

STATE EMPLOYMENT RELATIONS BOARD
CASE NO: 2014-MED-01-0089

STATE EMPLOYMENT
RELATIONS BOARD

2015 FEB -2 PM 2:26

In The Matter of The Conciliation Between:

BUTLER COUNTY SHERIFF,) Sergeants & Lieutenants
BUTLER COUNTY, OHIO)
)
-AND-)
)
FRATERNAL ORDER OF POLICE,)
LODGE NO. 101)



ATTENDANCE:

For The County:

Joe Scholler, Esq., Attorney
Julie Byrne, Esq., Attorney
Norman E. Lewis Major
Michael M. Craft Captain Operations Center
Vickie Jo Barger Finance Director
Jim Davis Officer of the Sheriff

For The Union:

Stephen Lazarus, Esq., Attorney
Ross Gillingham, Esq., Attorney
Jeff Gebhart President, Lodge 101
Jan Carpenter Vice President, Lodge 101
Michael Nutt Trustee

BEFORE ALAN MILES RUBEN, CONCILIATOR

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BACKGROUND

The Employer, Butler County Ohio, occupies a land area of some 467.3 square miles in Southwestern, Ohio, located between Hamilton and Montgomery Counties, and bordered on the north by Preble County and on the east by Warren County. The County seat is Hamilton City, population 62,258 (2013 estimate). Through its Sheriff Office, the County maintains a jail and provides crime prevention and detection services for its 371,272 residents (2013 estimate).

The Sheriff's 14 Sergeants and 7 Lieutenants form a Bargaining Unit which is exclusively represented by the Fraternal Order of Police, Lodge No. 101.

The parties have engaged in collective bargaining for more than twenty-five years, and are presently signatories to a Collective Bargaining Agreement which became effective as of February 10, 2013 for an initial term expiring on February 6, 2016 .

Article XXXVI - "Duration" - provides in paragraph 2:

"Reopener option in 2nd or 3rd year of agreement which must be exercised by FOP Lodge 101 by February 1st of each year. Upon vote to reopen, the sick incentive is suspended. The reopener will apply to wages and sick incentive. Regarding the opener, if the parties proceed to conciliation, the Employer waives the restrictions on the conciliator imposed by R.C. 4117.14(g)(11)".

The Union timely exercised its option to reopen the Agreement, and the sick leave incentive was suspended. The parties met to resume negotiations on May 22nd and June 6th, 2014, but were unsuccessful in resolving the wage issue. Impasse was declared on July 8, 2014, and the State Employment Relations Board appointed C. Forrest Guest as Fact-Finder.

A fact-finding hearing was held on September 12, 2014 and Mr. Guest's Report was issued on September 25, 2014.

In his Report, the Fact-Finder recommended a 1.5% base wage increase and a \$1,200.00 lump sum "performance pay incentive" effective as of January 1, 2014 and a 1% base wage increase with a second \$1,200.00 lump sum performance incentive pay effective as of January 1, 2015. He also recommended the elimination of the sick leave incentive.

The County Commissioners voted to accept the Fact-Finder's Report, but the Bargaining Unit members unanimously rejected it.

On October 14, 2014 the undersigned was appointed Conciliator by the State Employment Relations Board.

At the direction of the parties the Conciliation hearing was held on December 3, 2014 at the offices of the Butler County Sheriff, located in Hamilton, Ohio.

The parties agreed at the outset of the hearing that Article XVII, Section 16 "Sick Leave, had been withdrawn from the issues to be decided by the Conciliator, and that the Conciliator was to consider only the parties' proposals to amend Article XX, "Wages". The parties also agreed to waive the appointment of a Court Reporter and the preparation of a transcript of the hearing.

The Advocates for the parties offered opening statements and made evidentiary presentations with respect to the unresolved compensation issue .

The Sheriff introduced 78 documentary exhibits while the Union presented 179.

In reviewing the evidentiary materials and making his Award the Conciliator has been guided by the factors set forth in O.R.C. Section 4117.14(G)(7), viz:

"(a) past collectively bargained agreements, if any, between the parties;

"(b) comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

"(c) the interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

"(d) the lawful authority of the public employer;

"(e) the stipulations of the parties;

"(f) such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution proceedings in the public service or private employment".

At the conclusion of the hearing, in consideration of the discharge cases on the Conciliator's arbitration docket which had closed earlier, the parties graciously

extended the time within which he might issue his Award to January 31, 2015.

In making his Award the Conciliator has considered below the final proposals of the parties and the recommendations of the Fact-Finder on the issue before him.

