecutive eight (8) hour workdays and two (2) consecutive days off. The hourly rate of a Dispatcher is based on a work week of forty (40) hours and a work year of two thousand eighty (2,080) hours.

Section 19.2. Overtime. Dispatchers shall be compensated time and one-half for hours actually worked which exceed forty (40) in a work week. The Sheriff will not change a Dispatcher's schedule to avoid paying overtime. For purposes of this Section, all paid leave shall count as hours worked.

Section 19.3. Overtime Scheduling. All shift vacancies of which the Sheriff or his designee have notice more than twenty-four (24) hours in advance that would result in bargaining unit overtime, shall be offered to Bargaining Unit Members prior to scheduling other non-bargaining unit employees to fill the vacancies. These vacancies will be offered by order of seniority, most senior to least-senior, to eligible Dispatchers before mandating any person to fill them. If no Dispatcher volunteers to fill the vacancy, it will be filled by mandating in order of reverse-seniority and on a rotational basis, the Dispatcher[s] on the shift which is present prior to the shift on which the vacancy occurs, regardless of probationary status, that count against minimum shift-staffing. The order of rotation is to be monitored and adjudicated by the radio room supervisor.

Section 19.4. Compensatory Time in Lieu of Overtime Pay. Dispatchers shall be entitled to elect to receive compensatory time in lieu of overtime pay. Compensatory time shall accrue at one and one-half hours for each hour of overtime worked. Dispatchers shall be allowed to accrue up to 160 hours of compensatory time. The Sheriff may deny a compensatory time request for a certain time if he determines that operations of the Sheriffs Office will be unduly disrupted. Compensatory time may be requested not less than three (3) days or more than ninety (90) days in advance. The parties may mutually waive the time restrictions set forth in this Section.

ARTICLE 20 CALL-IN PAY

Dispatchers who are called from home and who report on an unscheduled shift shall be paid for all hours worked, but no less than a minimum of three (3) hours call-in-pay at the appropriate rate of pay. Dispatchers asked to report early to their regular shift, or to stay after their regular shift, do not receive call-in pay. Dispatchers required to make court appearances on behalf of the Sheriff or the County on their off-duty time will also be paid for all hours worked, but not less than three (3) hours minimum call-in pay at the appropriate rate. An employee shall not receive such minimum pay for work or duties that are contiguous to the employee's work schedule, but instead shall be compensated at the applicable rate for all hours worked. For purposes of this section, "contiguous" means up to one hour before or up to one hour after the employee's scheduled work day.

ARTICLE 21 TRAINING

Section 21.1. Anyone taking any work related training shall receive the applicable rate of pay, either straight time or overtime, while in the training class.

Section 21.2. All training shall be approved by the Sheriff. The Sheriff will pay all costs of the training course, and mileage at the rate established by the Internal Revenue Service if the Dispatcher drives his personal vehicle to and from class. If more than one Dispatcher is going to the same class, every effort shall be made to car pool so that only one Deputy will be paid mileage. However, in the event that this is not geographically feasible, this requirement may be waived upon prior approval of the Sheriff in writing. Dispatchers driving their own vehicles must receive prior approval from the Sheriff's Office and comply with the Driving Qualifications S.O.P.

Section 21.3. Travel time will not count as time worked, and while in training the Dispatcher will only be paid for a forty (40) hour week.

Section 21.4. A Dispatcher may waive any or all above provisions in accordance with law.

Section 21.5. Dispatchers attending training at the request of the Sheriff which results in a loss of all or a portion of their scheduled days off shall be given an amount of time off equal to the portion lost. This time off may be given either prior to or immediately following the training.

Section 21.6. Any Dispatcher involved in the approved training of another Dispatcher will receive an additional .50 per hour for the actual time spent training

ARTICLE 22 PAID LEAVES

Section 22.1. Sick Leave. Each Dispatcher shall earn four and six-tenths (4.6) hours paid sick leave upon completing each eighty (80) hours of regular service. Sick leave hours are accumulated for hours worked on overtime. Unused sick leave shall be accumulated without limit. Sick leave shall be used in good faith. A violation of this Article is subject to Article 6 of this Agreement (Corrective Action).

