

Bernalillo County Deputy Sheriff's Association

Contract
FY16

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AGREEMENT

Entered into this 23rd day of June, 2015, between the County of Bernalillo, hereinafter referred to as the "County" and the Bernalillo County Deputy Sheriff's Association, hereinafter referred to as the "Association."

In applying this Agreement, the use of the masculine gender herein, shall be construed to include the feminine gender. The use of the singular shall be construed to include the plural.

NOW THEREFORE IT IS AGREED:

ARTICLE 1: Purpose

- 1.1 It is the purpose of this Agreement to promote and maintain harmony, cooperation and understanding among the County its employees, and the Association and its members in fulfilling their mutual and respective obligations to each other and the citizens of Bernalillo County.
- 1.2 It is further the purpose of this Agreement to provide orderly collective bargaining relations between the County and the Association and to secure the prompt and fair disposition of grievances in order to assure the efficient operation of the Department and uninterrupted service to the County. Article 1 is not grievable.

ARTICLE 2: RECOGNITION

- 2.1 Pursuant to the certification issued by the Bernalillo County Labor Relations Board, the Department recognizes the Association as the exclusive bargaining representative for collective bargaining, as defined by Section 2-201 et. Seq. of the Bernalillo County Code, of all employees in the appropriate bargaining unit as determined by the Bernalillo County Labor Relations Board. The Parties agree that the Association has the sole and exclusive right to represent all such Department employees as their collective bargaining agent.

ARTICLE 3: MANAGEMENT RIGHTS

- 3.1 The County, in accordance with applicable statutes, rules and regulations, except as expressly limited, altered or modified by provisions of this Agreement, or appendices hereto or subsequent modifications by written instrument signed by the parties, which written instrument shall specifically identify and refer to the particular ARTICLE and subsection of this Agreement addressed therein, subject to the parties' duty to meet and confer over mandatory subjects of bargaining (Bernalillo County Code Section 2-201, et seq.) retains the exclusive right and authority to:
- 3.1.1 (1) maintain the efficiency of government operations entrusted to it by law; (2) determine the mission of County government; (3) determine the resources to be allocated to accomplish the mission and goals of the Department as a unit of County government; (4) determine methods, means, and personnel by which its operations and the operation of the Department are to be conducted; (5) determine the number of employees to be employed and the capacity of such employment at any time; (6) act in furtherance of all other duties and responsibilities imposed upon it by the Constitution, federal and state statutes, ordinances and administrative regulations; (7) determine the location and operation of its facilities; (8) insure the maintenance of uninterrupted service to the community; (9) take all such actions necessary to maintain such service.
- 3.1.2 (1) direct employees, establish and enforce reasonable rules and regulations governing the conduct and safety of its employees; (2) establish schedules and take such other actions necessary to carry out the functions entrusted to, or imposed upon, it and the Department by law; (3) hire, promote, transfer, assign, and retain employees in positions; (4) suspend, demote, dismiss and otherwise discipline employees for just cause; (5) layoff or otherwise relieve employees from duty for lack of work or other legitimate reason; (6) determine qualifications for, select and hire supervisory personnel; (7) determine the qualifications for, select and hire new employees; (8) determine the qualifications and select employees for promotion and transfer; (9) determine the number and arrangement of work schedules, shifts and the starting and stopping times thereof; (10) evaluate, test and provide for the examination of employees and applicants for employment to determine their fitness and suitability for duty and employment; and (11) determine and implement all policies, procedures and standards not otherwise restricted, limited or prohibited by the specific provisions of this Agreement.
- 3.2 It is understood and agreed that the functions of management listed herein are not all inclusive and that all such rights, powers, or authority not otherwise relinquished in this Agreement shall be retained by the County.
- 3.3 It is further understood and agreed that any provision in this Agreement or appendices hereto, or other written modifications which limit, modify or alter any management right set forth in this Article shall prevail and take precedence over said management right.

- 3.4 Use of Reserves. Reserves shall not be regularly assigned to perform law enforcement functions normally performed by classified sworn officers (seven point star) working in pay status (i.e., normal beat patrol, walking beats, normal detective functions, etc.). Reserves may be used by the Department to supplement law enforcement services such as additional staffing for special projects, assist in emergency situations, traffic and crowd control, in positions in which they have been used historically (i.e., vehicle patrol for back up, International Balloon fiesta, etc.), and in other assigned temporary duties.

ARTICLE 4: REPRESENTATION

- 4.1 The Association retains the exclusive right to define its organization and to manage its internal affairs and the County shall recognize those employees designated as representatives of the Association in all matters arising from the administration of this Agreement. The Association shall advise the Department of the names, addresses and current working telephone numbers of Association representatives and identify their official positions within the Association. The Association shall promptly advise the Department of any changes in the foregoing information.
- 4.2 For any meeting called or agreed to by Department or County Management with respect to matters involving labor-management relations between the County and the Association, at which the President or his designee of the Association is required by the Department or County to be present, and for which the Agreement does not otherwise provide for the President or his designee to be in a paid status, the President or his designee shall be paid at his appropriate rate of pay for the period of such meeting.
- 4.3 The Department shall allow Association representatives to visit departmental facilities for the purpose of administering the provisions of this Agreement at such times and places which do not interfere with the operations of the Department.
- 4.4 Stewards.
- 4.4.1 The County shall recognize only one (1) steward and one (1) alternate, per shift to serve as the Association's representative in each region.
- 4.4.2 Alternates shall serve only in the absence or during the unavailability of the steward.
- 4.4.3 Normally, grievances shall be filed and processed during the non-work time of both the grievant and his steward, however in the event of a bona fide emergency, the employee may contact his immediate supervisor to request to be placed on relief from his current assignment to consult with his steward. In such event, the steward and the employee may be relieved from their respective assignments and allowed to consult as soon as it is practicable to do so. Pending relief, the employee shall continue to perform his assigned duties. Such consultation shall not unduly interfere with the operations of the Department as determined by the Sheriff or his designee.
- 4.5 Association President.
- The President of the Association shall be assigned to the Day Shift Monday through Friday.

- 4.5.1 The Association President or his designee, shall be allowed up to, but not to exceed, three (3) hours each day during the President's or his designee's shift on paid status to adjust pending grievances, to consult with employees regarding specific issues relating to contract interpretation and pre-grievance inquiries, and to consult with Department or County management regarding contract administration matters. These hours shall not be accumulated or postponed, and shall be used only when necessary. These hours shall not be used in conjunction with sick leave.
- 4.5.2 The Association President or his designee shall keep a written daily log reflecting the date and time spent with respect to such matters, Department personnel participating in the respective grievance, and a brief general description of the subject matter thereof. This log shall only reflect the three (3) hours reflected in Article 4.5.1. A copy of the log shall be available for inspection by the Sheriff or his designee and shall be submitted to the Sheriff on a weekly basis.
- 4.5.3 The Association Representative handling the arbitration hearing shall be permitted up to eight (8) hours per day to attend such arbitration hearings, other than interest arbitration, pursuant to Article 16.19.

ARTICLE 5: MEMBERSHIP AND CHECKOFF OF UNION DUES

- 5.1 No employee shall be required to join, maintain membership in, or pay dues or fees to, the Association as a condition of acquiring, or maintaining employment.
- 5.2 During the term of this Agreement, an employee who is, or who may become, a member of the Association may execute a Dues Check-Off Authorization form, authorizing that a portion of his wages representing monthly dues or fees be withheld and forwarded to the Association. The Dues Check-Off Authorization shall be in the form set out and attached hereto and shall not include payment of the initiation fees, assessments or fines levied by the Association.
- 5.3 Upon receiving a properly executed Dues Check-Off Authorization form from an employee, the County shall, as soon as practicable, effect such payroll deductions.
 - 5.3.1 The deduction of such dues shall commence with the first paycheck after receipt of the Dues Check-off Authorization form, and shall, within seven (7) days of receipt thereof, be paid over to the Association.
 - 5.3.2 Such deductions shall be strictly limited to the amount, as from time to time, may be certified in writing by the President of the Association as constituting the monthly dues or fees uniformly required as a condition of acquiring and retaining membership.
 - 5.3.3 An employee who wishes to revoke his Dues Check-off Authorization form shall deliver to the Human Resources Department and to the Association, a written and signed statement revoking the Dues Check-Off Authorization.
 - 5.3.4 No deductions shall be made during any pay period in which an employee has insufficient wages to cover the authorized dues deduction.
- 5.4 The Association shall indemnify and hold harmless the County and Department, as may be appropriate, from any and all liability which may arise, or be claimed to arise, out of or in connection with said dues deductions.
- 5.5 The Dues Check-Off Authorization form shall be in the following format:

I, _____, am a sworn Sheriff's Deputy employed by the Bernalillo County Deputy Sheriff's Department in Albuquerque, New Mexico, and I do hereby designate the Bernalillo County Deputy Sheriff's Association as my representative for the purposes of bargaining with the County of Bernalillo concerning my hours of work, compensation paid therefore and other terms and conditions of my employment.

In accordance with the provisions of Article 5 of the Agreement between the Association and the County, I hereby authorize the County of Bernalillo to withhold from my compensation and pay over to the Bernalillo County Deputy Sheriff's Association, such amount as is certified by the President of the Association as representing the dues or fees uniformly required for membership therein.

This Dues Check-Off Authorization shall remain in full force and effect for the term of said Agreement or until such time as I revoke the same in writing.

Signature

Social Security Number

Address

City, State, Postal Zip Code

Telephone Number

Date: _____

ARTICLE 6:NON-DISCRIMINATION

- 6.1 The County and the Association shall not discriminate against any employee based on race, color, religion, age, sex, creed, national origin, political affiliation, Association membership or non-membership, spousal affiliation, sexual orientation, veteran status or disability. The County shall not encourage or discourage membership in the Association.
- 6.2 Any allegation of discrimination of the nature set forth in this Article shall be pursued under the procedures set forth in applicable County policies, with the EEOC or in accordance with such other appropriate Statutory or Administrative procedures as are available.

ARTICLE 7: NONINTERFERENCE

- 7.1 The parties acknowledge that each is free to conduct its affairs and business in the manner which each respectively believes to be in its own best interests. Accordingly, the parties agree that neither shall interfere with the internal business affairs of the other; nor with the officials or representatives of the other in the conduct of their internal business affairs and other matters not involving the collective bargaining relationship.

ARTICLE 8: COMMUNICATIONS

- 8.1 It is understood by the parties that inaccurate information, incomplete information or the failure to exchange information is one of the major causes of breakdowns in the labor-management relationship. In the interest of preventing misunderstandings stemming from such lapses in communications the Parties agree to furnish information as follows:
- 8.1.1 The County shall:
- a. provide copies to the Association, at its actual cost, copies of new policies, which are determined to be relevant by the Department;
 - b. upon written request allow the Association access to Departmental policies, at reasonable times and places;
 - c. inform the Association of major relevant organizational changes within one week of the effective date thereof; and
 - d. place the Association on the mailing list for the Department's newspaper, if any.
- 8.1.2 The Association shall:
- a. inform the County of major changes in its organization, or policies;
 - b. provide the County with a current list of Association officers, trustees, stewards and alternates. Such list shall describe the authority possessed by each individual, and shall be updated within one week of any such change.
- 8.2 The Parties agree to communicate only through the appropriate officials as designated by the County and the Association respectively.
- 8.3 Notice of Change in S.O.P.s.
- 8.3.1 In the event the Sheriff determines it necessary or advisable to change, modify or replace existing S.O.P.s or other Departmental policies that are applicable to classified sworn officers (seven (7) point star) or that are applicable to all employees in the Department, he shall so advise the Association President and provide him with a copy of the proposed change, modification or replacement document, as appropriate, at least fourteen (14) days prior to the proposed effective date thereof. The Association President shall advise the Sheriff, within seven (7) days of receipt thereof, whether he wishes to meet with the Sheriff, or his designee, to discuss said proposals. Thereafter the Parties shall meet and confer regarding the proposed changes as well as any suggestions proposed by the Association. The Sheriff may consider the suggestions or proposals advanced by the Association, and may accept or reject all or any portion thereof. This provision does not contemplate that the County shall be required to engage in

collective bargaining regarding such change, modification or replacement, other than as may impact wages, hours and working conditions.

- 8.3.2 In the event the Association President fails to respond to the Sheriff's notification as provided above, the Sheriff shall have no further obligation to meet and confer with the Association regarding the proposed change, modification or replacement.

ARTICLE 9: PROMOTIONS

9.1 Only classified sworn officers (seven (7) point star) shall be eligible for promotion hereunder.

9.1.1 Deputy 2nd Class (D2/C)

Upon satisfactory completion as a Cadet (graduation from Academy), the employee shall be promoted to the rank of Deputy Second Class (D2/C).

9.1.2 Deputy First Class (D1/C)

Upon completion of twelve (12) months in grade, a D2/C shall be promoted to Deputy First Class (D1/C).

9.2 All employees shall be evaluated at least once annually and such evaluation shall be included in the individual's personnel file and a copy provided to the employee.

9.3 Sergeant's/Lieutenant's Promotional Process

9.3.1 If hired prior to July 1, 1999, the employee shall not be eligible to take the Sergeant's examination until he or she has completed four (4) years of service as a classified sworn deputy from date of hire or promotion to the position of deputy (D2/C) as of the date of the written examination.

If hired on or after July 1, 1999, the employee shall not be eligible to take the Sergeant's examination until he or she has completed five (5) years of service as a classified sworn deputy from date of hire or promotion to the position of Deputy (D2/C) as of the date of the written examination.

9.3.2 To be eligible to participate in the Lieutenant's promotional process, a Sergeant shall have worked a minimum of two (2) years as a Sergeant as of the date of the written examination.

9.4 Preparation and Administration of Promotional Examination

9.4.1 The County Human Resources Department with the advice of the Sheriff or the Sheriff's designee shall oversee the preparation, administration, and scoring of the Written Examination, File Evaluation and Assessment proceedings, and compile the eligibility list based upon a composite scoring of all weighted factors.

9.4.2 The date(s), location and list of study material, if available, for the Written Examination shall be announced no less than three (3) months prior thereto.

The Written Examination shall be scheduled prior to the File Evaluation. The Assessment and File Evaluation will normally be scheduled within thirty (30) days following the administration of the Written Examination. After the date(s)

of the Written Examination are announced, unexpected delays, changes in location, or other rescheduling shall not require further advance notice, so long as the rescheduling and relocation is announced in a timely manner and the Written Examination is administered not less than six (6) months after the initial announcement. In the event that a sufficient number of promotion candidates necessary to fill existing vacancies do not pass the Written Examination, the promotional process shall continue as set forth herein. The Sheriff or the Sheriff's designee may then reschedule the Written Examination upon three (3) months advance notice.

- 9.4.3 The list of the eligible candidates who meet the requirements for taking the promotional examination shall be forwarded by the Sheriff or Sheriff's designee, to the Human Resources Department prior to posting Written Examination dates.

9.5 Application/Requirements

- 9.5.1 Eligible employees wishing to participate in an announced promotional examination shall sign a request roster to be posted in the Sheriff's Administrative Office within the time announced. Employees on approved leave at the time of the announcement, for whom sign-in would not be practical, may submit their request to the Sheriff by letter.
- 9.5.2 An employee participating in the promotional process shall appear for the Written Examination and Assessment at the time designated. Failure to appear for the Written Examination or Assessment at the time designated shall result in termination of further participation in the promotional process.
- 9.5.3 Any participating employee attending a police training or educational program with Departmental approval, may request to have the Written Examination administered by a proctor. The examination by proctor shall be administered under similar conditions and at the same time as the Written Examination is administered by the County Human Resources Department. The proctor shall be the Registrar or Chief Administrator of the school which the employee is attending, or other responsible person who is approved in writing by the Sheriff.
- 9.5.4 The requirement for appearance before an Evaluation Board or Assessment Board shall not be waived. Not less than thirty (30) days prior to the date scheduled for the Written Examination, eligible employees shall submit a written one (1) page resume, with a one (1) page cover letter of qualifications, relevant work experience and training to the Sheriff's Administrative Office.
- 9.5.5 Eligible employees on the request roster shall be required to take the Written Examination. Those qualifying with a minimum score of seventy percent (70%) shall be permitted to participate in the Evaluation Board process. Those qualifying with a minimum score of 70% shall be permitted advance to the Assessment Board.