UNRESOLVED ISSUE:

1. Article XX - "Wages":

A. The 2013 Contract:

Article XX, "Wages", of the current Contract between the Butler County Sheriff and Lodge 101, FOP, representing the Sergeants and Lieutenants Unit, did not increase either the percentage wage rates or the "step rates" of Bargaining Unit members for 2013, but did provide for a lump sum payment of \$500.00. The wage rates and step rates remained frozen in 2014 and 2015, but in each of those years the employees were to receive a lump sum payment of \$550.00.

B. The Sheriff's Proposal:

The Sheriff offers a 1.5% increase in 2014 and 1% increase in 2015. In addition, the Sheriff proposes up to a \$1,200.00 "lump sum" "performance based incentive" in each year. Its proposal reads:

"1. The wage rates and step rates shall not be increased in 2013, as set forth in Schedule 1. Employees will receive a lump sum payment of \$500.00

"2. The wage rates and step rates shall be increased 1.5% in 2013, as set forth in Schedule 2. Employees will be subject to a pay for performance evaluation system, where they can earn up to an additional \$1200.0

"3. The wage rates and step rates shall be increased 1% in 2015, as set forth in Schedule 3. Employees will be subject to a pay for performance evaluation system, where they can earn up to an additional \$1200".

C. The Union's Proposal:

The Union proposes a 1.5% base wage increase as of February 7, 2014 and another 1.5% base wage increase as of February 8, 2015, but rejects the Sheriff's performance based pay incentive proposal.

D. The Fact-Finder's Recommendation:

The Fact-Finder recommended a base wage rate increase in 2014 of 1.5% and a further increase of 1% in 2015. He also recommended adoption of the Sheriff's proposal for

the earning of a performance pay incentive of up to \$1200.00 in both 2014 and 2015.

E. The Conciliator's Analysis and Award:

Butler County, in common with most Local Government jurisdictions in Ohio, faced severe financial constraints during the Great Recession. As revenues dried-up, expenditures had to be trimmed. The Sheriff's full-time staff was reduced from 366 in 2009 to 314 in 2014.

But, in common with most Ohio Local Government jurisdictions, the economic recovery allowed the County to vastly improve its revenues and its General Fund carryover.

A December, 2013 financial report prepared by the Butler County Finance Department disclosed that, as of December 31, 2013, the County had received General Fund revenues of \$83,450,873.00, some 5.5% more than had been collected in 2012, and 5.2% higher than the 2013 revenue forecast. The General Fund cash balance as of December 31, 2013 amounted to \$14,432,664.00, approximately 40.1%

more than the \$10,300,911.00 cash balance as of December, 2012.

A June 30, 2014 financial report prepared by the County's Finance Department revealed that as of that date the General Fund revenues were 6.4% higher than those of June 30, 2013, and the cash balance was \$18,522,808.00 or some 22% of 2013 expenditures. The sales tax, the largest source source of General Fund revenue, was being collected at a rate which was 6.6% above the 2014 projection.

By July of 2014, Butler County's economic revival had become obvious. The unadjusted unemployment rate for that month was 5.4% - lower than the national average of 6.5% and the Ohio average of 6.0%

In March of 2014, Moody's Investors Service downgraded Butler County's bond rating one level on its 21-level scale - from Aa1 (the second highest level) to Aa2. The downgrade was based on three factors - the County's primary reliance on the "economically sensitive sales tax and investment income, its "narrow" reserve and

its exposure to the "under-funded Ohio Public Employees Retirement System".

The Report, however, did note positive influences which pointed to long-term improvement in its financial position. The estimated median family income was 109% of the United States average, and the County's tax base was expected to be "stable" because of the County's "favorable location between the Cincinnati and Dayton Metropolitan areas and the growth in the local health care sector.

Turning to the Union's request for wage increases, the comparative evidence suggests that the Sergeants and Lieutenants have made the case for a modest increase in their base wages.

A December, 2014 comparison of the County's compensation of Sergeants at the ten year seniority level with that of Sergeants in Law Enforcement Departments of comparable cities, townships and counties, portrays the Butler County Sergeants as receiving annual compensation of \$77,182.48, approximately 1.48% more than the average

pay of the Sergeants in the comparable group. So, too, the compensation of the Butler County Lieutenants was found to be approximately 0.67% above the average pay of the Lieutenants in the comparable group. But, five years earlier as of December, 2009, the compensation of the Butler County Sergeants had been some 5.3% above the average paid to Sergeants in the other communities. Similarly, the Butler County Lieutenants' compensation for 2009 had been 4.11% higher than the average pay of the Lieutenants in the other represented communities. The decline in the relative compensation position of the Butler County Sergeants and Lieutenants vis a vis, the promoted Officers in the comparable townships, cities and counties, had occurred gradually over the five years because Butler County had provided smaller increases than those offered by the other communities.