- A. A Dispatcher who transfers from one county office to another or who transferred or is hired from another public employer in Ohio to county employment within ten (10) years of service, shall be credited with the unused balance of his sick leave accumulated in his prior service. The Dispatcher is responsible for obtaining certification of his previously accumulated sick leave.
- B. Dispatchers may use sick leave for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to other Dispatchers, and for absence due to illness, injury or death in the Dispatcher's immediate family.
- C. Abuse or patterned use of sick leave may be grounds for disciplinary action.
- D. "Immediate family" for purposes of this policy include: grandparents, grandparents-in-law, brothers, sisters, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, parents, father-in-law, mother-in-law, spouse, children, step-children who reside with the employee, grandchildren, legal guardian or other persons who stand in the place of a parent to the Dispatcher and any person for whom the Dispatcher serves as a legal guardian.
- E. A Dispatcher who is absent due to one of the above reasons must report his absence to the Sheriffs Office before his watch (shift) begins or prior to reporting off sick while on duty.
- F. When sick leave is used it shall be deducted from the employee's sick leave credit on the basis of one quarter (1/4) hour of sick leave for every quarter (1/4) hour of absence from previously scheduled work.
- G. Upon death of a Dispatcher, unused accumulated sick leave shall be paid to his spouse, children or parents, if any, in that order, or to his estate. Payment for accumulated sick leave at the time of death shall be based on the Dispatcher's regular rate of pay at the time of his death, with one such hour of pay for every three (3) hours of accumulated sick leave.

- H. Upon separation from employment, the Sheriff will pay Dispatchers who have ten (10) years of service with the Office one-fourth (1/4) of their accumulated sick leave.
- I. If a Dispatcher's illness or disability continues beyond the time covered by his earned sick leave, he may request an unpaid disability leave or other unpaid leave of absence. Dispatchers may also use earned vacation time or compensatory time after exhausting sick leave, but before applying for an unpaid leave.
- J. Sick Leave Donation. Employees can donate to a permanent fellow employee any amount of sick time they desire, so long as the donating employee does not drop below two hundred fifty (250) hours of accrued sick leave.
- K. Vacation, comp time, and holiday comp time may be donated to permanent fellow employees for sick leave purposes, in increments of not less than eight (8.0) hours.
- L. 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. In accordance with this provision, an employee would be eligible for two (2) days maximum per year. The six-month periods are defined as January through June, and July through December. Any reduction in an employee's sick leave balance, e.g. use or donation, will result in the forfeiture of these additional hours.

Section 22.2. Funeral Leave. A Dispatcher may be absent with pay for up to three (3) consecutive work days to attend the funeral of an immediate family member (as defined in Section 22.1.D above) within the State of Ohio. In the event that the Dispatcher must travel outside the State of Ohio to attend the funeral of an immediate family member, a Dispatcher may be absent with pay for up to five (5) consecutive work days. It is specifically agreed that funeral leave will be deducted from sick leave; however, any sick leave utilized pursuant to this Section will not be used against the employee in the disciplinary process.

Section 22.3. Jury Duty Leave.

- A. Dispatchers may be excused from work for jury duty.
- B. Dispatchers called to and reporting for panel and/or jury duty during their scheduled work day shall be compensated by the Sheriff at the regular rate of pay for the normal workday. Time on jury duty is not hours worked to compute overtime. The Dispatcher must give his immediate supervisor prior notice and proof of his jury duty call, and pay his jury fee to the County Treasurer in order to receive his regular pay.

Section 22.4. Injury Leave. 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 desire 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 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 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 a 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.

ARTICLE 23
VACATIONS

Section 23.1. A full-time Dispatcher (after completion of one full year of service) shall have earned eighty (80) hours of vacation leave with full pay. Thereafter, a full-time Dispatcher shall earn and accrue vacation leave pro rata over twenty-six (26) bi-weekly pays at the following annual rates:

1 but less than 6 years service	2 weeks
6 but less than 15 years service	3 weeks
15 but less than 20 years service	4 weeks
20 and over years of service	5 weeks

Section 23.2. Service with the State of Ohio or any of its political subdivisions counts toward the number of years in service in determining the amount of vacation to which a Dispatcher is entitled. Time spent on authorized leaves of absence (including military leave) also counts. No vacation is earned while a Dispatcher is on layoff or unpaid leave.

Section 23.3. Vacation schedules shall be mutually arranged and recommended by each supervisor of the shift or supervisor of the division, subject to the Sheriff's approval. In the event that two Dispatchers submit a vacation request on the same day which presents a conflict because each Dispatcher's request includes days off in common, then the senior Dispatcher shall be given first choice. Otherwise, vacation requests will be granted based on which request was made first. Vacation time may be taken in one quarter (.25) hour increments. The supervisor of the shift and supervisor of the division may grant more than one vacation request, subject to the Sheriff's approval. Once vacation leave is granted, it will not be canceled by the employer except in cases of emergency.