9.6 Promotional Process Factors

- 9.6.1 Eligibility for promotion lists for Sergeant/Lieutenant shall be based upon equally

weighed factors of Written Examination, File Evaluation, and Assessment. All scores shall be calculated to the nearest tenth (1/10) of a point. Eligibility for promotion lists shall be compiled and a list of ranking of employees by composite score shall be published. In the event of a tie, Candidates shall be ranked by seniority in accordance with the Department academy ranking or P.O.P.E score as appropriate. The Human Resources Department shall monitor all aspects of the promotional process and perform all scoring computations. An Association representative, who is not eligible to participate in the current promotional process, shall be present during the scoring as an observer only.

- 9.7 Written Examination: A list of materials on which written examination questions are based shall be posted. Testing shall cover supervisor, administrative and managerial knowledge.
- 9.8 The Evaluation Board shall consist of three (3) persons with law enforcement background. The Board members shall be of a higher rank than the grade for which the candidate is testing. The three (3) Board members shall be selected by the Sheriff and the County Human Resources Director or their designees, with consideration to availability. After the Written Examination has been administered, the File Evaluation Board shall be convened to evaluate candidates for promotion on the basis of work history, performance and managerial potential.
- 9.9 The File Evaluation Board shall convene after the Written Examination has been administered to evaluate candidates for promotion. The File Evaluation Board shall review the candidate's resume as well as documents contained within the candidate's Departmental personnel file. The File Evaluation Board shall be provided rating sheets on which to score each candidate on the basis of the following factors, up to a maximum of 100 points:
- 1-Evaluations (up to 20 points) – an assessment of prior work history including but not limited to past job assignments, previous performance evaluations, evaluation comments of immediate supervisors, and demonstrated performance on assignments.
 - 2-Discipline related issues (up to 20 points) – an assessment of the number and nature of the discipline a candidate has received. Only discipline occurring within three (3) years of the start of the promotional process will be considered.
 - 3-Commendations (up to 20 points) – an assessment of the commendations that the candidate has received.
 - 4-Training (up to 20 points) – an assessment of relevant training the candidate has received. Specific training for the position the candidate is testing for will be given greater consideration, e.g., instructor courses, managerial courses, or post-secondary education.
 - 5-Speciality and Supervisor Positions (up to 20 points) – an overall evaluation of the candidate's potential for success in the higher position taking into consideration present and prior work history, e.g., assignment obligations, movement within the Department, participation in various specialty units, secondary duties, and/or service as a Field Training Officer.

- 9.9.1 Following the evaluation of the candidate's file, the Evaluation Board's scores will be collected by the process proctor and tallied. The final score for this stage of the process will be an average of the three evaluator scores.
- 9.10 Assessments: Each eligible candidate shall be scheduled to appear before the Assessment Board. The Assessment Board shall consist of at least three (3) persons with law enforcement background. Board members shall be of a higher rank than the grade for which the candidate is testing. The three Board members will be selected and approved by the Sheriff or the Sheriff's designee.
- 9.10.1 The Assessment Board shall review the candidate's resume and cover letter prior to the start of the assessment.
- 9.10.2 All candidates shall appear before the Assessment Board in a Class A uniform.
- 9.10.3 Assessments shall be tape recorded by the Human Resources Department. A candidate may hear his taped assessment upon providing good cause as determined by the Human Resources Director. No representative, other than the Association proctor, shall be present during the Assessments.
- 9.10.4 If necessary, candidates may be required to appear at a designated time/place prior to the Assessment Board Exercise to prepare materials and/or facilitate the process.
- 9.10.5 The Assessment Board Process shall consist of one or more exercises to assess the candidate's readiness to assume the Sergeant/Lieutenant position. The scoring of the Assessment Exercise(s) will be based upon a measurement, of some or all, of the following knowledge and skills: familiarity with Departmental policies and procedures, problem solving ability, critical thinking, attention to detail, familiarity with job duties and responsibilities, technical job knowledge and practical application of such, verbal and written communication, time management, leadership, resource management, prioritization, decision making and command presence.
- 9.10.6 Upon completion of the Assessment(s), the score(s) of each exercise will be collected by the process proctor to be tallied. Scores will be averaged for each exercise. Each exercise will be part of a cumulative score of 100 points. A minimum score of seventy (70%) is required to pass.

9.11 Eligibility for Promotion from the Promotion List

No employee shall be promoted unless he has successfully completed all requirements stated in this Article. Candidates on approved leaves of absence shall be eligible for promotion upon successful completion of promotional process.

- 9.11.1 The Sheriff shall be presented with a list of the three (3) candidates with the highest overall scores, ranked in order from highest to lowest, for promotion to Sergeant/Lieutenant rank.

9.11.2 When a candidate is selected from the list by the Sheriff, the next highest qualified candidate with a minimum average score of seventy percent (70%) shall be placed on the list.

9.11.3 If no one is determined eligible through completion of the promotion process, there will be no promotions until a new list can be completed.

9.11.4 The promotional lists for Sergeant and Lieutenant will remain valid for two (2) years from the date of their first publication. Should either list be vacated/exhausted by all eligible candidates being promoted, a new promotional process may be initiated by the Sheriff.

9.12 Trial Period and Evaluation.

All employees promoted to the rank of Sergeant/Lieutenant shall be appointed initially for a six (6) month trial period; however, this period may be extended for an additional six (6) months upon the recommendation of such employee's Division Commander. Newly appointed Sergeants and Lieutenants shall be evaluated monthly during their trial period. During the evaluation period, an employee may be demoted to the rank previously held at the discretion of the Sheriff and such demotion shall not be grievable and arbitrable. After satisfactorily completing the trial period, such promotions shall be considered permanent, subject to usual performance and disciplinary requirements. All newly promoted employees shall be evaluated at the end of the trial period by their immediate supervisors.

9.13 Temporary promotions within the bargaining unit shall be made on the following basis:

9.13.1 The temporary promotion is made only to fill the vacancy of an employee holding a permanent rank within the bargaining unit.

9.13.2 Selection of the employee shall be accomplished by the Sheriff, or his designee.

9.13.3 The temporary promotion shall not exceed six (6) months in duration.

9.13.4 No temporary promotion shall be made to fill a vacancy of five (5) working days, or less.

9.13.5 The effective date of the promotion shall be the date on which the duties of the specific rank were assumed.

9.13.6 All applicable County forms shall be completed and approved.

9.13.7 When the employee fills the duties of a supervisor under this Article, he shall be compensated at five percent (5%) of his base rate or entry level base rate for the supervisor position he is assuming, whichever is greater.

9.13.8 The employee selected for temporary promotion shall assume all of the duties and responsibilities attendant to the supervisor position he is assuming. He shall also be held accountable for the same.

- 9.13.9 The Sheriff shall cause a Department Memorandum to be issued in all instances when a temporary promotion is effected or is terminated.
- 9.14 No grievance may be filed relating to the selection of candidates for promotion other than over whether or not the terms and conditions and/or procedures set out in this Article have been violated.
- 9.15 The parties shall convene a committee to review the promotional process. The committee shall draft a proposed replacement for this article. The committee shall present the proposed replacement to the labor-management relations committee who shall provide final approval for the proposed replacement article.

ARTICLE 10: SENIORITY

- 10.1 Definition: As used in this Agreement, seniority is defined as length of Continuous Unbroken Service as a classified sworn officer (seven (7) point star) in the Bernalillo County Sheriff's Department, beginning with his last date of hire. Continuous unbroken service means there have been no breaks in employment other than annual leave, sick leave or County authorized leave without pay for less than six (6) months.
- 10.1.1 Rank Seniority. Rank seniority is defined as the total continuous length of active service in a specific rank, as a classified sworn officer. [i.e. Lieutenant, Sergeant, Deputy (all ranks below Sergeant inclusive)].
- 10.2 Seniority rights shall terminate with no further accrual under the following circumstances:
- a. termination of employment by voluntary resignation;
 - b. discharge for just cause;
 - c. in a leave-without-pay status for more than six (6) months;
 - d. retirement;
 - e. failure to timely respond to recall notice, or rejection of recall; or
 - f. lay-off status for a period greater than the employee's seniority.
- 10.3 Seniority shall be used in all cases where a selection must be made among two (2) or more employees where all other qualifying factors are equal. Qualifying factors include ranking of promotional process scores (for example, if two promotions are made on the same day, the person who finished highest on the promotional process will have rank seniority. In the event all seniority criteria are equal, final Department Academy ranking or P.O.P.E. score, whichever is applicable, shall control.

ARTICLE 11: LAYOFFS AND RECALLS

- 11.1 Layoffs. In the event of a reduction in the number of employees in the Sheriff's Department, employees shall be laid-off in the reverse order of their seniority; i.e., the employee with the least Seniority shall be the first to be laid off and so on. Employees who hold the rank of Lieutenant or Sergeant and are scheduled for layoff shall be first given the opportunity to accept demotion to their previous rank held or accept the layoff. When the date of hire is identical, final academy ranking or P.O.P.E score, whichever is applicable, shall control.
- 11.1.1 Employees shall receive fourteen (14) calendar days notice of the layoff.
- 11.1.2 Reassignments. Following the layoff of five (5) or more employees, the Department shall hold a shift bid and job bid to reconfigure the Department, utilizing the procedures set forth in Articles 34 and 35 herein.
- 11.2 Recalls. Employees shall be recalled to work in the inverse order of the sequence in which they were laid-off, in accordance with the seniority rights set out in Article 10.2.
- 11.2.1 Employees shall be reassigned as to rank in accordance with the procedures set out in 11.1 above.
- 11.3 Notice of recall. Employees on lay-off shall be recalled by certified mail, return receipt requested sent to their last known address as reflected in the official County/Departmental records. Laid-off employees shall be given a period of seven (7) days to respond to such notice, indicating whether or not the employee intends to return to work. Laid-off employees shall have a period of seven (7) days, from the date of the receipt of recall notice to notify the Sheriff or his designee of acceptance or rejection of the recall opportunity and of the date on which he is available to return to work. The employee must return to work no later than twenty (20) calendar days from the date the employee receives the recall notice, unless the employee is unavailable to return due to military service or short term disability. Failure to respond within the time period, or rejection of the recall opportunity shall be considered a voluntary termination. It shall be the obligation of the employee to demonstrate that his response was timely.

ARTICLE 12: HOLIDAYS

12.1 Legal holidays for all employees shall be as follows:

<u>Holiday</u>	<u>Observed</u>
New Year's Day	January 1
Martin Luther King Jr. Day	On date of Federal Observance
Spring Break Day	Friday prior to Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day following Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

Any legal holiday the County Commission declares in addition to the above listed holidays will be granted to the collective bargaining unit.

12.2 Holiday Premium Pay. An employee who works on a holiday shall be compensated at his regular straight time hourly rate plus time and one-half for the first eight (8) hours worked. Thereafter, the employee shall be compensated at his regular straight time hourly rate, until such employee qualifies for overtime under the provisions of this Agreement.

12.3 To receive Holiday Premium Pay, the employee must be scheduled and required by appropriate supervision to work the holiday and must actually work the holiday. Administrative leave (as defined in Article 19.7), sick leave and annual leave shall not qualify as time worked for the purpose of receiving Holiday Premium Pay.

12.3.1 Employees assigned to divisions other than Field Services shall not be considered as being scheduled to work holidays, however such an employee may work the holiday if his work assignment is structured and has been approved in advance by the employee's Division Commander.

12.3.2 Employees on-call during a specific holiday shall receive Holiday Premium Pay only for such time actually called out and worked in accordance with the provisions of 13.2

12.3.3 To receive Holiday Premium Pay, the employee must be in a work status, leave with pay status or on their regular day off, on the day preceding or the day following a holiday.

12.4 If a holiday occurs while an employee is on administrative leave, annual leave or sick leave, the employee shall receive straight time pay for such holiday, and the day shall not be charged against accrued annual leave or sick leave; provided, the employee has

worked his last scheduled day prior to the holiday, and his first scheduled day after the holiday, unless the employee's absence has been otherwise excused or authorized.

- 12.5 If a holiday falls on an employee's scheduled day off, the employee shall be granted an additional day off which shall be scheduled by the employee and taken within twenty (20) working days thereof or as soon as possible thereafter and within the fiscal year.
- 12.6 In addition to the holidays set out in 13.1, each employee shall be entitled to two (2) personal holidays per fiscal year. Personal holidays shall be taken in full eight-hour increments and not be cumulative from fiscal year to fiscal year.
- 12.7 Employees shall submit their request to take a personal holiday no less than one (1) working day prior to the date requested. Approval is subject to staffing requirements as determined by the Department.

ARTICLE 13: SICK LEAVE

- 13.1 Sick leave shall accumulate without limitation, at the rate of one (1) hour for each twenty (20) regular straight-time hours in a paid status.
- 13.1.1 Sick Leave shall not qualify as time worked for the purpose of calculating overtime.
- 13.2 Sick leave shall be granted when an employee is unable to perform normal job duties due to personal, spousal or parental medical considerations including, but not limited to illness, injury, pre-approved medical or dental examinations, quarantine, therapy or counseling.
- 13.3 Sick leave shall not be used for relief from the effects of a second job (moonlighting). Violation of this provision may result in disciplinary action up to and including dismissal.
- 13.4 A physician's excuse shall not be required for any absence, for reasons of illness, of three (3) working days or less. Provided however, a physician's excuse may be required when a written report is made by a supervisor and/or the County Human Resources Department identifies the specific reasons why it is believed sick leave is being improperly used. A copy of this report shall be delivered to the employee personally or to his residence as soon as possible.
- 13.5 As a benefit and incentive for the proper use of sick leave benefits, employees may convert accrued sick leave as follows:
- 13.5.1 An employee who has accrued more than sixty-four (64) hours of sick leave in a calendar year shall be eligible to receive a cash payment for a maximum of forty (40) hours of regular straight time pay for all such hours in excess of sixty-four (64) accrued within that calendar year. Payment for the excess hours shall be made the first payday in December. All such converted hours shall be deducted from the employee's sick leave balance.
- 13.5.2 Convert any amount of sick leave in excess of two hundred and fifty (250) hours to annual leave at the rate of three (3) sick leave hours for each two (2) annual leave hours when such hours are to be used within a designated payroll period. Conversion of sick leave to annual leave pursuant to this provision requires the prior written approval of the employee's immediate supervisor.
- 13.5.3 An employee who is eligible for retirement, pursuant to PERA statutory provisions and corresponding PERA rules and regulations, and retires between July 1 through March 31 of each year of this Agreement may convert all accrued sick leave to annual leave on the basis of one (1) sick leave hour for one (1) annual leave for cash payment, provided it is taken immediately prior to retirement. An employee who is eligible for PERA retirement and retires between April 1 through June 30 of any year during the term of this Agreement may convert all accrued sick leave to annual leave on the basis of three (3) sick leave

hours for two (2) annual leave hours for cash payment, provided it is taken immediately prior to retirement.