Moreover, the real income of the Sergeants and Lieutenants of the Butler County Sheriff's Department had been eroded by increases in the cost of living and their

increased responsibility for the cost of health insurance.

In large measure, the financial information supplied by the parties to the Conciliator is irrelevant to his determination. That is so, because, as the Sheriff concedes, the amount of money for wage increases the Union seeks is less than the amount the Sheriff finds appropriate and offers for 2014 and 2015. This anomaly arises because the County had proposed in addition to rate increase of 1.5% in 2014 and 1% in 2015, performance based pay incentives of \$1200.00 in each year which it claims would be attainable by all members of the Bargaining Unit. The Union rejected the incentive pay plan as insufficiently detailed and subject to change in the Sheriff's discretion.

The Sheriff's performance based incentive proposal thus bears further examination.

The Union reports that none of the Collective Bargaining Contracts with Unions representing Law Enforcement personnel in the jurisdictions designated as

comparable to Butler County provide performance based incentive pay for their Sergeants and Lieutenants.

That fact, however, cannot be dispositive of the Sheriff's proposal. Permanent adherence to a status quo would deny all beneficial innovation.

To improve the services offered by the County, the Commissioners adopted a policy to be implemented County-wide, which called for the introduction of merit based compensation to encourage and reward superior performance.

In Resolution No. 14-01-00214 the Board of Commissioners provided that a performance based pay increase of up to 2.5% would be made available to its non-Bargaining Unit employees "who had received an overall satisfactory performance rating, whose wages were not at or above the maximum of their pay range and who had not received a base pay increase since July 1, 2013".

Thereafter, pay increases were to be granted through a three-step performance appraisal process involving an evaluation of certain core competences, the attainment

of specific job expectations and the attainment of certain goals, with the total points accumulated being compared to that of fellow employees to determine each employee's performance pay award.

The County's performance incentive proposals were not enthusiastically received by members of the various Bargaining Units.

As of the date of the hearing, performance incentive pay had been adopted in only two of the fifteen County Collective Bargaining Contracts.

The October 11, 2014-September 30, 2017 Agreement with the Professionals Guild of Ohio, Subdivision Council 21 provides in pertinent part:

"Article 33 - Wage Increases: ...

"3. No Employee shall receive an increase in wages:

"(a) If the Employee has received an overall unsatisfactory rating in his or her current annual performance evaluation, as certified by the Superintendent, or

...

"4. No wage or longevity increase shall be denied on the basis of a performance evaluation not completed within

the time limit provided in Article 7, Performance Evaluation.

"5. Notwithstanding the non-appealability of performance evaluations through the grievance and arbitration procedure under Article 10 or 11 of this Agreement, an Employee may appeal, through said grievance and arbitration procedure, any performance evaluation with the overall rating of 'unsatisfactory' the effect of which is to deny the Employee a wage or longevity increase under this Article. In any grievance or arbitration proceeding pursuant to this Section, the burden shall be on the Union and the Employee to prove that the evaluation rating was an abuse of discretion or arbitrary or capricious".

"Article 34 - Wages:

...

"All increases, or increases provided in this paragraph/section are specifically contingent upon satisfaction of the evaluation standards set forth in Article 33.

...

"4. In year 3 of this Agreement (October 1, 2016 to September 30, 2017), up to 2.5% of the total annual base salary of the bargaining unit on December 31, 2016 will be designated as Performance Pay and distributed to bargaining unit Employees beginning in January, 2017 and consistent with Employees' performance evaluations. Based on individual Employee performance, the Employer will assign the Performance Pay to individual Employees in varying amounts ranging from 0.0% to 4.0% of his or her current bi-weekly rate.

"(a) If an Employee is not at the top of the pay range, the Performance Pay amount will be distributed as an

increase to the Employee's bi-weekly rate or annual salary, whichever is applicable, up to the maximum of the range. Any excess amount will be paid as a lump sum. Payment will commence at the next full pay period in January after the Employee's performance evaluation. If an Employee is at the top of the pay range or higher (e.g., 'rec circled'), the Performance Pay amount will be distributed as a lump sum on the first full pay period in January after the Employee's performance evaluation with no increase in the Employee's bi-weekly rate or annual salary, whichever is applicable.