Section 23.4. A Dispatcher may request any amount of vacation leave not more than ninety (90) days in advance, nor less than three (3) days in advance. Any Dispatcher who informs the

Employer in writing at the time of the vacation request that he requires notice by a time certain of the approval or denial of his vacation request, will be given said notice as soon as reasonably practicable. The time restrictions herein may be waived by mutual agreement of the parties.

Section 23.5. Dispatchers are entitled to payment for any earned unused vacation to their credit at the time they are separated from the Sheriff's Office, at their hourly rate of pay.

Section 23.6. In the case of a Dispatcher's death, earned but unused vacation leave shall be paid to his spouse, children or parents, in that order, or to his estate, at his then hourly rate of pay.

Section 23.7. A Dispatcher may indefinitely carry over earned vacation leave up to five hundred (500) hours.

ARTICLE 24 **EDUCATION**

A Dispatcher shall be paid annually a lump sum salary payment of \$250.00 for an Associate Degree or for completion of half of a Bachelor's Degree (with the full Bachelor's Degree to be completed within the next five (5) years).

2. A Dispatcher shall be annually paid a lump sum salary payment of \$550 after completing a Bachelor's Degree.

3. A Dispatcher shall be annually paid a lump sum salary payment of \$750.00 after completing a Master's Degree.

4. In order to qualify, the Associate or Bachelor's Degree can only be in law enforcement, public safety or the criminal justice field.

5. The stipend is to be paid annually in a lump sum in the first pay in December.

6. An employee shall not be entitled to this educational stipend during his initial probationary year.

7. The parties incorporate the Delaware County Educational reimbursement policy as if it were fully set forth herein.

ARTICLE 25 **HOLIDAYS**

Section 25.1. Each employee shall earn one 8-hour holiday for each completed month on the active payroll, beginning January 1, 1999. Holiday time may be accumulated and used the same as compensatory time under Article 19, Section 19.4) (except that the holiday shall be equal to eight hours at regular pay and holiday comp hours shall not count against the 160-hour cap set forth in Article 19, Section 19.4 of this Agreement during the year in which the holiday/comp hours were earned). At the completion of each calendar year, each employee may opt to be paid

at the dispatcher's straight time rate in effect in December of the year in which such days are earned for any holidays accrued and not used during the year in question and shall be paid in a lump sum prior to December 15 of the same year. In addition, each employee shall be entitled to two (2) personal days immediately upon the execution of this Agreement, and each January 1 thereafter. These personal days must be used in the calendar year in which they first become available. These personal days may not be exchanged for pay or carried over into any subsequent year. The Sheriff may deny a holiday leave request and any such denial shall not be arbitrary and capricious.

ARTICLE 26
HEALTH INSURANCE

Section 26.1. The Employer shall maintain a group health benefits plan for the bargaining unit. The plan and its benefits shall be the same plan in effect for the employees of the County generally (management and non-management employees alike).

Section 26.2. The Employer may implement reasonable changes in the health benefits plan so long as the changes are implemented for County employees generally. The Employer premium contribution dollar amounts for 2013 will remain at least at 2012 levels. The Employer's implemented plan must be reasonable, the Union or employees may file a grievance to challenge the Employer's compliance with this Article, including the reasonableness standard.

Section 26.3. The Employer shall meet and confer with representatives of the Union before implementing any changes.

ARTICLE 27
WAGES AND PAY STEPS

Section 27.1. The Steps of the salary schedule are defined as follows:

- A. Step (A) applies to new employees during their one year probationary period.
- B. Step (B) applies to employees after completion of the one year probationary period.
- C. Step (C) applies to employees after two (2) years of continuous service as a Dispatcher.
- D. Step (D) applies to employees after four (4) years of continuous service.

Section 27.2. The following wage schedule shall become effective upon October 29, 2011 (2.25% wage increase):

<u>Per</u>		<u>(A)</u>		<u>(B)</u>		<u>(C)</u>		<u>(D)</u>
<u>Hr.</u>		\$17.68		\$18.58		\$19.51		\$20.49

Section 27.3. The following wage schedule shall become effective on March 1, 2012 (2.5% wage increase):

<u>Per</u>		(A)		(B)		(C)		(D)
<u>Hr.</u>		\$18.12		\$19.04		\$20.00		\$21.00

Section 27.4. The following wage schedule shall become effective on March 1, 2013 (2.5% wage increase):

<u>Per</u>		(A)		(B)		(C)		(D)
<u>Hr.</u>		\$18.57		\$19.52		\$20.50		\$21.53

Bargaining unit members employed as of October 29, 2011 and who have completed their probationary period as of that date will receive a one-time, lump sum payment of one thousand (\$1,000.00) dollars payable within thirty (30) days of the execution of this collective bargaining agreement.