- 13.5.4 An employee with a minimum of two (2) years seniority who is laid off as a result of a reduction in force, or who voluntarily terminates in good standing, may convert sick leave to annual leave on the basis of three (3) sick leave hours for one (1) annual leave hour.
- 13.6 In the event an employee dies and is otherwise in good standing, or is killed in the line of duty, and is otherwise in good standing and acting within the scope of his duties at the time of his death, the employee's sick leave balance shall be converted to annual leave at the rate of one (1) hour of sick leave to one (1) hour of annual leave, and paid to the estate of the deceased employee.
- 13.7 An employee may contribute any of his annual leave balance to another employee under the following circumstances and provisions:
- 13.7.1 The recipient employee is in need of sick leave time due to critical circumstances;
- 13.7.2 The contributing employee has an accumulated balance in excess of a minimum eighty (80) hour balance;
- 13.7.3 The annual leave hours contributed are transferred from one employee to the other in hourly increments;
- 13.7.4 Hours transferred shall be converted to the other employee's account based on value of hours contributed, but recorded as converted hours based on value of hours used.
- 13.7.5 An employee using contributed hours shall be assured a County position for which he qualifies as a position becomes available, but shall give up the right to his current position once he has started using contributed hours. An employee on contributed hours shall be considered on leave without pay and shall not accrue sick and annual leave. An employee receiving workers' compensation shall not receive contributed hours.
- 13.7.6 Probationary employees may receive up to a maximum of forty (40) hours contributed sick leave.
- 13.8 A full-time, non-probationary employee who has completed twelve (12) months of employment shall be eligible for the following benefit, unless restricted as noted below.
- 13.8.1 An employee who utilizes no sick leave during the period of January 1 to June 30 shall be awarded four (4) hours of additional sick leave.
- 13.8.2 An employee who utilizes no sick leave during the period of July 1 through December 31 shall be awarded four (4) hours of additional sick leave.
- 13.8.3 An eligible employee who has received disciplinary action greater than a written reprimand shall not be eligible for the benefits outlined in this section.

ARTICLE 14: BULLETIN BOARDS

14.1 Bulletin Boards.

- 14.1.1 The Department shall provide accessible space in the main station and all sub-stations, to post notices on a bulletin board.
- 14.1.2 Material shall only be posted on the bulletin board by the Association and shall contain only factual information and shall not contain derogatory statements concerning the County, or any agency or department thereof, or its employees or give partisan support to political issues. Material posted on the bulletin board which, in the opinion of the Sheriff or his designee, is not in conformity with the above shall be called to the attention of an Association representative who shall remove the material pending a final resolution of the issue pursuant to the Grievance Procedure, Article 17.
- 14.1.3 Any material posted on the bulletin board shall bear the signature and title of the authorized Association representative, or designee, who posted it.
- 14.1.4 The Association Board members will be permitted to post material in accordance with this Article.

ARTICLE 15: DISCIPLINE

15.1 General Statement.

- 15.1.1 The County shall discipline employees only for just cause.
- 15.1.2 The purpose of this Article is to encourage the use of counseling and positive discipline as methods of assisting employees in correcting work violations and behavior and improving job performance.
- 15.1.3 All disciplinary action, constructive criticism, or counseling shall be conducted in private.
- 15.1.4 All disciplinary action in the nature of suspension, demotion or dismissal shall be preceded by a written Notice of Intent to Discipline which shall include the conduct, action or omission which form the basis for the contemplated disciplinary action. The notice of intended discipline shall also identify any policy, regulation, procedure or statute violated.
- 15.1.5 Prior to the final disciplinary action of suspension, demotion or dismissal, a predetermination hearing shall be held.
- 15.1.6 Thereafter, a Notice of Final Action shall be issued and served upon the subject employee, and shall be limited to those matters set forth in the Notice of Intent to Discipline.

15.2 Corrective Actions. The levels of corrective action are as follows:

15.2.1 Written Verbal.

A written Verbal shall be used for minor infractions, and shall serve to inform the employee that his behavior and/or conduct need(s) to be improved. Written Verbal notations shall be acknowledged in writing by the employee and shall be placed in the employee's departmental file for six months from the date of the incident. The Written Verbal shall be removed upon the written request of the employee, and then removed and destroyed if there are no other disciplinary actions within that six (6) month period.

15.2.2 Written Reprimand.

A Written Reprimand shall be used for infractions of a greater consequence and shall serve to inform the employee that his behavior and or conduct need(s) to be improved. Written reprimands relating to an employee's job performance or conduct shall be placed in the employee's official file after providing the employee with a copy of the reprimand. The employee shall acknowledge having read the contents of the reprimand by affixing his signature to the reprimand. So doing shall not be construed as the employee's agreement that the reprimand was warranted. If the employee refuses to sign, a witness (by his signature) must attest that the statement was presented to the employee for signature and the employee refused to sign.

15.2.3 Suspensions and Demotions.

An employee may be suspended without pay for a period not to exceed thirty (30) working days, and/or demoted for a single serious offense or for continued substandard job performance or misconduct when previous attempt(s) to correct behavior have failed.

15.2.4 Dismissal.

Dismissal is the final consequence when all other discipline has failed to improve unacceptable behavior or job performance, or when the employee has engaged in egregious behavior that the Department determines to be unacceptable for its employees.

15.3 Procedure/Written Reprimands

In the event the written reprimand is not withdrawn, the employee may insert a response in his Personnel file to the reprimand.

15.3.1 No written reprimand shall be placed in the Employee's Personnel file without the employee being informed and being afforded fifteen (15) work days to insert a written response to the written reprimand.

15.3.2 Disputes regarding written reprimands may be contested through the Grievance Procedure hereof, but shall not be subject to Arbitration.

15.3.3 One (1) year after a written reprimand has been issued to an employee, the written reprimand shall be removed from his Personnel file upon the written request of the employee, provided that the employee has received no further discipline. In the event of a same or similar offense within the one (1) year period, the written reprimand shall remain in the employee's departmental file for an additional six months. See Promotional Process-File Review.

15.4 Procedure for Suspension, Demotion or Dismissal.

Disputes regarding suspensions, demotions or dismissals may be contested utilizing the Grievance Procedure set forth in this Agreement. However Step Two shall be the final step in the grievance procedure before the parties submit their dispute to Arbitration.

ARTICLE 16: GRIEVANCE PROCEDURE

- 16.1 Statement of Purpose. The parties agree that the prompt and equitable resolution of grievances hereunder is essential to the proper and efficient operation of the Department; and, that all reasonable efforts shall be made by the parties and the employees to resolve all grievances in a timely and mutually satisfactory manner. To that end, the parties agree to attempt to resolve all grievances at the lowest possible step.
- 16.2 No employee who uses or participates in the grievance procedure shall be subjected to retaliation of any kind or nature for having participated in this procedure, nor shall he be threatened, intimidated or coerced in any manner, for having done so.
- 16.3 All grievances shall be maintained in separate grievance files and shall not be included in the personnel file of any individual grievant.
- 16.4 All references to the "grievant" shall be construed to include the Association or individual grievant as may be required by the context of the reference.
- 16.5 The procedures for filing a grievance shall be the same for all grievances. The grievance procedure shall be accessible to all employees in the bargaining unit, regardless of whether or not they are dues-paying members of the Association.
- 16.6 Unless agreed upon in advance by the parties to the grievance, tape recorders or other electronic recording devices shall not be used by any party or employee or employee representative participating in the grievance at Step One or Step Two of the grievance procedure. The Department shall provide an audio tape recording system and shall audio tape the arbitration proceedings. This audio tape shall serve as the official record of the proceedings unless a party utilizes a certified court reporter to make a verbatim transcription of the proceedings as provided in Article 16.23 hereunder.
- 16.7 This procedure shall be the sole and exclusive method of resolving any and all disputes concerning the application, interpretation or meaning of this Agreement, except as may be otherwise provided by law or regulation. No alleged violation of this Agreement shall be submitted to the Bernalillo County Labor Relations Board.
- 16.8 In the event that a grievance is filed over disciplinary action involving dismissal, the grievant shall be placed in an authorized leave without pay status, pending the final disposition of the grievance by way of resolution by the parties or arbitration. All other discipline shall be imposed in accordance with existing Department practice.
- 16.9 An employee may be represented by the Association at any step of this procedure.
- 16.10 Any issue as to arbitrability shall be submitted to the Arbitrator for resolution either as a single issue or as part of the hearing on the merits. Neither Party shall refuse to process a grievance on the grounds that it is not grievable or arbitrable.
- 16.11 If an employee receives or agrees to accept a suspension for a period of ten (10) of the

employee's work days or less, the employee may substitute accrued annual leave in lieu of serving a suspension without pay. This provision shall not be applicable to any suspension in excess of ten (10) of the employee's work days.

16.12 Definitions.

- 16.12.1 Grievance" - A grievance is any difference, dispute or disagreement concerning the application, interpretation or meaning of this Agreement or the appeal of a disciplinary action involving a dismissal, suspension without pay or demotion. As used in this Agreement "grievance" means any formal complaint by or on behalf of a particular employee or group of employees alleging that the grievant's rights, benefits, privileges or interests specifically set forth in this Agreement have been violated or that this Agreement has been misapplied with respect to the grievant in a particular situation. The Grievance and Arbitration Procedures of this Agreement shall not be available when other avenues of relief are available such as that which may be obtained through the filing of charges with the Human Rights Commission, EEOC or the filing of a worker's compensation claim, or other such matters for which a statutory remedy is provided, but excluding seeking relief from the Bernalillo County Labor Relations Board.
- 16.12.2 "Grievant" - A grievant is any employee, group of employees or Party to this Agreement, who files a grievance under the procedures set forth in this Article.
- 16.12.3 "Time" - All time periods referred to herein shall be measured in working days, Monday through Friday excluding holidays recognized by the County.
- 16.12.4 "Settlement"- means the agreed-upon resolution of the grievance, set out in writing and signed and dated by the parties.
- 16.12.5 "Waiver"- Any step of this procedure may be waived by mutual agreement of the Parties.

16.13 Time Limits.

- 16.13.1 All time limits set out in this Article shall be of the essence and strictly enforced. Any of said time limits may be extended with respect to a specific grievance by written agreement of the parties to the grievance.
- 16.13.2 If the Department fails to respond within the designated time limits, the grievance shall be deemed denied, and shall be automatically advanced to the next step of the grievance procedure. If the Department issues a written response at Step One or Step Two of this Grievance Procedure and the grievant fails to appeal to the next step within the time limits, the grievance shall be deemed settled on the basis of the Department's last response.

16.14 Resolution of Employee Grievances.

The grievant may at any time prior to the filing of a grievance at Step One first attempt to resolve the problem informally with his Captain.

16.15 Step One:

The grievant shall initiate a grievance by submitting a formal written grievance, on the approved grievance form, within ten (10) days of the event giving rise to the grievance, or within ten (10) days of when the grievant knew or should have known of the event giving rise to the grievance, and submitting the same to his Captain. The formal written grievance shall identify the current grievance step, the event upon which the grievance is based and the date upon which it is alleged to have occurred, the specific provision(s) of the Agreement which are alleged to have been breached and the remedy sought. The grievance shall be dated and signed by the grievant(s). The grievant may, at any step of this procedure, request the assistance of his steward, or other formally designated Association representative or officer, to prepare the grievance form, process the grievance or otherwise represent the grievant.

- 16.16 The Captain shall note the date and time of receipt on the grievance form, and shall respond in writing within five (5) days from the date of receipt. The response shall be made on the grievance form and a copy of the completed form shall be returned to the grievant, steward or Association representative, as the case may be.

16.17 Step Two:

If the grievance is not settled at Step One of this procedure, the grievant may, within five (5) days of receipt of the Step One response, appeal the grievance to the Sheriff or his designee on the grievance form. The formal written Step Two grievance shall identify the current step, the event upon which the grievance is based and the date upon which it is alleged to have occurred, the specific provision(s) of the Agreement which are alleged to have been breached and the remedy sought. The grievance shall be dated and signed by the grievant. Upon being appealed to the Step Two conference, the grievance shall be treated as a final document, and no amendments shall thereafter be permitted. The Sheriff or his designee shall note the time and date of receipt of the appeal on the grievance form. A conference with the Sheriff or his designee to discuss the grievance and any settlement thereof shall be scheduled by the parties within five (5) days of receipt of the appeal. This meeting shall be convened at the mutual convenience of the parties, but no later than five (5) days after the scheduled date. If the grievance is settled at the conference, the settlement shall be reduced to writing, noting the terms thereof, the date and the time of settlement, and shall be signed by the parties, and the grievant, if appropriate.

- 16.18 If the grievance is not settled at the Step Two conference, the Sheriff, within five (5) days thereof, shall set out in writing, his response to the grievance either on the grievance form, or attached thereto. The response shall be signed, dated and returned to the grievant or steward.

16.19 Arbitration.

16.19.1 If the grievance is not settled at Step Two (for suspensions ranging from seven (7) days to termination), the grievance may be appealed to arbitration within five (5) days of receipt of the Sheriff's written response. The appeal to arbitration shall be submitted to the County Manager on the grievance form.

- 16.19.2 Any individual employee or group of employees shall have the right at any time to have a grievance adjusted through arbitration, provided the adjustment is not inconsistent with the terms of this Agreement, and provided further, that Association has been given the opportunity to be present at such adjustment.
- 16.19.3 Arbitration shall be limited to grievances as defined in Article 16.12.1 above.
- 16.19.4 The arbitration proceedings and appeals there from shall be conducted in accordance with the Uniform Arbitration Act as enacted by the State of New Mexico, §44-7-1 et seq. NMSA 1978.
- 16.19.5 The County shall issue a Request for Proposals for labor arbitrators. In order to be eligible an arbitrator must have at least five (5) years experience in the field of labor-management or employee relations. The parties shall each select three (3) members to serve as the selection committee for the panel of arbitrators. The parties shall select a permanent panel of arbitrators based on the panels' scoring of the respondents to the RFP. The selection panel shall set the number of individuals to be placed on the permanent panel. Thereafter, if necessary, the parties shall enter into an MOU to address the issue of rotation on the panel.
- 16.19.6 Within thirty (30) days of execution of this Agreement the parties shall execute Master Agreements with each of the arbitrators fixing the base compensation rate and expense reimbursement for hotel, travel, etc. as permitted by the RFP. The Master Agreements shall contain a provision wherein the parties to the Agreement and the arbitrator agree that in the event the Association elects not to represent the grievant at arbitration, that the County, arbitrator and grievant shall execute a separate agreement for the arbitrator's services.
- 16.19.7 Within five (5) days of filing an appeal to arbitration, the parties shall meet and select an Arbitrator from the list of names appearing on the panel. In the event they are unable to reach mutual agreement on the selection of an arbitrator, the grieving party shall call the toss of a coin to determine the order in which names of potential arbitrators shall be struck. Thereafter, the parties shall alternately strike names until only one (1) name remains. That individual shall serve as the Arbitrator.
- 16.19.7.1 The County shall mail a letter, or if a telefax number is available shall send the letter by telefax, to the arbitrator within two (2) days of his selection notifying the arbitrator of the selection and requesting that a Pre-Hearing Conference be scheduled within three (3) weeks of receipt of the letter and inquiring whether the arbitrator is available to conduct a hearing on the merits within ninety (90) days of being selected.
- 16.19.7.2 In the event the selected arbitrator is unable to conduct the hearing on the merits within ninety (90) days the parties may by mutual agreement select a new arbitrator. The new arbitrator shall be selected by moving forward on the list and utilizing the process set forth in Article 16.19.7.

- 16.19.8 The Arbitrator shall schedule and conduct a Pre-Hearing Conference by such method deemed appropriate by the Arbitrator. The Arbitrator will address Pre-Hearing Motions during the Pre-Hearing Conference which may include, but are not limited to, motions to reduce the number of witnesses called by a party or to limit the testimony of witnesses, in the event that it is apparent that the testimony of such witnesses will be cumulative. Each party shall submit a Pre-Hearing Statement to the Arbitrator and the opposing party, in advance of the Pre-Hearing Conference, containing the following information:
- a) a statement of the issues;
 - b) proposed stipulations of fact;
 - c) a list of witnesses to be called and a summary of their testimony;
 - d) a list of exhibits;
 - e) requests for subpoenas; and
 - f) estimate of the amount of time needed for the hearing.
- 16.19.8.1 The County shall mechanically record any Pre-Hearing Conference at which the arbitrator is hearing a dispositive motion. The Association may also mechanically record the Pre-Hearing Conference. However, the County shall maintain the official record.
- 16.19.8.2 Following the Pre-Hearing Conference, the arbitrator shall issue a Pre-Hearing Order which shall contain:
- a) the issues submitted for arbitration;
 - b) stipulations of fact;
 - c) a deadline for disclosure of witnesses and exhibits;
 - d) a deadline for the close of discovery;
 - e) a deadline for filing pre-hearing motions;
 - f) a hearing date or dates, which may be continued for good cause.
- 16.19.9 The Arbitration shall be conducted in the Sheriff's Department conference room or some other place mutually agreed upon by the parties to the Arbitration proceeding. The arbitration hearing shall be open to the public unless the parties agree to the contrary. The costs of arbitration services shall be borne as follows: the losing party shall pay all fees and expenses of the arbitrator; and the arbitrator shall designate the losing party for the purposes herein. The arbitrator may find that both parties lost in part (e.g. reduction of disciplinary action to lesser penalty), and apportion fees and expenses accordingly. However, each party shall bear all of its own costs.
- 16.20 The grievant may have no more than two (2) personal representatives, one of whom may, but need not, be an attorney, represent him at any stage of the grievance procedure or at the Arbitration proceedings. The Department may be represented by an attorney and may have present one (1) additional representative appearing on behalf of the Department.
- 16.21 As a condition of employment, employees shall be required to appear as witnesses in grievance hearings when requested by the County or the grievant.