"(b) The measurement period for Performance Pay distributed beginning in January, 2017 is from October 1, 2015 to September 30, 2016 and annually thereafter.

....

"10. With respect to Performance Pay referenced above, the Union President will participate on the Employer's committee responsible for devising and recommending the performance evaluation documents and protocols to implement the pay for performance system".

The Agreement between the Butler County Clerk of Courts and Local 3984, Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO effective through December 31, 2015 provides in Article XXXIV, Section 2 for the following performance incentive pay program:

"2. In Year 3 of this Agreement, 2.5% of the total annual base salary of the bargaining unit on December 31, 2014 will be designated as Performance Pay and distributed to bargaining unit Employees in January, 2015 based on

achievement in certain performance areas. Performance Pay for each Employee is determined by using the following method:

"(a) The performance areas are weighted factors that include:

"Title Clerks - Attendance (25.0%); Tardiness (25.0%); Missed liens and title errors (25.0%); Processed titles (15.0%) and Commendation from Supervisor (10.0%).

"Bookkeeper and Head Bookkeeper - Attendance (25.0%); Tardiness (25.0%); Performance objectives (40.0%) and Commendation from Supervisor (10.0%).

"(b) After the end of each calendar year and as part of the performance appraisal process, Employee performance will be assessed based on the performance measures, Attached Schedule 2 (Performance Measures) lists performance areas and the measures to determine achievement.

"(c) Based on individual Employee performance in the performance areas, the Clerk of Courts will distribute the Performance Pay to individual Employees in varying amounts ranging from 1.0% to 4.0% of his or her current hourly rate or, if the Employee is at the top of the pay grade, his or her current annual base rate, provided that the Employee has received an overall performance evaluation of satisfactory or higher (i.e., no Employee receiving an overall performance appraisal evaluation of unsatisfactory is eligible to receive Performance Pay for that year). The entire amount of the Performance Pay designated by the procedure in Section 2 of this Article will be distributed to the eligible bargaining unit Employees.

...."

The County's performance incentive pay proposal for Sergeants and Lieutenants in the Sheriff's Office, however, was not so fully developed as those already adopted for these other personnel, nor was it offered as part of the Collective Bargaining Agreement with the Sergeants and Lieutenants .

The Union, asserting its mistrust of the County Commissioners and the Sheriff,¹ pointed-out the incomplete nature of the Sheriff's merit pay proposal, and rejected the plan on the ground that important elements were missing, and the Union had no confidence in its fair and impartial administration.

The Sheriff's performance incentive plan, as formulated and offered at the conciliation hearing, is set forth in three documents which are attached hereto as Appendix "A" .

¹In 2012 the Union filed an Unfair Labor Practice charge which alleged that Bargaining Unit work had been diverted to part-time employees. A second Unfair Labor Practice charge was filed by the Union on August 28, 2013 over the Sheriff's "unilateral creation of the new classification of Corporal within the Deputy Unit.

Fact-Finder Guest was sharply critical of the Sheriff's proposal for performance pay as it was then presented :

...."

"What is important is that the Employer provide more information than included with the materials presented. The one (1) sheet proposal provides a brief explanation of how the \$1200.00 can be earned by employees. It is broken down as follows:

"Agency Incentives: This has five (5) criteria with a total value of \$600.00 and a statement that one failed category = zero percentage pick up.

"Employee Evaluation: This has ten (10) criteria with a total value of \$200.00 and a statement that fail 4 or more = failed evaluation.

"Employee Goal Awards: this has two (2) criteria, both a \$200.00 each for a total of \$400.00 and no explanation, but a separate \$200.00 Physical Fitness Incentive that should probably not be part of the Performance Pay or Merit Pay outline.

"My concern is that this is not complete nor does this cover any of the criteria as to how this will be administered in addition to other concerns already mentioned in this report. It seem[s] to this Fact-Finder that if the Employer is serious about this program that a more complete and detailed outline needs to be developed.

...."

"The performance pay system and the methodology used is viewed very differently by the parties. Given the lack of specifics regarding the plan, I can understand why

this might occur. Simply put, there are more questions than answers regarding this new concept in pay. For example:

"How would it be applied and administered?"

"Are the payments pensionable?"

"How will the plan avoid built-in biases by supervisors?"

"Is there an appeal process or does the grievance machinery apply?"

"What is the plan to increase the amounts of the overtime and by what means?"

"Until these and probably other questions are addressed and a satisfactory agreement is obtained it does not seem possible to have acceptance to this new pay plan."