B. The Sheriff's office agrees to the payment of longevity pay commencing January 1, 2006. For the duration of this contract, longevity pay will be paid at the following rates:

- A. 5 to 9 years - \$500.00
- B. 10 to 14 years - \$1000.00
- C. 15 to 19 years - \$1500.00
- D. 20 to 24 years - \$2000.00
- E. 25 years or more - \$2500.00

The Sheriff's office will include the longevity payments as part of the bargaining unit's regular bi-weekly paychecks.

ARTICLE 28
SCOPE

Section 28.1. This Agreement supersedes all previous oral and written agreements and practices and constitutes the entire agreement of the parties.

Section 28.2. During the negotiations leading to the execution of this Agreement, the parties had an opportunity to submit all items appropriate to collective bargaining. The Union expressly waives the right to submit any additional item for bargaining during the term of this Agreement, whether or not the item was discussed, submitted, or contemplated during the negotiations leading to the execution of this Agreement.

ARTICLE 29
MANAGEMENT RIGHTS

Section 29.1. Except as limited by the specific provisions of this written Agreement, the Employer retains and reserves all its rights to:

- A. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or, policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology and organizational structure;
- B. Direct, supervise, evaluate, or hire employees;
- C. Maintain and improve the efficiency and effectiveness of governmental operations;
- D. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
- E. Suspend, discipline, demote, or discharge for just cause, or lay-off, transfer, assign, schedule, promote, or retain employees;
- F. Determine the adequacy of the work force;
- G. Determine the overall mission of the employer as a unit of government;
- H. Effectively manage the work force;
- I. Take actions to carry out the mission of the public employer as a governmental unit.

Section 29.2. Management rights set forth above shall not be impaired by an arbitration award or otherwise except to the extent that they are limited by specific provisions of this Agreement. Failure to exercise a right, or exercising it in a particular way shall not be deemed a waiver of any management right. Management may exercise any or all of the management rights set forth in this Article without prior negotiation with or agreement of the OPBA.

ARTICLE 30
SUBSTANCE ABUSE POLICY (Drug And Alcohol Testing)

- A. Purpose.

The Sheriff recognizes the adverse effects illegal drug and alcohol abuse can have on the Sheriffs offices, its services and the organization as a whole. It is also the Sheriffs right, obligation and intent to maintain a safe, healthful, and efficient work environment for all Sheriff Office employees, and to protect the Sheriffs property, equipment, operations, constituents and image. Accordingly, the Sheriff has adopted this substance abuse policy to help prevent any such adverse effects and to ensure a drug and alcohol-free working environment.

Under this policy, the Sheriff expects a Dispatchers to refrain from being under the influence of illegal drugs and alcohol while on the job or on its premises. The Sheriff also expects all Dispatchers to refrain from using, possessing, selling, purchasing, receiving or distributing illegal drugs or alcohol while on the job or on its premises, and to refrain from off-the-job use of illegal drugs or alcohol in a manner which affects job performance or threatens the safety or property of other employees or the Sheriff

In addition, this policy reaffirms the Sheriffs commitment to treatment and rehabilitation. The Sheriff strongly encourages employees who have a drug or alcohol-related problem to voluntarily seek confidential assistance through the Sheriffs designated Employee Assistance Program (EAP) or another appropriate program.

B. Policy

1. Definitions.

“Drug” means: A chemical substance, including alcohol, that produces physical, mental, emotional or behavioral change in the user.

- (a) Drugs which are not legally obtainable;
- (b) Drugs which are legally obtainable but have been obtained or are used illegally; or
- (c) Drugs which are not used for the purpose for which they are prescribed or manufactured.
- (d) Includes, in addition to others: marijuana, cocaine, opiates (morphine, heroin, codeine), amphetamines, benzodiazepines, barbiturates and phencyclidine (Pcp).

“Illegal” drug means: Prescription drugs and over-the-counter drugs legally obtained and used for the purpose for which they are prescribed or manufactured.

“On the job” means: During working hours and/or on Sheriffs Office premises, and includes break, lunch and/or dinner periods, regardless of whether the employee is actually on Sheriffs Office premises.