- 16.22 The Arbitrator shall have no authority to add to or to arbitrate away in whole or in part any provision of this Agreement. The Arbitrator shall, within the time limits set forth below, issue his Award and a written opinion in support thereof. His Opinion and Award shall be confined to an interpretation of the Agreement and a resolution of the specific grievance under consideration, as set forth at the Step Two conference. The Arbitrator shall have no authority to determine any issue not specifically so submitted. The Arbitrator shall have no authority to grant interest in connection with any award of back pay or benefits.
- 16.23 Either party may request that a verbatim stenographic transcript be taken of the arbitration proceedings by a certified court reporter. Any party so doing shall bear the cost thereof.
- 16.24 The opinion and award of the Arbitrator shall be final and binding on the parties to the extent provided by applicable law or regulation.
- 16.25 The Arbitrator's Opinion and Award shall be mailed to the parties within thirty (30) days of close of the hearing.
- 16.25 The parties may agree to expedited Arbitration and request the Arbitrator to issue his Opinion and Award orally from the bench at the conclusion of the hearing.
- 16.27 Grievant will use the Disciplinary Review Board (DRB) for suspensions ranging from one to ten work days. The DRB has jurisdiction and authority to hear and dispose of grievances related to transfers resulting from discipline and suspensions ranging from one to ten work days. The following procedures with govern the DRB process.
- 16.27.1 DRB Membership:
The employee shall select two (2) members who shall be of the same rank as the employee.
- The Sheriff shall select three members who must be at the rank of Lieutenant or above.
- 16.27.2 The employee shall have five (5) working days to file a written grievance requiring a DRB. The grievance shall contain the minimum information required for a Step One grievance as provided in the collective bargaining agreement.
- 16.27.3 Witness list shall be submitted in writing by each side a minimum of ten (10) calendar days prior to the DRB hearing.
- 16.27.4 The DRB shall convene a hearing within thirty (30) calendar days of receipt of grievance unless the grievance is settled or withdrawn in advance of the hearing.
- 16.27.5 The DRB will have the authority to reduce the number of suspension days issued by a majority vote.
- 16.27.6 The DRB will have the authority to dismiss a case and issue a finding of no

cause with a unanimous vote of the DRB.

16.27.7 The DRB shall render a written decision on the case within ten (10) calendar days of the conclusion of the hearing.

16.27.8 All decisions of the DRB are final and binding and are not subject to appeal.

ARTICLE 17: STRIKES, STOPPAGES AND LOCKOUTS

- 17.1 During the term of this Agreement, the Department shall not lock out any employees. In the event the Department violates this provision, the Association shall be free to take such appropriate legal and administrative action as may be available under relevant law, statute or regulation.
- 17.2 No employee shall, in concert with any other person, engage in any strike, stoppage or refusal in the course of employment to perform his assigned duties; or withhold, curtail or restrict his services or otherwise interfere with the operations of the Department or encourage others to do so.

ARTICLE 18: LEAVES AND SCHEDULING

- 18.1 Requests or Use of Leave. It is the Department policy to approve all requests for leave in a fair and equitable manner, consistent with Departmental staffing requirements. Inappropriate requests or use of leave may result in such leave being denied, or the leave may be deemed as unauthorized. Failure to observe proper manning levels by the Sergeant in approving leave may be grounds for disciplinary action against the supervisor(s) approving such leave.
- 18.2 Unauthorized Leave Without Pay (ULWP). Employees who fail to appear for work without authorized leave, or who appear for work but who are in violation of Department policy governing their readiness for work, shall be considered to be on Unauthorized Leave Without Pay and may be subject to disciplinary action up to and including dismissal. Employees shall not be paid for any periods of unauthorized leave and shall not accrue sick or annual leave during periods of unauthorized leave. Unauthorized absence for three (3) or more consecutive work days shall be considered as abandonment of the position and voluntary resignation with the County.
- 18.3 Military Leave. All employees authorized military leave shall be granted such leave in accordance with applicable state and federal law. It is the responsibility of the employee to provide his Captain with notification of the required absence at least (15) fifteen days prior to the commencement of leave or promptly upon receiving such notification. The employee shall also provide his Captain a copy of the military leave orders if such orders are written.
- 18.4 Leave Without Pay (LWOP). The Sheriff or his designee may authorize leave without pay for six (6) months or less, upon written request of the employee concerned. An employee shall be returned to his former position or be reassigned to a comparable position if the employee returns to work within six (6) months of the day LWOP became effective. This requirement may be waived by written agreement of the employee. The Department shall have no obligation to return the employee to his former or comparable position if the LWOP is for a period greater than six (6) months. Requests for LWOP in excess of six (6) months shall be in writing and directed to the County Manager. Neither annual leave nor sick leave shall be accrued while on LWOP. Failure to report back to work upon expiration of approved LWOP shall be considered as ULWP.
- 18.5 Emergency Leave. Emergency leave is leave with pay for which the employee is not charged due to the death of an immediate family member. It may be granted by the Division Commander, upon the employee's request. Emergency leave may be granted for a period not to exceed five (5) working days. For purposes of this Article, immediate family members is defined as: mother, father, sibling, grandparents, great-grandparents, spouse, domestic partner, children either natural or adopted, step-children, grandchildren, step-grandchildren, aunts (limited to sister of parent or grandparent) and uncles (limited to brother of parent or grandparent) and like relatives of employee's spouse or domestic partner.
- 18.5.1 An employee shall complete and Emergency Leave Request form (See Appendix

A hereto) and receive written approval for such leave prior to taking Emergency Leave, whenever possible. In those situations where it is not possible to complete the Emergency Leave Request form prior to seeking approval for Emergency Leave, the employee shall complete the Emergency Leave Request form within five (5) days of returning to work. The Division Commander upon receipt of the Emergency Leave Request form may then adjust the amount of emergency leave granted to the employee and shall be permitted to charge the employee's annual leave for the balance of any disapproved emergency leave. If the employee does not have adequate annual leave balances he shall be charged with leave without pay. Failure to provide adequate documentation within thirty (30) days to prove familial relationship shall result in the employee being charged with leave without pay.

18.6 Annual Leave. All employees covered by this Agreement shall be entitled to annual leave with pay in accordance with the following schedule:

Seniority	Reg. Hrs. Worked	Accrual	Days Accrued
6 mos 5 yrs	20	1.0 hrs	13.0 days
5 yrs 10 yrs	20	1.3 hrs	16.9 days
10 yrs 15 yrs	20	1.5 hrs	19.5 days
15 yrs - 20 yrs	20	1.7 hrs	22.1 days
20 yrs or more	20	2.0 hrs	26.0 days

18.6.1 Employees shall not carry forward into a new calendar year more than 288 hours of accrued annual leave. In the event that an employee's request to use annual leave is denied due to operational requirements of the department, that employee shall have until December 31 to request, in writing, an extension until February 28 of the following year to utilize any hours in excess of 288, which shall be granted on a priority, first come-first served basis.

18.6.1.1 An employee who has accrued more than sixty-four (64) hours of annual leave in a calendar year shall be eligible to receive a cash payment for a maximum of forty (40) hours of regular straight time pay. Payment for the excess hours shall be made the first payday in December. All such converted hours shall be deducted from the employee's annual leave balance.

18.6.2 Employees transferring from one division or bureau to another, with previously approved annual leave, shall be allowed to take such annual leave as scheduled.

18.6.3 Annual leave shall be approved on a firstcome, firstserved basis. However, when two (2) or more employees submit their leave requests at the same time and request the same timeoff, seniority shall control. In the event all seniority criteria are equal, final academy ranking or P.O.P.E. score, whichever is applicable, shall control.

18.6.4 An employee requesting annual leave for a period of three (3) days or less shall submit the request to his immediate supervisor, either in writing or orally, at least one (1) day in advance of the effective date of the requested leave.

- 18.6.5 Requests for annual leave in excess of three (3) consecutive days shall be submitted to the employee's immediate supervisor, in writing, at least one (1) week in advance of the effective date of the requested leave and no more than thirty (30) days in advance without prior permission from the Division Commander.
- 18.7 Administrative Leave. For the purpose of this Agreement, an employee placed on Administrative Leave shall be required to call in on a daily basis as directed at the time the employee is placed on such leave status. Call in shall not be required on weekends or those holidays recognized in Article 12 of this Agreement.
- 18.8 Parental Leave. Parental leave shall be available to employees as provided for by the Family and Medical Leave Act (FMLA).

ARTICLE 19: LABOR-MANAGEMENT RELATIONS COMMITTEE

- 19.1 The Labor-Management Relations Committee shall be composed of three (3) County representatives, selected by the County, and three (3) Association representatives, selected by the Association's Board of Governors.
- 19.2 The Committee shall meet on the request of either party and at least once quarterly to discuss all matters of mutual concern.
- 19.3 A Party wishing to convene the Labor-Management Relations Committee shall provide written notice to all members of the Committee. The written notice shall identify the specific Article or provision of the Agreement to be addressed, Committee members shall meet and confer within fourteen (14) calendar days of receipt of the written notice.
- 19.3.1 In the event a meeting is called to address the intent or interpretation of a specific provision of this Agreement, the County and the Association shall be permitted to invite members of the current negotiating teams to discuss the intent of the provision as negotiated.
- 19.4 No grievance over an issue of contract interpretation shall proceed to arbitration until after first presenting the matter to the Labor-Management Relations Committee for review and possible resolution. This meeting shall be held within ten (10) days of the grievant's appeal to arbitration. This period may be extended upon mutual agreement of the parties.

ARTICLE 20: WORK WEEK, WORK PERIOD, OVERTIME/STAND-BY/NO PYRAMIDING

- 20.1 Work Week - A normal work week shall consist of either five (5) consecutive days of eight (8) hours within a seven (7) day period or four (4) consecutive days of ten (10) hours within a seven (7) day period. In accordance with Article 3, 34, and 35, the Sheriff must specify the work week at the time of posting or bid and that work week shall be maintained for the duration of the assignment. However, the work week may be changed during the assigned period upon agreement of the parties to this contract.
- 20.1.1 Canine Handler - Any employee assigned to the care and handling of a Department owned canine shall be given forty-three (43) minutes per day, seven days a week, for care and clean-up of Department-owned canines. The remaining thirty-five (35) hours per week shall be divided equally among the scheduled days of work.
- 20.2 Pay Period A two-week period of which there are twenty-six (26) specified per year.
- 20.3 Overtime Employees shall be paid at the rate of time and one-half their regular straight time rate of pay for all time worked in excess of forty (40) hours in any one work week. All overtime shall be authorized by the Sheriff or his designee, according to financial and budgetary constraints. Holidays shall be counted as hours worked for overtime calculation purposes. Administrative leave, sick leave and annual leave shall not qualify as time worked for the purpose of calculating overtime pay. Provided however: In the event the employee has worked overtime during that work week prior to being placed on administrative leave, the administrative leave shall qualify as hours worked for purposes of calculating overtime for that work week.
- 20.4 Stand-by.
- 20.4.1 The Sheriff or his designee may place employees on stand-by status. Stand-by status is defined as duty status wherein an employee is required and assigned to be available for immediate call-out at times when the employee is otherwise not assigned to his regular duty post. During such call-out period the employee shall be issued a pager or cell phone and expected to remain fit for duty within range of the electronic communication system.
- 20.4.2 Employees shall not be assigned stand-by duty for time periods less than seven (7) consecutive days in duration. If, in the exercise of his sole discretion, the Sheriff or his designee requires an employee to be placed on stand-by status for periods longer than one week, such assignments in excess of one week shall be made in multiples of seven days (i.e., 14 days, 21 days, 28 days, etc.)
- 20.4.3 Employees shall not be placed on stand-by status while on leave.
- 20.4.4 An employee assigned stand-by duty, shall be paid two (2) hours at his overtime

rate for each week so assigned.

20.4.5 The employee's pay shall begin at such time as the employee is otherwise officially notified by the Department.

20.5 No Pyramiding Compensation shall not be paid more than once for the same hours under any provision of this Agreement.

20.6 The Sheriff or Undersheriff or designee may place employees on recall status for up to seven (7) days within a sixty (60) day time period. Employees on recall status will be compensated in accordance with Articles 20.4.5 and 20.3 and 21.1

ARTICLE 21: CALL OUT AND COURT TIME

- 21.1 When an employee is called back to work after his regularly scheduled shift, he shall be guaranteed at least two (2) hours pay at one and one-half (1-1/2) times his base hourly rate.
- 21.2 An employee who is required to appear in court on behalf of the Department, County, State of New Mexico or other law enforcement agency, shall be guaranteed at least two (2) hours pay at one and one-half (1-1/2) his base hourly rate.

ARTICLE 22: MODIFIED DUTY

- 22.1 An employee who has been on authorized leave due to a illness, injury, pregnancy or other medical consideration, upon release from is physician may be permitted to return to work in a temporary modified duty assignment within the Department, if such position is available. Such employee shall not be assigned to a position which could jeopardize or aggravate his physical condition. The intent of this provision is to permit such employee to return to work as soon as it is medically permissible for him to do so. Modified duty refers to duty other than normal job duties and it is not the intent of this provision that such duty is of a "make work" nature.
- 22.2 An employee on modified duty shall surrender his assigned take-home vehicle to the appropriate division commander. Such employee may be reassigned a take-home vehicle upon providing the County with a release from their physician which states that the employee is able to perform the essential functions of their position with or without reasonable accommodation.

ARTICLE 23: WORKERS' COMPENSATION/INJURY TIME

- 23.1 An employee injured on the job or suffering from occupational diseases, as defined in the New Mexico Workers Compensation Statute, shall receive Worker's Compensation benefits as prescribed by law.
- 23.2 All job-related injuries requiring medical attention shall be reported to the employee's immediate supervisor as soon as possible, but in any event, no later than fifteen (15) days following the accident. The County's Risk Management Department shall receive a "First Report of Accident Form" within forty-eight (48) hours of the accident, but in no event later than fifteen (15) days after the accident.
- 23.3 Supervisors shall complete a "Supervisor's Accidental Investigation Report" and a signed medical authorization to be submitted to the Risk Management Department within twenty-four (24) hours, of the employee's submitting the First Report of Accident form, and in no event more than fifteen (15) days following the accident.
- 23.4 An employee who incurs a job-related injury/illness shall visit a County contracted physician. The County contracted physician, and/or his professional team may treat the employee or refer the employee to a non-contract physician depending upon the nature of the medical problem.
- 23.5 When an obvious medical emergency situation exists, the employee shall be taken, or go to the nearest emergency room or urgent care center. Treatment subsequent to emergency treatment shall be coordinated by the County contract physician.
- 23.6 An employee who works a minimum of forty (40) hours per week is eligible for a maximum of eight hundred (800) working hours, twenty (20) weeks, of injury time compensation.
- 23.6.1 During the eight hundred (800) hour period of injury time, the County shall pay the employee's share of all those employee benefits sponsored by the County.
- 23.6.2 In the event that two-thirds (2/3) of the employee's gross salary exceeds the maximum paid by Worker's Compensation, the County will pay the employee the difference between the amount paid by Worker's Compensation and the two-thirds (2/3) of the employee's gross salary during the eight hundred (800) hours of injury time. However, the County shall not be responsible for paying the difference if the Worker's Compensation benefit is reduced as the result of a garnishment, tax levy or other Court Order.
- 23.6.3 An employee injured on the job may use accrued annual or sick leave for each regularly scheduled work day after the injury occurs for all such days not paid by Worker's Compensation. Employee shall not be entitled to any Worker's Compensation benefit for all days where annual leave or sick leave was received by the employee in lieu of Worker's Compensation. Annual leave or sick leave used by the employee in lieu of Worker's Compensation shall be re-credited to the

employee upon receipt of the reimbursement by Worker's Compensation after the expiration of the statutory waiting period.