"In addition, it is obvious that there is distrust between Management and Union. This distrust is keeping the County from being able to move forward in a smooth manner. The performance pay system might be a good area to address the trust issue and work together to try to reach a satisfactory position. There needs to be more specifics that avoid personal bias and/or personal mistakes that result in employees receiving less than he/she should."

"... I have tried to see the positive and negative positions regarding the performance pay proposal and the standard base rate increases and find merit in both. However, if the merit or performance pay method has long term possibilities the Employer must be more specific with its implementation, administration, and pensionability which at this time is still unknown."

"Therefore, the combination of the following is recommended in hopes these next two (2) years will provide adequate compensation for the employees, control costs for the County, and provide time to develop the details between the parties".²

²On October 10, 2014, Fact-Finder Felicia Bernardini submitted a Fact-Finding Report to resolve the Contractual impasse between the Sheriff and FOP, Lodge No. 101 representing a unit of Deputy Sheriffs, Detectives and Corporals, following the Union's exercise of a similar wage reopener. In rejecting the County's proposal for a performance incentive pay system Fact-Finder Bernardini found the lack of Union involvement in its drafting to be a fatal flaw. She stated:

"To make a radical departure from the status quo the parties must either negotiate the change for themselves, or clearly demonstrate that there has been a radical change in circumstances that warrant the neutral's intervention to impose the change. I understand the Employer believes that radical action is needed to align the Bargaining Unit's compensation model with what it believes to be the private sector's best practice model and what it believes to be tax payer expectations. However, the County's financial circumstances are not such that the only way forward is to freeze pay indefinitely and restructure the entire compensation model. Public employees all across Ohio have found themselves dealing with the same financial or economic challenges as Butler County. And yet, the prevailing practice has been to retain the existing pay model and negotiate wage settlements within the existing structure. If the parties mutually come to a conclusion that it makes sense to change the compensation model, then they will make the case for themselves and act upon it through negotiations. Based on the statutory criteria for fact-finding, I will not impose the pay for performance model but maintain the existing pay model and recommend an adjustment within that model".

In essence, despite these express misgivings, the Fact-Finder recommended adoption of the Sheriff's incentive pay proposal in the hope that the parties would meet to develop the necessary details of its administration and in the process develop a more trusting relationship.

This Conciliator has previously expressed his view of a Conciliator's responsibility in reviewing a recommendation of a Fact-Finder:

"A number of Conciliators and Interest Arbitrators have taken a narrow view of their role in making an Award where one of the parties has adopted the recommendations of a Fact-Finder and the other has not. They perceive it to be their duty to "give great weight to the recommendations of a Fact-Finder", or to require the objecting party to either "show clear error on the part of a Fact-Finder before rejecting in a Conciliation Award the term contained in a duly considered Report and Recommendation", or otherwise to prove "good cause" for failing to endorse the Recommendation".

"These various statements of the deference due a Recommendation by a Fact-Finder are all designed to protect the integrity of the statutory process, and deter use of the Fact-Finder's Report and Recommendation as only a "bottom line" spring board for obtaining better terms in a subsequent Conciliation proceeding.

"Fact-Finders are trained, skilled and experienced neutrals, typically selected by the parties, or mutually acceptable to them, and in whose impartiality the parties have confidence. They reach their Findings and

Recommendations after careful evaluation of the respective positions of the parties and the available data, taking into account all relevant factors.

"The notion is that the Fact-Finder thus stands somewhat in the position of a judge in a non-jury trial, while the Conciliator serves as a quasi-appellate tribunal. Put somewhat differently, there is a rebuttable presumption that the Fact-Finder's Recommendations are correct, but the presumption may be rebutted by showing that relevant circumstances have materially changed since the Report was issued, that significant evidence was not available or considered by the Fact-Finder, that the data relied upon was flawed or otherwise misinterpreted by the Fact-Finder or that some other similar fundamental oversight deprived the Fact-Finder's Recommendations of their presumptive validity.

"Although this Conciliator subscribes to the view that a Fact-Finder's Recommendations ought not to be lightly disregarded, perhaps these formulations represent a too circumscribed reading of the Conciliator's function.

"There is no escaping the fact that the Recommendation of a Fact-Finder on a particular issue, while constrained by the evidentiary record and observance of the mandatory statutory factors, represents, in essence, an exercise in judgment...."

"There ought to be an opportunity for the Conciliator to set aside a Fact-Finder's Recommendation, at least on those relatively rare occasions when the Conciliator is convinced that the judgment of the Fact-Finder has been improvidently exercised".