“Positive or failed” drug or alcohol test means: One which determines the presence of illegal drugs or alcohol in urine, blood, breath or saliva at a level and/or in an amount which is prohibited under the federal Department of Transportation's controlled substance and alcohol testing rules applicable to drivers of commercial motor vehicles and in effect at the time of the test.

“Under the Influence” means: The presence of illegal drugs, or alcohol in an employee's blood, breath, saliva or urine at a level and/or in an amount which is prohibited under the federal Department of Transportation's controlled substance and alcohol testing rules applicable to drivers of commercial motor vehicles and in effect at the time of the incident in question.

“Reasonable cause” means: A belief that illegal drug or alcohol use is influencing an employee's behavior, appearance, job performance, attendance, or fitness for duty, and/or that the employee is using, possessing, selling, purchasing, receiving or distributing illegal drugs or alcohol while on the job or while on Sheriff's Office premises, and/or that the Dispatcher is using illegal drugs or alcohol off-the-job in a manner which affects job performance or threatens the safety or property of other employees or the Sheriff's Office.

“Random testing” means: Selection of a Dispatcher from a pool of other employees to submit to a drug and/or alcohol test, which is made regardless of whether any suspicion of illegal drug or alcohol use exists, and which is based on an equal probability of selection. Note: all Dispatchers, including those selected previously, have an equal chance of being selected each time random selection occurs; this means any Dispatcher may be selected more than once while others have not been selected.

C. Drug and Alcohol Rules and Discipline.

1. Employee Use of Drugs or Alcohol.

Dispatchers who are under the influence of, or who use, possess, sell, purchase, receive or distribute illegal drugs or alcohol while on the job or while on Sheriff's Office premises are subject to disciplinary action in accordance with the contract or mandatory referral to EAP

Dispatchers who use illegal drugs or alcohol off-the-job in a manner which (a) affects job performance; or (b) threatens the safety or property of other employees or the Sheriff's Office are subject to disciplinary action in accordance with the contract or mandatory referral to EAP

2. Drug and Alcohol Testing.

(a) Coverage.

The Sheriff reserves the right to require any Dispatcher to submit to a drug and/or alcohol test as a condition of employment in any bargaining unit position.

(b) Reasonable Cause.

The Sheriff may require a Dispatcher to submit to a drug and/or alcohol test if it has any reason to suspect or to believe that the Dispatcher (a) is under the influence of illegal drugs or alcohol while on the job or while on Sheriff s Office premises; (b) is using, possessing, selling, purchasing, receiving or distributing illegal drugs or alcohol while on the job or while on Sheriffs Office premises; or (c) is using illegal drugs or alcohol off-the-job in a manner which affects job performance or threatens the safety or property of other employees or the Sheriffs Office.

(c) Post-Incident Testing.

The Sheriff requires a Dispatcher involved in any incident on work time which causes property damage or personal injury requiring off-site treatment, or A incident or shooting off Sheriffs Office premises while on the job or involving the use of County's vehicles or equipment, to submit to, a drug and/or alcohol test.

(d) Leave of Absence Testing

The Sheriff may require all Dispatchers returning from a leave of absence of six (6) months or more to submit to a drug and/or alcohol test. Such Dispatchers must successfully pass the test, subject to the rules and discipline of this policy, as a condition of returning to work. This rule does not apply to Dispatchers returning from a vacation.

(e) Random

The Sheriff may require any or all of its Dispatchers to submit to random testing for illegal drugs or alcohol.

(f) Testing is Discretionary

IMPORTANT: all of the above drug and/or alcohol testing is discretionary, and this policy in no way limits the Sheriffs right to discipline or discharge a Dispatcher for illegal drug or alcohol-related reasons without requiring a drug and/or alcohol test, such as based on observed use, possession, sale, or being under the influence of illegal drugs or alcohol, and/or due to some other violation of this contract.

(g) Procedures and Discipline

Dispatchers required to submit to a drug and/or alcohol test who refuse to consent to testing, sign the appropriate forms and/or comply with all sample collection and chain-of-custody procedures are subject to disciplinary action, including immediate discharge.

Dispatchers -- including Dispatchers required to submit to post-incident testing, physical exam testing, or who are returning from a (6) month layoff or leave of absence -who fail to pass any drug and/or alcohol test are subject to disciplinary action, including referral to the Sheriff's designated EAP

Dispatchers who are not terminated for a first violation of this policy but who commit a second violation of any aspect of this policy will be subject to non-discretionary and automatic termination of their employment, subject to their appeal rights pursuant to the grievance procedure contained herein.