- 23.6.4 An employee shall accrue annual leave and sick leave while on injury time.
- 23.7 In the event of a lump sum settlement with Worker's Compensation, the settlement shall be adjusted for the injury time payments previously received, provided that in no case shall the deduction exceed the amount of the lump sum settlement.
- 23.8 An employee shall return to his former position within the bid cycle or be reassigned to a comparable position if the employee obtains a physician's certification indicating that the employee is able to return to work and perform the essential functions of his position and the employee returns to work within six (6) months of the date of injury.
- 23.9 An employee returning from Worker's Compensation disability may return to Modified Duty if an appropriate position is available or if the County can reasonably accommodate the employee by modifying the job requirements and the employee's physician certifies that the employee is capable of returning to a modified work schedule.
- 23.9.1 If an employee is on injury time and working twenty (20) or more hours but less than forty (40) hours per week, the County shall continue to pay its share of the employee's benefits on a pro-rata basis, based on hours worked.
- 23.9.2 An employee on modified duty will not be placed in a position which could jeopardize or aggravate their physical condition. The intent of this provision is to permit the return to work as soon as it is medically possible.
- 23.10 If an employee who is receiving or due to receive benefits pursuant to the Worker's Compensation Act does not qualify for a Modified Duty assignment and has not been able to return to work during the six (6) months that the employee's position is held open and the Department is subsequently hiring for that position within twenty-four (24) months of the accident, the County shall offer to rehire the employee subject to the "rehire" provisions of Article 36.6 if said employee applies for his pre-injury job and subject to the following conditions:
- 23.10.1 The employee's treating health care provider certifies that the employee is fit to carry out the pre-injury job without significant risk of re-injury, and
- 23.10.2 The County has the pre-injury job or modified work available.

ARTICLE 24: BENEFITS COVERAGE

- 24.1 Health. For each employee the County shall pay up to a maximum of eighty percent (80%) of the monthly premium for any health insurance plan offered to employees by the County. The employee shall pay the balance of the monthly premium.
- 24.2 Dental. For each employee the County shall pay up to a maximum of fifty-two per cent (52%) of the monthly premium for any dental insurance plan offered to employees by the County. The employee shall pay the balance of the monthly premium.
- 24.3 Life. For each employee the County shall pay up to a maximum of sixty percent (60%) of the monthly premium for any life insurance plan offered to employees by the County. The employee shall pay the balance of the monthly premium.
- 24.4 Inoculation and Immunization. Where health and/or Worker's Compensation insurance do not provide coverage for inoculation or immunization for contagious diseases, the County agrees to provide coverage for such inoculation or immunization for the employee and those family members residing in the same household as the employee. The County is obligated to provide coverage only for those procedures that are proven to be medically effective. In the event the employee or any family member fails or refuses to timely complete the required series of such inoculation or immunization procedures pursuant to this provision, the employee shall be liable to reimburse the County for all expenses thus incurred.
- 24.5 Retirement. Employee retirement benefits shall be in accordance with the provisions of N.M.S.A. 1978 Section 10-11-1, Municipal Policy Plan 5.
- 24.6 Death of Retired Employee. Upon the death of an employee who retired from the Bernalillo County Sheriff's Department in good standing upon request, the County shall provide a United States flag for the coffin, a marked police unit for funeral escorts within the State, and the honor guard for the burial site interment within the State.

ARTICLE 25: WAGES

25.1 Effective the first full pay period of FY16 following base hourly rates will apply:

Deputy 1st Class (D1/C)	\$25.0319
Sergeant (SGT.)	\$29.9649
Lieutenant (LT.)	\$35.8152
Deputy 2nd Class	\$20.7508

25.1.1 The parties agree that because a Deputy 2nd Class spends a portion of his time in that rank outside of the bargaining unit that the County may compensate a Deputy 2nd Class at a rate higher than that listed herein without negotiating that rate of pay with the Association.

25.2 Longevity Pay

25.2.1 Longevity shall be defined as continuous unbroken service as a classified sworn seven point star officer with the Bernalillo County Sheriff's Department in a paid status.

25.2.2 Each employee shall receive the following sum on an annual basis, less applicable withholding, based on years of service:

	Deputy First Class	Sergeant	Lieutenant
25-60 months	\$1,001	\$1,198	\$1,432
61-120 months	\$2,002	\$2,396	\$2,864
121-180 months	\$3,003	\$3,594	\$4,296
181 + months	\$4,004	\$4,793	\$5,728

25.2.3 Employees shall receive the pay specified in Section 25.2.2. in one lump sum made on the first payday in December of each year of this Agreement. If an employee terminates employment in good standing prior to December 31 of any year, the employee shall receive longevity pay calculated by the total of full years (as set forth in 25.2.1) employed.

25.3 Issuance of Breast Badge. An employee shall be given his issued breast badge upon his retirement.

25.4 Differential Pay.

25.4.1 Employees serving on the swing shift shall receive forty cents (\$0.40) per hour shift differential pay.

25.4.2 Employees serving on the graveyard shift shall receive fifty cents (\$0.50) per hour shift differential pay.

25.4.3 In the event an employee works a split shift, the employee shall be compensated for the entire shift at the higher shift differential rate provided that four (4) or more hours are worked on a shift eligible for such pay, e.g., four (4) hours on day shift and four (4) hours on swing shift would make the employee eligible

25.5 Specialty Pay.

Employees eligible to receive Specialty Pay as detailed below are limited to receive no more than two (2) such Pays per individual. In the event an employee qualifies for more than two such Pays, the employee shall select the two (2) Specialty Pays for which he shall receive Specialty Pay. This limitation shall not relieve the employee from the responsibility of performing a function even though direct compensation is not being received.

25.5.1 Canine Handler - Any employee below the rank of lieutenant assigned to care for and handle a Department-owned canine shall be compensated for that duty at the rate of Twenty-Five Dollars (\$25.00) per pay period.

25.5.2 Detectives - Any employee who is assigned to the Criminal Investigations Division, Internal Affairs Unit, Criminalistic, Extraditions Unit, Narcotics, Fugitive Warrants, DEA Task Force and/or FBI Task Force, shall be compensated for that duty at the rate of Fifteen Dollars (\$15.00) per pay period.

25.5.3 Field Training Officer (FTO) - Any employee who is designated by the Department to be an FTO shall be compensated at the rate of Twenty-five dollars (\$25.00) per pay period.

25.5.4 S.W.A.T. - Any employee, regardless of rank within the bargaining unit, who is assigned as a regular member of S.W.A.T. shall be compensated at the rate of Twenty-five Dollars (\$25.00) per pay period.

25.5.5 Pilot/Observer - Any employee, regardless of rank within the bargaining unit, who is assigned by the Department to fly an aircraft or serve as an observer in an aircraft, shall be compensated at the rate of Twenty-five Dollars (\$25.00) during the pay period so assigned.

25.5.6 Bilingual - Any employee, regardless of rank within the bargaining unit, who is certified by the County Human Resources Department as bilingual shall be compensated for the use of that skill at the rate of Fifteen Dollars (\$15.00) per pay period. For the purpose of this Article the term bilingual includes the ability to communicate with the hearing impaired through the use of sign language. The County Human Resources Department shall establish standards and test criterion by which individuals shall be certified as eligible to receive bilingual pay.

25.6 Clothing/Cleaning Allowance.

25.6.1 All employees on active duty shall receive payment in the amount of Two

Hundred Twenty-five Dollars (\$225.00), less applicable withholding, per quarter as an allowance for the cost of cleaning and purchasing uniforms and/or clothing used in the performance of their duties, unless an employee elects to receive the allowance as a separate line item each pay period. The employee must make this election in writing and the election shall not be revoked during the life of this Agreement.

25.6.2 Any employee who is found to be in violation of the dress standards as published in the Standard Operating Procedures Manual shall be subject to discipline for failure to maintain Departmental standards. The aggrieved employee's administrative relief is limited to the personnel within their respective chain of command.

25.7 Academic Incentive Program/Pay.

25.7.1 Employees shall notify their supervisors of their intent to attend job related education and training programs at least one (1) month prior to the first day of class. Written notification of approval or refusal of the request for classes attended while the employee is on duty shall be given to the employee within two (2) weeks of receipt of the request. If the employee is transferred while attending class, the new supervisor shall evaluate manning requirements and determine if the employee can continue to attend class.

25.7.2 Employees may submit requests to the County Educational Assistance Committee, as per the Educational Assistance Program Standards and Guidelines.

25.7.3 Tuition Reimbursement is limited to six (6) credit hours per semester. Employees may receive a copy of the guidelines from the BCDSA President.

25.7.4 Employees may submit requests for consideration of shift reassignment to facilitate participation in job related education and training programs. Such requests shall be honored by the date of submission when manning requirements are met on each shift.

25.7.5 Employees with a Bachelor's Degree or higher, awarded by an accredited University or College, shall receive Forty-Five dollars (\$45.00) per month academic allowance.

25.7.6 Before an allowance is approved, the Sheriff/designee and the County Human Resources Department shall review the Employee's official transcript and verify such Degree with a copy of the degree submitted to the County Human Resources Department.

ARTICLE 26: UNIFORMS AND EQUIPMENT

26.1 County shall bear the cost of any mandatory change in uniforms to the following for each mandatory change:

Shirts	three (3)
Trousers	three (3)
Dress Hats	one (1)
Jackets	one (1)
Insignia	sufficient for three (3) uniforms
Footwear	one (1) pair

26.2 The County shall also bear the cost of initial issue for any equipment, unique to law enforcement that is required for an employee to complete his duty assignment.

ARTICLE 27: ISSUED ARTICLES

- 27.1 The County shall provide all employees covered within the scope of this Agreement with the following equipment:
- 27.1.1 One 7-point Bernalillo County Deputy Sheriff's badge;
 - 27.1.2 One Bernalillo County Deputy Sheriff's cap badge;
 - 27.1.3 One ballistic vest meeting National Institute of Justice threat level III A standard, or equivalent;
 - 27.1.4 One Sam Browne belt, one handcuff case, one mace canister, one mace holder, one sidearm, one sidearm holster, one audio/video recorder, one ASP and holder, one portable radio (walkie) with holder and charger, one flashlight rechargeable with holder and charger, two magazines for the sidearm with holder, one pair of handcuffs, one box of service ammunition quarterly, one first aid/bio hazard kit, and, one tire deflation device for each employee assigned to Field Services.
- 27.2 The employee shall be responsible for care, warranty maintenance, other maintenance and possession of all issued and assigned articles. Upon cessation of employment with the Sheriff's Department the employee shall be required to return all issued articles in serviceable condition.
- 27.3 Should the employee wish to substitute privately owned articles in lieu of issued articles, the employee must first have permission of the Sheriff, or his designee, and the privately owned articles must meet the specifications of the issued articles.
- 27.4 Only full time, salaried, sworn, and certified employees of the Bernalillo County Sheriff's Department shall be authorized to wear the badges identified in Article 27.1.1 and 27.1.2 above, and/or the official Bernalillo County Sheriff's Department shoulder patch as specified by County Ordinance.

ARTICLE 28: FIREARMS

- 28.1 The Department issues high capacity semi-automatic handguns, such handguns shall be carried by all employees while on duty as their primary sidearm. Nothing in this Article shall preclude the carrying of an auxiliary handgun as approved by the Department. Nothing in this Article shall preclude employees assigned to undercover duties from carrying other handguns as approved by the Department. The Department shall post a list of approved alternative handguns.

ARTICLE 29: PERSONAL PROPERTY REPLACEMENT

- 29.1 The County shall reimburse the employee who has not been negligent for damage to Department approved personally owned items, based upon current/replacement value, when such items are lost or damaged as a result of duty requirements. This shall include corrective eyeglasses. The following steps must be implemented:
 - 29.1.1 Three (3) bids may be required by the County. The County shall pay the amount of the lowest bid.
 - 29.1.2 Submit the claim on a Bernalillo County Sheriff's Department Offense/Incident Report.
 - 29.1.3 The claim must be submitted to the employee's supervisor on the date of occurrence, if possible, but not later than the employee's next active duty shift.
- 29.2 The claim shall be submitted to the Sheriff's Office. The claim must be accompanied by the damaged equipment or personal property, or receipt.
- 29.3 The request for reimbursement shall be reviewed by the County Finance Department.
- 29.4 This process shall be accomplished within twenty (20) days of the occurrence.

ARTICLE 30: CAMPAIGNING FOR PUBLIC OFFICE

- 30.1 The work place should be maintained in a manner so that partisan politics do not influence the operations of the Department. A potential for a conflict of interest exists when public employees engage in political activities while on duty. In order to lessen the likelihood of such conflicts, without unduly restricting an individual's rights to seek public office, the following procedures shall be followed:
- 30.1.1 Any employee wishing to run for a political office within Bernalillo County government shall take a leave of absence, using paid annual leave or leave without pay, effective immediately upon filing official notice with the Bernalillo County Clerk of intent to seek such office. The concerned individual shall remain in the leave status until certification of the general election in the event that he is victorious, or until he has officially withdrawn from the election or has been eliminated in a primary election.
 - 30.1.2 The Sheriff and the County Manager shall approve all requests for leaves of absence to run for Bernalillo County office.
 - 30.1.3 In the event any amendment of County Ordinance 91-8 alters an individual's rights to seek public office, this Article shall immediately become the subject of renegotiation.

ARTICLE 31: DRUG AND ALCOHOL TESTING

- 31.1 The use of drugs and alcohol, whether on or off the job or for "recreational purposes" or otherwise, constitutes a serious threat to the health and safety of the public, to the safety of the employees, and to efficient operation of the County. In recognition of this principle, the following procedure shall be utilized to eliminate the adverse impact of drugs and alcohol in the workplace:
- 31.1.1 Whenever the County requires a drug test, the employee's urine shall be tested for the following drugs or their metabolites and a positive test result shall be reported to the Medical Review Officer at the indicated levels:
- amphetamines - 1000 NG/ML
 - barbiturates - 200 NG/ML
 - benodiazepines - 200 NG/ML
 - cannabinoids - 50 NG/ML
 - cocaine metabolites - 300 NG/ML
 - methadone - 300 NG/ML
 - methaqualone - 300 NG/ML
 - opiates - 2000 NG/ML
 - phencyclidines - 25 NG/ML
 - propoxyphene - 300 NG/ML
- 31.1.1.1 Alcohol shall be tested by the use of a breath analysis and a positive test shall be reported at an alcohol concentration of greater than .02.
- 31.1.2 An employee shall be required to undergo a drug/alcohol test if there is a reasonable suspicion that the employee's alcohol or drug use could impair job performance and/or safety.
- 31.1.3 Reasonable suspicion shall mean that there is objective evidence, based upon known specific, articulable observations of the employee's appearance, behavior, speech or body odor that would lead a reasonable person to believe that the employee is under the influence of alcohol or drugs while on duty.
- 31.1.4 When a reasonable suspicion has been developed to lead a supervisor, to believe that an employee is under the influence of drugs or alcohol, he shall report such suspicion to the Sheriff. The Sheriff or in his absence the Sheriff's designee may order an analysis of the concerned employee's breath or urine for the exclusive purpose of detecting the use of drugs or alcohol.
- 31.1.5 The County shall be responsible for transporting the employee to the testing site.
- 31.1.6 An employee assigned to any of the sections identified hereunder shall undergo an analysis of his breath or urine for the purpose of detecting the use of drugs or alcohol prior to commencing such assignment as well as random testing as part of a pool of employees in each category throughout the period of such assignment:

- a. SWAT team;
- b. Narcotics;
- c. Evidence;
- d. Air support unit

31.1.6.1 Employees in these categories shall also be subject to random testing as part of the pool of bargaining unit employees.