In appraising the Fact-Finder's recommendation of the Sheriff's performance incentive proposal the Conciliator finds that the engrafting of a performance

incentive pay on to an existing uniform base wage structure is not inherently objectionable.

The devil lies in the details.

Here, the Sheriff's performance incentive pay proposal was developed without input from the Union.

As formulated and presented to the Union, the plan called for the payment of \$600.00 to employees who passed all of the "Basic Expectations" portion of its proposal - uniform inspection; firearm inspection; vehicle inspection; firearm qualification and ["successful completion of] all annual OPOTA In-Service Training Requirements".

The Sheriff's Representatives averred that any Sergeant or Lieutenant without a vehicle would automatically pass the "vehicle inspection" portion. The standards for such inspection, however, were not specified. The Sergeants and Lieutenants were already required to complete the OPOTA in-service training in order to continue their employment. However, whether such training would continue to be undertaken during on-

duty hours was not specified. While the Sheriff's Representatives affirmed that the payment for passing the "Agency Incentives" would be pensionable, they conceded that other portions of the payment program would not be. However, the Representatives stated that the Sheriff "intended to petition the Public Employee Retirement System to consider the other compensation sections as pensionable".

Under the "Employee Evaluations" portion of the merit pay proposal, (\$200.00 value) the evaluation categories were to be graded on a four-step scale, but the "Performance Based Pay" sheet uses a "pass-fail" system. An employee would receive a \$200.00 payment unless the employee failed four of the following ten areas: "quality of work; quantity of work; adaptability; dependability; team effort/cooperation; judgment/problem solving; initiative; professionalism; technical abilities and appearance".

The criteria to be utilized in the evaluation of these areas, however, was not presented.

Under the "Employee Goal Awards" section of his proposal, the Sheriff proposed a \$200.00 potentially pensionable payment for a "safe driving award", and an additional \$200.00 for an "Attendance Award".

On average, some ten to twelve "employee at fault" accidents occur each year. An employee responsible for an "at fault" accident would be ineligible for the \$200.00 incentive. Under the "Attendance Award Incentive", apparently up to five "Sick Occurrences" would be allowed, but the question of whether Funeral Leave, currently excused under the existing attendance program would be similarly treated was not addressed. Furthermore, the proposal is silent as to whether the attendance measuring period would be the calendar year or the Contract year.

Since 2014 has ended, the Sheriff's proposal would have all employees considered as having based the evaluation for that year and be automatically entitled to the incentive pay.

It is of course extremely important, both as Fact-Finders Guest and Bernardini noted, that the parties negotiate the details of the performance incentive plan. That however, has not taken place, nor has the Sheriff proposed that the provisions of the plan be reduced to writing and made part of the Collective Bargaining Agreement. This omission allows the Sheriff in his discretion to change, delete or replace any portion of the Plan in his sole discretion without the need to consult with the Union.

Contrary to Fact-Finder Guest, the Conciliator believes that requiring adoption of an incomplete performance pay plan in the hopes that the parties will then voluntarily resume bargaining, overcome mistrust and fill-in the missing details, is unsound. The Sheriff would have no reason to give up any part of the discretion the Award would give him to tailor the plan to conform with the wishes of the County Commissioners.

The Conciliator believes that it is preferable to exclude the plan from the Award, and thus require the

Sheriff to bargain over the potential adoption of a performance incentive plan and its terms in the successor 2016 Contract.

Accordingly, the Conciliator makes the following Award.

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AWARD:

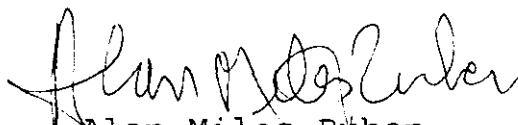
The Conciliator Awards the final offer of the Union to amend the provisions of Article XX - "Wages" pursuant to the Contract reopener set forth in Article XXXVI as follows :

"1. The wage rates and step rates shall not be increased in 2013.

"2. The wage rates and step rates shall be increased as of February 7, 2014 by one and one -half percent (1.5%).

"3. The wage rates and step rates shall be increased as of February 8, 2015 by one and one-half percent (1.5%)".

Award signed, dated and issued at Cleveland, Ohio this 29th day of January, 2015.