With respect to Dispatchers required to submit to "reasonable cause" or "post-incident" testing in most cases such Dispatchers will be removed from employment and will remain off duty without pay pending the Sheriff's receipt of the Dispatchers' drug and/or alcohol test result. Dispatchers removed from employment and required to submit to such a drug and/or alcohol test -- but who pass the drug and/or alcohol test - will be permitted to return to work following the Sheriff's determination that they can still safely and properly perform their job. Such Dispatchers also will receive back pay equivalent to the amount the Sheriff would have paid the Dispatcher had the Dispatcher not been removed from employment. For "post-incident" testing, and depending on the nature of the employee's injury (if any), such back pay entitlement is subject to and may be superseded by the contract.

3. Prescription and Over-the-Counter Drug Use

The Sheriff does not prohibit Dispatchers from using prescription or over-the-counter drugs, provided: (a) the prescription drugs are prescribed for medical reasons by a licensed medical practitioner, dosage, frequency prescribed on the label; and (b) the Dispatcher's use of prescription or over-the-counter drugs does not affect job performance or threaten the safety or property of other Dispatchers or the Sheriff.

The Sheriff reserves the right to apply the disciplinary procedures of this contract, including requiring a drug and/or alcohol test, to any Dispatcher who uses prescription or over-the-counter drugs in a manner which violates this Article.

4. Dispatcher Assistance

(a) Voluntary Submission to EAP

Any Dispatcher of the Sheriff's Office who has developed an addiction to, dependence on, or other recurring problem with illegal drugs or alcohol should voluntarily seek assistance by writing, calling or visiting the

Sheriff's Office designated EAP or another appropriate Dispatcher assistance program. All voluntary inquiries will be held in confidence to the extent practicable. IMPORTANT: Dispatchers who first violate this Substance Abuse Policy and then seek voluntary assistance will not avoid discipline and/or discharge under this contract.

(b) Discretionary Referral to EAP

Where the Sheriff determines that a Dispatcher is in violation of this Substance Abuse Policy, in lieu of immediate discharge the Sheriff may -- but within his sole discretion - refer the Dispatcher to the Sheriff's designated EAP, for assessment and evaluation of whether the deputy is addicted to, dependent on, or has a recurring problem with illegal drugs or alcohol. Dispatchers referred to EAP who are found to have an addiction to, dependence on, or recurring problem with illegal drugs or alcohol may be required -- as a condition of continued employment -- to successfully complete any outpatient or inpatient treatment and rehabilitation program, and any and all follow-up care, including any random drug and/or alcohol testing, established for them and/or to which they are referred by EAP. Any Dispatcher who refuses such referral to EAP or any treatment program, rejects or leaves treatment, fails to abide by all aspects of his or her treatment program, including random drug and/or alcohol testing and any and all other follow-up care, is subject to disciplinary action, including immediate discharge.

Note: each and every random or follow up drug and/or alcohol test to which a Dispatcher is required to submit as a result of his or her referral to EAP under this provision must be conducted by the laboratory with which the Sheriff already contracts, or by, another laboratory which the Sheriff has approved in advance of any such testing. Dispatchers must pay the total cost of each and every such random or follow up drug and/or alcohol test. Such payment normally will cur through a payroll deduction, unless other arrangements with the Sheriff are made in advance. Any Dispatcher who refuses or fails to submit to any such test or pay the cost of any such test will be subject to disciplinary action, including immediate discharge.

(c) Time Off for Inpatient Treatment

Dispatchers referred by EAP or another appropriate Dispatcher assistance program for inpatient treatment and rehabilitation may be entitled to use any paid leave days, or obtain an unpaid leave of absence, pursuant to the contract, during the period of inpatient treatment. This policy does not, however, alter, amend or modify any of the vacation, personal days, or leave of absence policies under the contract, or grant Dispatchers any more time off than that already permitted.

ARTICLE 31
DURATION

Except as otherwise expressly set forth in this Agreement, this Agreement shall be effective January 1, 2011 through December 31, 2013.

SIGNATURES

OHIO PATROLMEN'S BENEVOLENT
ASSOCIATION:

DELAWARE COUNTY
SHERIFF:

By: Joseph M. Arden

Sheriff W. C. [Signature]
Delaware County Sheriff

Date: 1-24-12

Date: 1-23-12

Delaware\Sheriff2011 Negs\Dispatchers\2011Final TAs