- 31.2 Any employee who is involved in an accident with a County owned vehicle, or personally owned vehicle during the course and scope of their employment, shall be required to submit to a post-accident breath and urine test. An accident shall be defined as all events involving a County a vehicle during the course and scope of their employment which results in damage to any vehicle, injury to a person or damage to any property.
- 31.3 Any employee required by his assignment to maintain a Commercial Driver's License (CDL) shall be subject to the provisions of the County's Substance Abuse and Alcohol Misuse Policy.
- 31.4 Self-Identification. An employee who believes or suspects that he may have a problem with controlled substance use and/or alcohol misuse may voluntarily identify themselves to the County Personnel Department's Controlled Substance and Alcohol Coordinator (CSAC) or CSAC's designee. The CSAC or CSAC's designee shall refer the employee to the County Employee Assistance Program (EAP) for evaluation by a Substance Abuse Professional (SAP).
- 31.4.1 Within three (3) working days of self-identification, an employee shall elect to participate in the County approved treatment plan or resign from employment with the County, or otherwise be subject to dismissal from the County of Bernalillo.
- 31.4.2 If the SAP determines that an employee who has self-identified for alcohol misuse also abuses substances or that an employee who has self-identified for substance abuse also misuses alcohol, the SAP can require that the employee be tested for substance abuse and alcohol misuse.
- 31.4.3 An employee may self-identify at anytime except within thirty-two (32) hours after an accident or after being notified that they must submit to a pre-employment, random or reasonable suspicion testing and shall only be allowed to self-identify once for either substance abuse or alcohol misuse during any employment with the County, regardless of any break-in-service or change in job position.
- 31.4.4 All costs of the initial evaluation by the SAP shall be the County's responsibility. All costs for counseling or rehabilitation shall be the employee's responsibility.
- 31.4.5 An employee who self-identifies shall only be granted leave in conjunction with self-identification as determined necessary by the SAP. In the event the SAP determines leave is necessary, the employee shall be granted either annual leave,

sick leave or leave without pay status.

31.4.5.1 In the event the employee is eligible for benefits under the Family and Medical Leave Act (FMLA), any leave taken by the employee, either paid or unpaid, shall be considered leave taken under FMLA.

31.4.6 An employee who self-identifies is subject to substance abuse and/or alcohol testing at the discretion of the SAP any time between self-identification and when the SAP's certifies the employee is again able to perform his job duties.

31.4.7 An employee who self-identifies shall be in compliance with the County approved treatment plan upon the SAP's certification that the employee is able to perform his job duties, but in no event shall the period to return to performing his job duties exceed ninety (90) calendar days after self-identification.

31.4.7.1 Compliance with the County approved treatment program means that the employee has submitted to a return-to-duty substance abuse test with a "verified negative" result and/or an alcohol test with either an alcohol concentration of 0.02 or less or an alcohol concentration of zero if any use of alcohol is prohibited by the employee treatment plan, and the employee is cooperating in the County approved treatment plan.

31.4.7.2 Non-compliance with the County approved treatment plan shall subject the employee to dismissal.

31.4.8 Once an employee has been released to work after self-identification and return-to-duty testing, the employee shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the Substance Abuse Professional (SAP). An employee shall be subject to a minimum of at least six (6) tests in the first twelve (12) months following the employee's return-to-duty.

31.4.9 An employee who undergoes a controlled substance test at any time after self-identification, and receives a "verified positive" result, shall be dismissed.

31.5 In the event the County requires an employee to submit to a "reasonable suspicion" drug or alcohol test, the County shall place the employee on paid Administrative Leave pending the final test results.

31.5.1 The County shall bear the cost of the initial drug or alcohol test. The employee shall bear the cost of a test of the split sample. The County shall reimburse the employee for the cost of the test of the split sample in the event the result of the test is negative.

31.5.2 Any employee who refuses to appear for drug or alcohol test shall immediately be removed from assignment and shall be terminated.

31.6 Random Testing Due to the safety sensitive nature of their positions all employees shall be subject to random testing. The selection of employees shall be made by a computer based random number generator from a pool of all bargaining unit employees.

- 31.6.1 The dates for administering unannounced testing of randomly-selected employees shall be spread reasonably throughout the calendar year; and
- 31.6.2 The number of employees randomly selected for drug/alcohol testing during the calendar year shall be a minimum of twenty percent (20%) and a maximum of fifty percent (50%) of the total number of employees in the pool.
- 31.7 An employee who receives a verified positive test result as the result of a reasonable suspicion, post-accident or random drug or alcohol test shall be dismissed.
- 31.8 Supervisors will receive a minimum of sixty (60) minutes of drug and alcohol specialized training. Non-supervisory employees will receive a minimum of sixty minutes training on the effects and consequences of prohibited drug and/or alcohol use.
- 31.9 Prior to conducting any testing under this Article, the County shall prepare and implement a Drug and Alcohol Testing Policy to be distributed to employees and supervisors, and all employees and supervisors shall receive training on the Policy. The County shall provide drafts of the Policy to the Association President for review and comment during the drafting of the Policy. The County shall also provide the final Policy to the President of the Association for review and comment as provided in Article 8.3, prior to its implementation.

ARTICLE 32: FIREARMS QUALIFICATIONS

- 32.1 All employees shall be required to qualify every calendar quarter with the service handgun carried by that employee while on duty.
- 32.2 Qualifications shall be conducted under guidelines submitted to the New Mexico Law Enforcement Academy.
- 32.3 The County shall supply for each employee fifty (50) rounds of service ammunition chamberable in the standard issue handgun, per quarter on an individual basis.
- 32.3.1 The issued ammunition must be expended at the firing range during courses of fire supervised by the Sheriff's range personnel.
- 32.3.2 All employees who carry an approved shotgun or rifle shall be required to qualify quarterly with the weapon. The County shall provide the necessary ammunition to the employee to complete each required qualification.
- 32.4 Subject to the conditions set forth in paragraph 33.7 below, in the event an employee fails to appear at the range and attempt to qualify with the handgun mentioned above, he shall be suspended without pay for a period of two (2) working days for the first such failure, five (5) working days suspension for the second such failure within one (1) year of the first failure, and disciplinary action deemed appropriate by the Sheriff for the third such failure within one (1) year of the second failure. In addition, the employee shall be required to qualify on the course of fire which was missed as directed and scheduled by the Rangemaster; and in the event such qualification is not scheduled during the employee's normal duty hours, the employee shall not be eligible for any overtime or compensatory time payment.
- 32.5 Subject to the conditions set forth in paragraph 32.7 below, in the event an employee attempts to qualify but fails to fire a qualifying score with the handgun mentioned above, he or she shall immediately be relieved of law enforcement duties with pay and shall undergo remedial training under the direction of range personnel.
- 32.5.1 Upon completion of the initial remedial training, the employee shall attempt to qualify. If the employee successfully qualifies, he shall immediately be reinstated to perform law enforcement duties and returned to his normal duty assignment.
- 32.5.2 Should the employee fail to qualify after initial remedial training, he shall continue to be relieved of law enforcement duties with pay and shall complete an intensified program of remedial training under the direction of range personnel. Upon completion of the intensified remedial training, the employee shall attempt to qualify. If the employee qualifies, he shall immediately be reinstated to perform law enforcement duties and returned to his normal duty assignment.
- 32.5.3 Should the employee fail to qualify after intensified remedial training, he shall immediately be suspended without pay. Within ten (10) days of being suspended without pay the employee must attempt to qualify. Should the employee qualify, he shall immediately be reinstated and returned to his normal duty assignment.

- 32.5.4 Should the employee fail to qualify after being suspended without pay, his employment shall immediately be terminated.
- 32.6 The Sheriff's Department shall schedule specific times, not less than one (1) day per month, for employees to qualify with firearms while on duty, unless mutually waived.
- 32.7 Any employee who is unable to attempt to qualify on his last possible opportunity, due to sickness or other Department approved circumstances, shall be allowed no more than forty-five (45) calendar days past the end of the three (3) month period or from the date of his return to duty to meet the required qualification.

ARTICLE 33: CRIMINAL ACTION

- 33.1 Whenever an employee is charged with a criminal offense, in any jurisdiction and for any crime, the Sheriff shall place the employee in leave with pay status for at least twenty (20) business days. The Sheriff may place the deputy in leave without pay status after twenty (20) business days or upon a felony indictment or finding in a preliminary hearing, as well as judicial determination of guilt either by plea bargain of the employee or other finding by key judicial decision makers (such as a judge, jury, or hearing officer) in cases involving misdemeanors or other court administrative actions that otherwise result in temporary or permanent prohibition of the tasks necessary to meet the minimum qualifications of the position of deputy sheriff. Such misdemeanors or other judicial-centered administrative tasks may include, but are not necessarily limited to charges of domestic violence, driving while intoxicated, restraining orders, or any other action resulting in the employee's inability to perform the essential functions of the employee's job description or minimum qualifications of his/her position. The employee's grievance rights shall be held in abeyance until there is a judicial determination or plea bargain entered with respect to the criminal action. Neither a judicial determination of acquittal nor a dismissal of charges by the District Attorney's office shall preclude disciplinary action against the employee.

Examples of the applicability of this article are as follows:

1. An employee, who has been charged with a felony crime(s) is placed on leave with pay status for twenty (20) business days. Ten (10) business days later, a Grand Jury indicts the employee on the crime(s) originally charged. The employee's leave status may then be changed to leave without pay on day eleven (11).
2. An employee is charged with a misdemeanor crime relating to driving while intoxicated (DWI). Pursuant to this article, the employee is placed on leave with pay status for twenty (20) business days. An administrative Department of Motor Vehicles hearing results in the loss of the employee's driving privileges fourteen (14) days following the original charge of DWI. The employee's leave status may then be changed to leave without pay on day fifteen (15).
3. An employee, charged with misdemeanor domestic violence and pursuant to this article is placed on leave with pay status for twenty (20) business days. Twenty-one (21) days following the original charging, the employee voluntarily surrenders his/her rights to possess a firearm, pending trial of the facts. The Sheriff, following review of the facts and circumstances of both the case and conditions associated with surrender of rights by the employee, may extend the leave with pay status past twenty (20) business days until completion of a trial in the matter.

Employees placed in administrative leave status shall remain subject to use of accrued leave. For the purposes of this Article, authorized leave is any authorized absence utilizing any paid leave during regularly scheduled work hours and which is approved in accordance with the standard processes and functions of the department. Authorized leave shall be granted in accordance with the work load requirements of the assignment of the employee and must be approved by the Sheriff or designee.

- 33.2 In the event the employee is acquitted or the criminal action is dismissed and the Sheriff elects not to take disciplinary action, the employee shall be permitted to return to work

and shall be reinstated to all rank and benefits, wages and seniority, retroactive to the date that the Sheriff placed the employee in leave without pay status, less applicable taxes and administrative deductions.

33.3 In the event the employee is acquitted or the criminal action is otherwise dismissed or not pursued, and the Sheriff elects to impose disciplinary action, the employee may pursue available remedies under the Grievance and Arbitration provisions of this Agreement.

33.3.1 In the event the discipline imposed is dismissal, and the employee does not prevail after exhausting the procedures available there under, the dismissal shall stand and he shall not be entitled to reinstatement to any rank, benefits, wages or seniority.

33.3.1.1 In the event the employee's grievance is sustained in whole or in part, or the dismissal is otherwise modified by the Sheriff, the employee shall be entitled to such relief as provided in the Arbitration Decision and Award or by such modification, retroactive to the date the employee was placed on leave without pay status, less applicable taxes and administrative deductions.

33.3.2 In the event the discipline assessed is less severe than termination, and the employee's grievance is sustained in whole or in part, or the discipline is otherwise modified by the Sheriff, the employee shall be entitled to such relief as provided in the Arbitration Decision and Award or by such modification, retroactive to the date the employee was placed on leave without pay status, less applicable taxes and administrative deductions.

ARTICLE 34: SHIFT BIDDING

- 34.1 Shift bidding is limited to personnel assigned to the Field Service Division, with the exception of the Assistant Division Commander, who will be assigned by the Field Services Division Commander. Bidding will be done by seniority. Bid will pertain to shift, area assignment and days off. This language shall not limit Management's right to create new areas, delete areas or alter existing areas. Management shall make every effort to make such changes prior to Shift Bidding process.
- 34.2 Will be done bi-annually in April and October for Lieutenants, then Sergeants with the new shifts to take effect the first pay period following each July 1st and January 1st.
- 34.3 Will be done bi-annually in May and November for other employees with the new shifts to take effect the first pay period following each July 1st and January 1st.
- 34.4 After shift bids have been completed and employees have been assigned their days off, any employee who transfers from another shift at the employee's personal request, may not bump another employee from his days off or shift on the basis of seniority over that employee.
- 34.5 If an employee is transferred at the Department's initiative, he may bump on the basis of seniority.
- 34.6 Should a position become available on a shift after the yearly shift bidding has taken place, the position must be offered to the other personnel in accordance with their seniority.
- 34.7 Any transfer resulting in a change of work hours or days off shall require five (5) days written notice unless mutually waived or unless emergency needs of the Department dictate otherwise.
- 34.8 "Bumping" will not be permitted when a temporary days off change, on the same shift, (not to exceed twenty (20) working days) is made to accommodate staffing demands.
- 34.8.1 Temporary transfers specifically related to rotation of personnel to accommodate the specific field training needs of newly hired sworn personnel will not exceed two (2) twenty (20) day periods, unless otherwise waived by the affected employee. This article does not apply to field training officers assigned a newly hired sworn deputy for training purposes.

ARTICLE 35: JOB BIDDING

- 35.1 Routine job assignments held by sworn personnel below the rank of Lieutenant, other than in-field services (but including specialties within Field Services), will be listed as four (4) year assignments. Sergeants will be listed for a four (4) year assignment; regardless of subsequent intra-divisional transfers. Assignments will be based on calendar years. Consideration will be given to seniority for the purpose of assignment selection.
- 35.2 Ninety (90) days prior to the period of assignment being completed, the concerned division commander will cause a department memorandum to be issued announcing the pending vacancy. Each bid will be for a four (4) year period and 50% of each unit will have a bid every two (2) years.
- 35.3 Personnel may apply to succeed themselves in their current assignment, but will compete with other applicants on an equal basis.
- 35.4 Deputies and Sergeants shall fulfill a two (2) year commitment to that position, after two years are completed, they are eligible to bid for other positions or ask to be reassigned to the Field Services Division. If the two (2) year commitment is not fulfilled, they may not bid for another job position until three (3) years of their initial commitment would have been completed and they will be reassigned to the Field Services Division (Patrol) until the three (3) years is completed.
- 35.5 Each job position shall stand as the position not the employee. Should a Deputy or Sergeant vacate that job position regardless of the amount of time in the position, the seceding Deputy shall fulfill the remainder of the time for that position. The vacated position will be advertised as a temporary assignment for the remainder of the four (4) year period.
- 35.6 Interdivisional transfers will be allowed to fill vacancies within a division. The Deputy or Sergeant will fulfill the position as described in 35.5. A person may not be transferred to another division.
- 35.7 Any intra-divisional transfer resulting in a change of work hours or days off shall require five (5) days written notice unless mutually waived, or unless emergency needs of the Department dictate otherwise.
- 35.8 To coincide the Job Bidding with the Shift Bidding (Article 34), and as to make for a smooth transition from one division to another, each Division Commander will cause a Department Memorandum to be distributed department wide, announcing the pending vacancy, in accordance with Article 35.2.
- 35.8.1. This process will be started the first of October and be completed by October 20, so the employees involved that would be going to Field Services will be able to shift bid with the rest of the division. The employee leaving the division will not transfer out until the shift bid goes into effect, which is the first pay period in January.