Alan Miles Ruben
Conciliator

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Butler County Sheriff's Office

PERFORMANCE EVALUATION/REPORT



Name: _____ Division: _____ Review Deadline: _____

Classification: _____ Date of Last Review: _____

Status: Certified Provisional Mid-Probation Final Probation Annual Step Increase Special Separation

Rating Period: from _____ to _____

PURPOSE

This performance evaluation is used by the Butler County Sheriff's Office to:

- Work toward achieving division goals
- Inform employees of strengths, weaknesses, and progress
- Improve performance and productivity
- Develop employee skills
- Strengthen work relationships and improve communication
- Recognize accomplishments and good work

TIMELINESS

Performance of probationary employees will be reviewed twice; at the completion of the first half of the probationary period, and immediately prior to the end of the probationary period. Thereafter, reviews will be conducted annually and **MUST BE** completed

RATER INSTRUCTIONS

Complete evaluation and forward through the Chain of Command.

When evaluation is returned:

- Meet with employees
- Discuss current job description and expectations
- Review evaluation with employees
- Discuss strengths and weaknesses
- Allow employee to write comments
- Employee **MUST** sign as knowledge of receiving evaluation
- Forward completed and signed evaluation to personnel

RATING GUIDELINES

RATING LEVELS:

1. Unacceptable: Unacceptable Needs Improvement
Consistently fails to meet performance expectations.

2. Needs improvement: Needs Improvement Meets Expectations
Meets performance expectations on an inconsistent basis.

3. Meets Expectations: Meets Expectations Exceeds Expectations
Meets all performance expectations established for the job.
Acceptable level Of performance.

4. Exceeds Expectations: Meets Expectations Exceeds Expectations
Exceeds expectations by consistently demonstrating excellent performance.

EVALUATION CRITERIA

1. QUALITY OF WORK (ACCURACY, NEATNESS, THOROUGHNESS)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
2. QUANTITY OF WORK (VOLUME, AMOUNT, SPEED)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
3. ADAPTABILITY (ADJUST TO CHANGE, ABILITY TO LEARN)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
4. DEPENDABILITY (ATTENDANCE, RELIABILITY)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
5. TEAM EFFORT AND COOPERATION (WORKING WITH OTHERS)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
6. JUDGMENT, PROBLEM SOLVING (ABILITY TO PLAN WORK)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
7. INITIATIVE (MOTIVATION, INTEREST IN WORK)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
8. PROFESSIONALISM (COURTESY, PUBLIC RELATIONS)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
9. INFORMATION, DOCUMENT PROCESSING (COMPUTER, ETC.)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations
10. AGENCY REPRESENTATION (APPEARANCE, CARRYING OUT MISSION)			
Unacceptable	Needs Improvement	Meets Expectations	Exceeds Expectations

Number of Sick Occurrences: _____

(Comments) _____

Number of Award Considerations: _____

(Comments) _____

Number of Disciplinary Actions: _____

(Comments) _____

Number of Other Recognitions: _____

(Comments) _____

PERFORMANCE EVALUATION SUMMARY

Note: An unsatisfactory performance evaluation may disqualify the employee for "step raise" consideration.

Your signature indicates that you have received and reviewed this evaluation, but do not necessarily agree with its content.

Comments: _____ Signature: <u> X </u> _____ Date: _____	Employee
--	-----------------

I have prepared/reviewed this performance evaluation and it is for the employee as follows:

Comments: _____ Signature: <u> X </u> _____ Date: _____	Sergeant/Supervisor
--	----------------------------

I have prepared/reviewed this performance evaluation and it is for the employee as follows:

Comments: _____ Signature: <u> X </u> _____ Date: _____	C/O Lieutenant/Other
--	-----------------------------

I have prepared/reviewed this performance evaluation and it is for the employee as follows:

Comments: _____ Signature: <u> X </u> _____ Date: _____	Division Command
--	-------------------------

I have prepared/reviewed this performance evaluation and it is for the employee as follows:

Comments: _____ Signature: <u> X </u> _____ Date: _____	Section Command
--	------------------------

I have prepared/reviewed this performance evaluation and it is for the employee as follows:

Comments: _____ Signature: <u> X </u> _____ Date: _____	Major
--	--------------

I have prepared/reviewed this performance evaluation and it is for the employee as follows:

Comments: _____ Signature: <u> X </u> _____ Date: _____	Chief
--	--------------

I have prepared/reviewed this performance evaluation and it is for the employee as follows:

Comments: _____ Signature: <u> X </u> _____ Date: _____	Sheriff
--	----------------

PERFORMANCE EVALUATION RESULT/SUMMARY

RESULT <input type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable <input type="checkbox"/> Re-Evaluation Date: _____	APPROVAL/STEP <input type="checkbox"/> Approval From Step: _____ to Step: _____ <input type="checkbox"/> Disapproval
--	--