ARTICLE 36: HIRING PROCEDURE

- 36.1 In order to be eligible for employment with the Department, an applicant shall:
- 36.1.1 Be at least twenty-one (21) years of age at the time of applying and hold a high school diploma or equivalent G.E.D. certificate;
 - 36.1.2 Be literate and pass a written examination prescribed by the Department and the County Human Resources Department;
 - 36.1.3 Pass an agility test as prescribed by the New Mexico Law Enforcement Academy for certification as well as the test prescribed by the Department.
 - 36.1.4 Submit to an extensive background investigation in accordance with Department policy.
 - 36.1.5 Undergo and pass an oral interview conducted by The Oral Interview Board. The Oral Interview Board shall consist of three members of different rank, each representing a different division of the Department, i.e., Sheriff or his designee, one (1) Captain, one Lieutenant, one Sergeant, and/or one classified sworn deputy with a minimum of two years of service within the Department. All such Oral Interview Board members shall be appointed to serve by the Sheriff.
 - 36.1.6 Shall not fail a pre-employment polygraph examination.
 - 36.1.7 Pass a post-offer pre-employment psychological examination and evaluation as developed by the Department.
 - 36.1.8 Pass a post-offer pre-employment physical examination, which shall include a drug test, as designated by the County Human Resources Department.
- 36.2 The new employee shall be required to satisfactorily complete within the first six (6) months of employment (unless the employee holds a current certification) the basic certification course as prescribed by the New Mexico Law Enforcement Academy.
- 36.3 The new employee shall undergo a probationary period of twelve (12) months active employment from his date of hire. During the probationary period, the employee shall be subject to the County Employment Relations Rules and Regulations and shall not be subject to the terms and provisions of this Agreement. He shall be subject to dismissal at any time and for any reason not otherwise proscribed by federal or state law.
- 36.4 No applicant for employment shall be hired in a position above the rank of Deputy 1st Class.
- 36.5 Lateral Entry Program. In addition to meeting the requirements set out above, an applicant for lateral entry to the Department shall serve a twelve (12) month probation period during which he shall be employed in an *at will* status, and shall be required to

meet the following conditions:

- 36.5.1 Hold a current New Mexico certification as a law enforcement officer, or be employed as a Deputy 2/C and be eligible for a certification by waiver within the first six (6) months of employment. Upon completion of six (6) months employment, the employee may advance to eighty-five percent (85%) of the Deputy 1/C hourly rate for the following six (6) months.
- 36.5.2 The lateral applicant's law enforcement service shall have been within ninety (90) days of his application with the Department.
- 36.6 Rehiring of Former Employees.
 - 36.6.1 The Sheriff may rehire a former employee at the rank and pay of a Deputy 1/C, if the former employee's employment with the department was terminated while he was in good standing and the former employee is rehired within ninety (90) days from his last day of previous service with the Department.
 - 36.6.2 Such rehired employee shall serve a probationary period of twelve (12) months from the date of rehire during which his employment shall be *at will*, and shall be required to fulfill all requirements set out in 37.1 applicable to new applicants.
- 36.7 An employee hired under the foregoing rehire or lateral entry procedures, before July 1, 1999 shall not be eligible to take the Sergeant's examination until he has completed four (4) years of service as a classified sworn officer. If hired July 1, 1999 or later, the employee shall not be eligible to take the Sergeant's examination until he has completed five (5) years of service as a classified sworn officer.
- 36.8 All employees hired on or after January 1, 2013, are required to serve three (3) full bids upon completion of FTO training, in the Field Services Division (uniform patrol) before being eligible to work in other divisions or specialized units within the Field Services Division. If this article is waived for a job posting, the three (3) year requirement may not be used at a later date to force the Deputy back to field service patrol (example 1), if it is for the same position (example 2). It is the Deputy's responsibility to maintain the original posting stating the article was waived.

Example 1 – The Department has an opening in the Violent Crimes Unit and if no deputy has put in for the position or if no deputy has met the qualification within the original posting, the department may then re-post the open position and drop the language from Article 36.8 to allow a Deputy who does not meet those qualifications to apply. If a deputy receives the position under the second posting without the 36.8 language, that deputy cannot be forced out of that position for not meeting the language in Article 36.8 when the position is up for re-bid.

Example 2 – This means if a Deputy accepts a position as a detective within the Violent Crimes Unit and decides to voluntarily transfer to SVU, then Article 36.8 applies to that Deputy at the re-bid of the SVU position.

ARTICLE 37: GROOMING AND DRESS STANDARDS

- 37.1 All employees, except those in undercover assignments, will be well groomed and clean in person. All clothing and footwear shall be clean and properly cared for. While on duty, all employees shall abide by the provisions of this Article.
- 37.2 Male employees' hair on the side may not extend beyond ½ inch below the top of the ear. Hair at the nape of the neck may be rounded or "blocked," but it shall not touch or extend beyond the collar when the head is held in the position of attention. Hair in front shall not fall below the eyebrows. The bulk or length of the hair shall be groomed so that it does not bush out or curl up when wearing the uniform hat or helmet.
- 37.3 Male employees' sideburns shall not extend in length below the bottom of the ear and shall be neatly trimmed, not bushed or flared. Sideburns shall be cut so that they are level when the head is held in the position of attention.
- 37.4 Mustaches must be neatly trimmed, and may not extend in length below the top border of the upper lip, nor extend more than 1/4 inch upward, downward, or to the side from the corner of the mouth.
- 37.5 Beards are not allowed for any employee wearing a uniform, except while in uniform for any required uniform inspection when otherwise assigned to a plainclothes assignment. Employees assigned to undercover, plainclothes assignments may wear beards provided that they are neatly trimmed, not bushed out, and are no longer than ½ inch.
- 37.6 Female employees in uniform shall style their hair so as to be conducive with the correct wearing of the uniform hat, and so that the hair does not extend more than four (4) inches below the collar when the head is held in the position of attention. The hair shall be clean, neat, and may not hang below the eyebrows. For safety purposes, hair accessories (barrettes, etc.) may only be black or dark brown in color and designed so as to compliment the appearance of the uniform.
- 37.7 Courtroom attire for male employees not in uniform shall be a dress suit, or sport coat and dress slacks. Female employees shall wear either slacks, or skirts/dresses, provided that the style is in good taste and considered acceptable for wear in a business office.
- 37.8 In all plainclothes assignments, except undercover assignments, male and female employees' clothing is expected to be appropriate and in good taste.
- 37.9 Personal jewelry may be worn provided it is in good taste. Due to safety considerations, employees shall not be permitted to wear necklaces that dangle or hang outside the uniform shirt, and are prohibited from wearing earrings while on duty.

ARTICLE 38: USE OF IDENTIFICATION

- 38.1 No employees shall use his official identification cards, badges, or positions for personal or financial gain, for obtaining privileges or for avoiding the consequences of illegal acts.
- 38.2 No employee shall lend to another person his identification cards or badges, or permit them to be photographed or reproduced without the approval of the Sheriff.
- 38.3 No employee shall use his name and/or photograph, in conjunction with his official title, or in connection with testimonials or advertisements of any commodity or commercial enterprise or product without the approval of the Sheriff.

ARTICLE 39: USE OF RECORDERS

- 39.1 No employee shall electronically record any conversation between himself and another person(s) unless the other person(s) has been advised of the recording prior to its initiation, the recording is done in conjunction with a criminal investigation to which the employee has been assigned, or the recording is done in compliance with the appropriate and applicable sections of the Standard Operating Procedures Manual.
- 39.2 Nothing in this Section shall be construed to restrict the rights of any employee in the furtherance of legitimate non-department related, personal interests to record conversations not in violation of applicable Federal or State law.

ARTICLE 40: INTERNAL AFFAIRS

- 40.1 The Internal Affairs Unit (I.A.U.) is responsible to the Sheriff and is established to conduct administrative investigations with four (4) major purposes:
- 40.1.1 To assist in maintaining Department integrity;
 - 40.1.2 To identify members or employees guilty of misconduct so that they may be retrained and corrected, or if unacceptable for further police service, be removed from employment through proper administrative action;
 - 40.1.3 To protect innocent employees; and
 - 40.1.4 To enable the Legal Advisor to render professional, legal services to the Sheriff and his representatives.
- 40.2 This section establishes the guidelines for conducting I.A.U. Internal Affairs interviews and the official relationship of the I.A.U. with all organizational subdivisions of the Department. Discipline is a function of command. The existence of the I.A.U. does not serve to diminish a commanding officer's authority or responsibility. In an effort to ensure that internal affairs interviews are conducted in a manner which is conducive to good order and discipline, the following guidelines are promulgated:
- 40.2.1 The internal affairs unit shall notify the employee (target) in writing when they open an active investigation.
 - 40.2.2 The internal affairs interview of an employee shall be scheduled for a reasonable hour convenient to all parties concerned and preferably when the employee is on duty, unless circumstances dictate otherwise. Internal affairs interviews and investigations shall be concluded without unreasonable delay. At the commencement of the internal affairs interview, the employee(s) under investigation shall be advised of the name and rank of the individual in charge of the investigation, the name and rank of the individual conducting the internal affairs interview, and the names of all persons present during the internal affairs interview; and
 - 40.2.3 For the purposes of this Section, any time an employee is in a paid status, he is considered on duty. All internal affairs interviews shall be conducted on duty, and in accordance with the Peace Officer's Employer-Employee Relations Act of New Mexico.
- 40.3 Internal affairs interviews shall take place at a location designated by the I.A.U. Investigator. Normally, it shall be conducted in the offices of the I.A.U.
- 40.4 If an employee is directed to leave his post and report for an internal affairs interview, the Watch Commander or immediate supervisor shall be promptly notified of the employee's whereabouts by the I.A.U. Investigator.
- 40.5 Prior to the commencement of the internal affairs interview, the employee under an

internal affairs investigation shall be informed of the nature of the internal affairs investigation and the name of the complainant. The address of complainant(s) and/or witnesses need not be disclosed; however, sufficient information to reasonably apprise the employee of the allegations shall be provided. If it is known that the employee being interviewed is a witness only, he should be so informed at the initial contact. If the foregoing procedure is not strictly followed, the employees shall not be required to answer any questions until he has been so informed.

- 40.6 The questioning shall not be unreasonably long in duration. Reasonable respites shall be allowed. Time shall also be provided for personal necessities, meals, telephone calls, and rest periods as may be required by the circumstances.
- 40.7 The employee shall not be subjected to any offensive language, nor shall he be threatened with transfer, dismissal, or other disciplinary action by any member of the I.A.U. No promises of reward shall be made as an inducement to answering questions.
- 40.8 Internal affairs interviews shall be limited in scope to activities, circumstances, events, conduct or acts which are relevant to the incident which is the subject of the internal affairs investigation. Nothing in this Article shall prohibit questioning the employee about information which is developed during the course of the internal affairs interview.
- 40.9 The complete internal affairs interview of the employee shall be recorded and shall be transcribed. There shall be no *off the record* questions or statements. All recesses called during the questioning shall be noted on the record. The tape recording shall be preserved and may be introduced before an Arbitrator, in the event the employee declines to sign the *verbatim* transcript of the recording.
- 40.10 If the employee is under arrest or is likely to be, he shall be given his "MIRANDA" rights.
- 40.11 In all internal affairs cases, the law imposes no obligation, legal or otherwise, on the Department to provide an opportunity for a Deputy to consult with counsel or a personal representative when questioned by an I.A.U. Investigator. Nevertheless, in the interest of maintaining the usually high morale of the force, the Department shall afford an opportunity for an employee, if he so requests, to consult with counsel or a personal representative before being questioned. Provided the internal affairs investigation or interview is not unduly delayed as the result thereof. Counsel or a personal representative of the employee's choice may be present during the internal affairs interview.
- 40.12 In the event it is determined that the complainant falsified his internal affairs statements, the Department shall take whatever action it deems appropriate and the employee may at his discretion pursue whatever legal remedies are available.
- 40.13 Any employee found to be knowingly withholding evidence or information pertaining to an internal affairs investigation shall be subject to disciplinary action up to and including dismissal.
- 40.14 The I.A.U., upon direction by the Sheriff or his designee, shall conduct administrative investigations and make appropriate reports of cases involving, but not limited to:

- 40.14.1 Allegations or complaints of misconduct of Department personnel which, if found to be true, would likely result in disciplinary or criminal proceedings against the offending parties;
 - 40.14.2 Allegations of misconduct, violations of the S.O.P.;
 - 40.14.3 Situations where an employee has been killed or seriously injured by the deliberate act of any person;
 - 40.14.4 Situations where any person has been killed or injured by an employee, whether on or off duty;
 - 40.14.5 Situations involving the discharge of firearms by an employee, other than for lawful sport activity or approved firing at the firing range;
 - 40.14.6 Complaints by an employee of workplace harassment, threats, unjust treatment or false accusations; or
 - 40.14.7 Any other incident when directed by the Sheriff or his designee.
- 40.15 All files and reports of investigations by the I.A.U. shall be confidential and are intended for the exclusive use of the Sheriff, or whomever he deems necessary. Actual files, photostats, or abstracts shall be released to a third-party or the employee only upon receipt of a lawful court or administrative order. Upon written request, an employee, along with his personal representative may review his I.A. file.
- 40.16 Duties of Department Personnel.
- 40.16.1 Supervisory employees shall initiate internal affairs investigations of breaches of conduct of personnel under their supervision when a suspected infraction is observed or a complaint or allegation is tendered to them, regardless of the source of the complaint or allegation. All such complaints shall be reduced to writing and signed by the complaining party. Supervisors who fail to initiate an investigation or take appropriate action when infractions are observed by, or reported to them shall be subject to disciplinary action up to an including dismissal.
 - 40.16.2 Alleged or suspected violations of law, rules and regulations, and/or misconduct by employees shall be reported in writing by the supervisor to the I.A.U. by the next week day (Monday through Friday) after receiving information of such alleged misconduct. In all serious situations involving Department personnel, the supervisor shall immediately notify Internal Affairs. This obligation is waived in those cases where a supervisor has direct knowledge that a written report of the same incident or allegation has already been submitted. Such a waiver shall not serve to relieve a supervisor of the requirement to submit any other reports or information called for in the course of an investigation.
 - 40.16.3 The following categories of offenses/allegations need not be reported to the appropriate supervisor: (The minor incidents hereinafter set forth are not intended to be all inclusive.)

- a. Tardiness in reporting for duty;
 - b. Improper wearing of the uniform;
 - c. Failure to carry and/or maintain official equipment;
 - d. Failure to report back in service upon completing an assignment;
 - e. Nonfatal traffic accidents; or
 - f. Complaints or allegations relative to differences of opinion between employees and citizens over the issuance of a citation, unless it is alleged that the employee violated the law or a Department order.
- 40.17 Internal Affairs activities are limited only to investigations. Recommendations are the prerogative of supervision.
- 40.18 Following the completion of an internal affairs investigation, the Sheriff shall review the case and may consider the comments or recommendations of the employee's supervisors.
- 40.19 The Sheriff, after reviewing the complete internal affairs investigation, shall classify the case as one of the following:
- 40.19.1 Sustained the allegation is supported by sufficient proof.
 - 40.19.2 Not sustained the evidence is insufficient to prove or disprove the allegation.
 - 40.19.3 Unfounded no basis for the complaint.
 - 40.19.4 Exonerated-no wrong doing on the behalf of the employee.
- 40.20 The I.A.U. shall advise the target in writing, of its findings within seven (7) days after final disposition of the case.
- 40.21 To avoid conflict or possible interference, it is vital that members of the I.A.U. and other employees involved in internal affairs investigations understand their official relationships.
- 40.21.1 Internal Affairs investigations are aimed primarily at determining the facts and circumstances relating to an employee's conduct. IAU may call upon other units of the Department for support services.
 - 40.21.2 The activities of the I.A.U. and those of criminal investigators may, of necessity, overlap in many areas. In those instances, the employees involved should work with the IAU investigators in the interest of establishing the truth.
- 40.22 When an I.A.U. investigation indicates an employee is likely to be charged with the commission of a crime, the investigators shall proceed in accordance with the constitutional safeguards normally employed for all criminal suspects. At no time shall the I.A.U. infringe on the rights of employees.
- 40.23 The Sheriff may, by written directive, order any employee to submit to any deception detecting examination or technique, including but not limited to, the following types: mechanical, physical or psychological.