Butler County Sheriff's Office

2014 Performance Based Pay

Category	Value	Pass/Fail	Award
Basic Expectations (One (1) failed category = Failed Expectations)	\$600.00	✓ All Pass	Jan-15
Uniform Insepections - <i>clean</i> Firearm Inspections - <i>clean + operative</i> Vehicle Inspections - <i>clean</i> Firearm Qualifications - <i>status certification</i> OPOTA In-Service Requiremants			
Employee Evaluations (Four (4) or more rated unacceptable = Failed Evaluation)	\$200.00	✓ All Pass	Jan-15
Quality of Work Quantity of Work \daptability Dependability Team Effort/Cooperation Judgement/Problem Solving Initiative Professionalism Technical Abilities Agency Representation			
Employee Goals			
Safe Driving (Check for At Fault Accidents)	\$200.00	(Check employee 2014 Driving Records)	Jan-15
Attendance Award (Five (5) or less Sick Occurances)	\$200.00	✓ All Pass	Jan-15

One (1) Check Issued Jan -15

Butler County Sheriff's Office

2015 Performance Based Pay

Category	Value	# Pass	# Fail	Award
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Basic Expectations

\$600.00

Jan-16

- Uniform Insepections - May
- Firearm Inspections
- Vehicle Inspections - May
- Firearm Qualifications - Twice Yearly
- OPOTA In-Service Requiremants - OPOTA Training/
- Annual Requirements

Employee Evaluations - On Anniversary Dates

\$200.00

Jan-16

- Quality of Work
- Quantity of Work
- Adaptability
- Dependability
- Team Effort/Cooperation
- Judgement/Problem Solving
- Initiative
- Professionalism
- Technical Abilities
- Agency Representation

Employee Goals - End of Year Assessment

Safe Driving Award

\$200.00

Jan-16

(Check for at Fault Accidents)

Attendance Award

\$200.00

Jan-16

(Five (5) or less Sick Occurances)

One (1) Check Issued Jan-16

Performance Based Pay – Basic Expectations Form

Employee Name: _____ IDE _____ Assignment _____

✓ Appropriate Line

Uniform Inspection Criteria: Inspection Date _____

Pass Fail

- Uniform and Jacket - Neat and pressed
- Badges and Pins - As outlined in the policy and procedure manual
- Shoes/Leather Gear – Polished
- Hat - Clean and symmetrical

_____	_____
_____	_____
_____	_____
_____	_____

Some wear marks are acceptable; however items in obvious unacceptable presentable condition could make the officer susceptible to a failed uniform inspection. A pin out of place would not make the officer subject to failure, however coupled with a combination of other inspection items might.

Category Rating (Circle One): Pass Fail

Firearm Inspection Criteria: Inspection Date _____

Pass Fail

- Weapon - Clean working condition
- Acceptable Wear
- Weapon Barrel - Unobstructed and clean
- Weapon Mechanisms - Oiled and in working order
- Weapon - Able to be fired at the time of the inspection
- Weapon - No rust, gouges or unsightly damage

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Category Rating (Circle One): Pass Fail

PERSONNEL WITH ASSIGNED TAKE HOME VEHICLES

Vehicle Inspection Criteria: Inspection Date _____

Pass Fail

- Vehicle - Cleaned both inside and outside
- Vehicle – No unreported, unrepaired dents or missing parts
- Vehicle Service Records - Properly maintained
- All equipment on the vehicle - Proper working condition
- Trunks - Neat and Organized
- Issued Equipment - Properly Maintained (fire extinguishers not outdated etc.)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Firearm and In-service Training Criteria: Inspection Date _____

Pass Fail

- Annual Firearm Qualifications (Spring) - Completed
- Annual Firearm Qualifications (Fall) - Completed
- OPOTA In-service Training – Completed all requirements

_____	_____
_____	_____
_____	_____

Category Rating (Circle One): Pass Fail

Inspection Failure Criteria:

- Reason for failure must be documented and photographed.
 - Reported failed inspection must be unanimous through the chain of command with the Sheriff having final decision.
- A Final Decision can be subject to Grievance under Article X of the current Bargaining Agreement.

Employee signs **ONLY** when they have failed Basic Expectations.

Your signature indicates that you have received and reviewed the failure on the Basic Expectations Performance Based Pay Form.

Employee Signature _____ Date _____

Supervisor/Commander Signature _____ Date _____