- 40.24 When any employee is under an internal affairs investigation by the Department for alleged actions that could result in disciplinary action, the provisions, of NMSA (1978) Article 29-14-1 et seq., shall apply. In addition the following provisions are agreed to:
- 40.24.1 Polygraph or other examiner conclusions based on chart interpretation alone shall not serve to determine investigative fact and shall not be used to exclude other evidence. Examiner opinions constitute but a single element of all information available during a complete and thorough investigation;
 - 40.24.2 The polygraph or other examiner shall not attempt to coerce a confession from the examinee;
 - 40.24.3 The provisions of this Article shall apply whether the examination is mechanical, physical or psychological;
 - 40.24.4 Polygraph examiners utilized by the Department shall have been trained in a reputable course of instruction and accredited by the American Polygraph Association, and shall be qualified as an expert under the New Mexico Rules of Evidence Rule 11-707 (B);
 - 40.24.4.1 The employee may elect to utilize the internal Departmental polygrapher who may not meet the standard identified in Article 40.24.4.
 - 40.24.5 Prior to conducting any polygraph examination, the examiner shall be given full and unrestricted access to all investigative details up that point and shall utilize such materials and information in formulating his questions; and
 - 40.24.6 The Department shall insure quality control by independent "blind" evaluations of polygraph charts and related documentation by other senior and well-qualified examiners of equal or greater experience than that of the polygraph examiner utilized by the Department in order to insure that the original testing examiner's conclusions as to truth or deception are substantiated.
- 40.25 When the internal affairs investigation results in Departmental charges being filed against an employee, that employee, upon request, shall be provided access to all reports of the internal affairs investigation which shall contain all known material facts involved in the matter under investigation, including any tape recordings.
- 40.26 The Internal Affairs Unit (I.A.U.) shall notify subjects of the investigation when investigations assigned to the Internal Affairs Unit are complete.
- 40.27 Notwithstanding the fact that this Article applies only to internal affairs investigations, the Department agrees to include herein, its agreement that all administrative investigations from which disciplinary action may arise shall be conducted in accordance with the provisions of NMSA (1978) Section 29-14-1, et seq.
- 40.28 From the day the complaint is signed, the IAU investigation must be completed, reviewed by the chain of command for the deputy (or deputies) being targeted and, if necessary,

discipline given to the deputy (or deputies) shall occur within one-hundred and fifty (150) calendar days. In cases whereby a need for criminal investigation of the complaint occurs after its signature, because the IAU case will then be paused, the 150 day counting clock shall too be paused. The 150 day timeline shall resume upon the date of formal re-activation of the IAU case, following completion of the criminal investigation.

40.28.1 If the department needs requires more than 150 calendar days to complete the IAU and disciplinary processes, a written request should be made to the Sheriff for a single thirty (30) calendar day extension. Extensions shall be limited to only one (1).

In the interest of maintaining the usually high morale of the force, the Department shall afford an opportunity for an employee who is the subject of an administrative investigation from which disciplinary action may arise, if he so requests, to consult with counsel or a personal representative before being questioned.

ARTICLE 41: TELEPHONES

- 41.1 Employees shall have telephones at their residences, if available, and shall report changes of their telephone numbers or addresses to their immediate supervisor and to the Administrations Division within two (2) working days after such changes. Home telephone numbers and addresses are confidential, and shall not be released to anyone outside of the Department without express approval from the concerned employee. Compensation for such calls shall be in accordance with the provisions of Articles 20 and 21.
- 41.2 The Department may release telephone numbers to law enforcement personnel for valid purposes in the furtherance of criminal justice interests.

ARTICLE 42: MINIMUM STAFFING

- 42.1 The minimum number of Deputies actually in the field on any given patrol area and watch shift shall be at least sixty percent (60%) of the Deputies normally assigned to work each area and watch shift. If because of illness or other reasons, sixty percent (60%) of the assigned employees are not in the field in a given area, the Sheriff or his designee shall take such action necessary to bring the field strength up to the required number.
- 42.1.1 Minimum staffing will consist of sixty percent (60%) based on the original number of bidded positions for that specific area and watch shift for that bid. The numbers will remain the same for the duration of the bid. For example: Watch II South begins their bid with a total compliment of twenty-five (25) employees and on a given day twenty (20) are normally scheduled to work. If, during the bid, 5 probationary hires or lateral hires are placed onto this patrol shift bringing their total compliment to thirty (30) and on a given day twenty-five (25) are normally scheduled to work, their minimum staffing will still be based on the original patrol shift numbers of twenty (20) and the resulting minimum of twelve (12).
- 42.1.2 for example: Watch II South has a total compliment of twenty-five (25) employees and on a given day twenty (20) are normally scheduled to work. If less than twelve (12) of those twenty (20) employees were to report for duty, additional off-duty employees would be called in to ensure that a minimum of twelve (12) employees were on duty in that area for that shift.
- 42.1.3 If a deputy is on approved FMLA, Light Duty, or Military Leave for more than half of their bidded shift (60 consecutive work days), the Division Commander has the option to remove or replace that position so the vacancy does not count against that area and watch minimum staffing.

ARTICLE 43: EXTRA DUTY

- 43.1 Extra Duty assignments will be posted for all Department Personnel through the ranks of Lieutenant when the Sheriff or his designee has determined a need for additional personnel. The available positions will be given to the Deputies (regardless of rank) with the most department seniority.
- 43.2 Deputies who work extra duty assignments that are on-going throughout the year are limited to three assignments in a row when assigned by virtue of the Department Seniority. Deputies who have worked three consecutive assignments will be moved to the bottom of the list. Deputies will not sign up for overtime for the next here consecutive postings unless they are called by the program administrator to fill positions.
- 43.3 Any employee, who accepts an extra duty assignment but is unable to fulfill the assignment, shall notify the program administrator 48 hours prior to the event. The program administrator shall offer the position to the next Deputy on the list.
- 43.4 In the case of an emergency (less than 48 hours) any employee who has accepted an extra duty assignment and is unable to fulfill the assignment will be responsible for finding a replacement for their extra duty assignment. If a deputy fails to fulfill three assignments in a year, for any reason, that deputy will not sign up for extra duty and will be removed from the extra duty list for two years.
- 43.5 Sick leave shall not be taken in order to accept an extra duty assignment.
- 43.6 Employees in a probationary status or a modified duty status shall not be eligible to participate in extra duty assignments.
- 43.7 Except when acting in a supervisory capacity, as set out below, Sergeants, and Lieutenants shall receive Deputy 1st Class pay and shall wear uniforms which do not bear rank insignia when performing extra duty assignments.
- 43.7.1 When four (4) to eight (8) employees are employed at a single event, they shall be supervised by a Sergeant.
- 43.7.2 When nine (9) or more employees are employed at a single event, they shall be supervised by a Lieutenant.
- 43.7.3 In such event, Sergeants and Lieutenants shall be compensated at their regular overtime rate.
- 43.8 No Employee shall work more than twenty-four (24) hours of extra duty within any work week. Court overtime, call-outs and shift work over shall not be counted towards the twenty-four (24) hours of extra duty per week. Unforeseen and unplanned minimum staffing issues will also not count toward the twenty-four hours described above, although planned hiring for minimum staffing shall count toward this total.

ARTICLE 44: OUTSIDE EMPLOYMENT

- 44.1 An employee may engage in outside business activity or outside employment provided it is not inconsistent, incompatible, and does not conflict and does not interfere, with the proper discharge of the employee's duties and responsibilities as a member of the Department.
- 44.2 Approval for outside business activity or employment shall be secured from the Sheriff or his designee prior to initiating such activity or employment.

ARTICLE 45: OFFICER LIABILITY PROTECTION

- 45.1 Should an employee be sued in a civil action for any allegations arising out of the course and scope of the employee's employment, the County shall defend and indemnify that employee pursuant to the requirements of the New Mexico Tort's Claims Act, Section 41-4-1 et seq., NMSA 1978, as amended. However, the County shall not be obligated to defend and indemnify an employee if a court of competent jurisdiction determines that the employee acted outside of the course and scope of his employment.
- 45.2 It is understood by the parties that it is against public policy to defend an officer in a criminal suit once the officer is indicted for a criminal act.
- 45.3 For purposes of this Agreement, the phrase "course and scope of employment" means the lawful acts which a seven point sworn officer is requested, required, or authorized to perform by the Department.
- 45.4 Nothing herein shall bar the use of case law and common law in the resolution of a dispute arising out of the interpretation of the New Mexico Tort's Claims Act, §41-4-1 et seq., NMSA 1978.
- 45.5 Issues regarding insurance coverage and the duty to defend and/or indemnify are not grievable or arbitrable.

ARTICLE 46: ACCIDENT REVIEW

- 46.1 The Sheriff shall establish a Committee consisting of three (3) members to review all accidents involving County owned/leased vehicles. The objective of this Committee is to reduce accidents and liability issues, and to provide for safer working conditions for the employee and the public. The Committee shall accomplish its stated objective by reviewing reports, including those prepared by the employee by way of interoffice correspondence. These reports shall be reviewed in order to determine the causation factors.
- 46.1.1 One Committee member shall be employed by the Bernalillo County Risk Management Division.
- 46.1.2 One Committee member shall be an Advanced Traffic Accident Investigator certified by the NMLEA and a full time sworn employee. Management shall provide a list of twenty (20) such investigators to the Association from which the Association shall select one.
- 46.1.3 One such Committee member shall be a Certified Driving Instructor (recognized by NMLEA) and a full time sworn employee.
- 46.2 The employee may submit evidence regarding his alleged involvement in the accident. Such evidence shall not be limited to written evidence but may also include tape transcripts, photos or any other relevant evidence. The employee shall not be present during the Committee meeting.
- 46.3 The Committee shall meet no less frequently than monthly and shall post an agenda at least ten (10) days prior to each such meeting.
- 46.3.1 The Chair, elected by the Committee members, shall notify the subject employee's Division Commander in writing, within five (5) days of the Committee's finding(s) of cause and recommendation for avoidance of any recurrence of such accident.
- 46.3.2 All accidents shall be reviewed within sixty (60) days of their occurrence.
- 46.3.3 Only accidents shall be reviewed by the Committee. All events involving a County owned/leased vehicle and another vehicle or person which results in personal injury, damage to any vehicle or damage to property, shall be reported as an accident and shall be subject to review by the Accident Review Committee. All other events involving a County owned/leased vehicle arising from the operation of such vehicle which result in damage to the vehicle such that the vehicle becomes inoperative and requires that it be towed from the scene, shall be reported as an accident and shall be subject to the provisions hereof.
- 46.3.3.1 Employees shall be required to file incident reports for all other events that result in damage to a County owned/leased vehicle. Examples of the

foregoing are set out below. Incidents include but are not limited to the following:

1. vehicle damage resulting from road hazards;
2. minor parking lot damage;
3. damage to vehicle glass resulting from stones or other road hazards;
4. damage from vandalism;
5. damage to vehicles resulting from necessary use of the vehicle on unpaved roads;
6. any other event which normally would not necessitate the filing of an accident report.

Events involving second-party vehicles in which no otherwise reportable damage or injury has occurred shall also be the subject of an incident report. No incident report shall be required for normal wear, tear and maintenance.

46.3.4 Prior to making any determination with respect to whether or not any disciplinary action shall be imposed against the employee involved, Division Commanders shall review the findings of the Committee with respect to causation, all evidence submitted pursuant to the provisions of 46.2 hereof, and further, shall consider all matters submitted in extenuation and mitigation.

46.3.5 The Department shall assume the cost of any remedial driving training imposed.

ARTICLE 47: PARTIAL INVALIDITY, SEPARABILITY AND WAIVER

- 47.1 This Agreement shall be effective upon ratification of the members of the Collective Bargaining Unit and upon approval of the Board of County Commission and shall become effective the first full pay period of FY16 and will remain in effect until the end of the final full pay period of FY16.
- 47.2 Should neither party to this Agreement request the opening of negotiations, at least one hundred twenty (120) days prior to June 30, 2016, this Agreement shall continue in full force and effect from year to year thereafter.
- 47.3 In the event that any of the provisions of this Agreement shall be declared by a Court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions thereof. In such event, the parties shall immediately meet to negotiate a suitable provision to replace the invalid or unenforceable provision.
- 47.4 This Agreement is the only Agreement between the parties and supersedes any and all previous agreements and understandings.
- 47.5 Should applicable law or circumstances render invalid, unenforceable or no longer appropriate any provision of this Agreement, the parties shall meet to negotiate a suitable provision to replace the invalid or unenforceable provision. Such replacement provisions shall become effective immediately upon ratification according to the respective procedures and regulations of the parties, and shall remain in effect for the duration of the Agreement.
- 47.6 In the event that an ambiguity exists with respect to, any provision of this Agreement, the parties may meet to negotiate a Memorandum of Understanding with respect to the affected provision, as well as any other provision whose interpretation or implementation is dependent or contingent thereon. Such Memorandum of Understanding shall be executed by appropriate representatives of the parties and shall remain in effect for the duration of the Agreement.
- 47.7 In the event that any of the provisions of this Agreement shall become invalid or unenforceable, such invalidity or shall not affect the remaining provisions thereof.
- 47.8 This Agreement specifically describes the entire Agreement between the parties. Any State and/or Federal statutes enacted shall take precedence over Department Standard Operating Procedures (S.O.P.) and this Agreement. Provided, this Agreement shall take precedence over any conflicting Department Policies or S.O.P.s.
- 47.9 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from collective bargaining, and the agreements arrived at by the parties after the exercise of that right and opportunity and

are set forth in Agreement. Therefore, the County and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that they shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement subject to the County's duty to bargain over the impact or implementation of mandatory subjects of bargaining. Provided however, this provision shall not constitute a waiver of the right to grieve the effect upon the bargaining unit of matters otherwise excluded hereby.

ARTICLE 48: PHYSICAL FITNESS

- 48.1 The physical fitness and health of sworn officers is directly related to the ability of the Sheriff's Department to provide protection and services to the public. The Department will conduct a physical assessment of all sworn employees annually in October. The testing criteria will be reasonable, fair and impartial and developed with input from the Physical Testing Committee. Personnel must attempt to complete the physical requirements and are encouraged to do so to the best of their abilities. Failure to meet the adopted standards will not result in disciplinary action or a negative performance review. Incentives for high performance shall be determined by the Sheriff, or his designee. The department shall destroy all personal inventory questionnaires (PARQ) associated with the physical assessment within thirty (30) days after the completion of the assessment. Deputies failing to meet minimum standards will be provided options from the Department to pursue a course of physical training that could assist them in meeting the standards.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this instrument by their duly authorized officers or representatives on this 23 day of June, 2015.

BERNALILLO COUNTY DEPUTY SHERIFF'S ASSOCIATION

BOARD OF COUNTY COMMISSIONERS

KH 6/23/15
Kyle Hartsock, President

Maggie Hart Stebbins
Maggie Hart Stebbins, Chair

Art De La Cruz
Art De La Cruz, Vice Chair

Debbie O'Malley
Debbie O'Malley, Member

Lonnie C. Talbert
Lonnie C. Talbert, Member

Wayne A. Johnson
Wayne A. Johnson, Member

APPROVED AS TO FORM:

Robert K. Kelly
County Legal Department

ATTEST:

Maggie Toulouse Oliver
Margaret Toulouse Oliver, County Clerk

Date: 6/23/15

