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**ESCAMBIA COUNTY SHERIFF'S OFFICE**  
**David Morgan, Sheriff**

**From:** Gerald E. Champagne  
**Sent:** Friday, July 12, 2013 1:05 PM  
**To:** Alison A. Perdue  
**Cc:** George Touart ([gtouart@co.escambia.fl.us](mailto:gtouart@co.escambia.fl.us)); Gordon Pike ([gcpike@co.escambia.fl.us](mailto:gcpike@co.escambia.fl.us)); Amy L. Lovoy ([allovoy@co.escambia.fl.us](mailto:allovoy@co.escambia.fl.us)); Gene M. Valentino; Grover C. Robinson ([GCROBINS@co.escambia.fl.us](mailto:GCROBINS@co.escambia.fl.us)); Grover C. Robinson IV ([district4@myescambia.com](mailto:district4@myescambia.com)); Lumon May ([district3@myescambia.com](mailto:district3@myescambia.com)); [district1@myescambia.com](mailto:district1@myescambia.com); [district2@myescambia.com](mailto:district2@myescambia.com); jailtransferteam; [district5@myescambia.com](mailto:district5@myescambia.com)  
**Subject:** SHERIFF'S INTERNAL SERVICE FUND AND BUDGET

Alison,

Commander Haines sent an email to Amy Lovoy regarding the internal service fund (ISF), the potential payments to be made from this fund, and the Sheriff's budget for FY 2013-14. However, given the discussion at the July 10, 2013, Committee of the Whole ("COW") Meeting, I am not sure the message got through, so I am giving it another try.

There was much input solicited from the County staff as to whether payment for leave balances is "legally required." Put bluntly, the question is not whether the **County** is of the opinion that payment for leave balances are "legally required," but rather whether the **Sheriff** is of the opinion that the payments are legally required. But it goes even beyond that – is it appropriate that I, as General Counsel, advise the Sheriff to release a fund that is dedicated to payment of leave balances without assurance that the Sheriff is no longer at risk that employees may file a claim for non-payment of leave balances? Why would the Sheriff agree to release this fund without assurance that the Sheriff no longer runs that risk?



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The following summarizes the Sheriff's position on potential expenditures and the possible transfer of these funds. We have consistently stated that we would release this fund and transfer it to the County **PROVIDED** that the County accepts and assumes liability for payment of ECSO accumulated leave balances. We have never specified or discussed the manner that the County would assume liability for such leave balances, but this is something that would have to be negotiated and worked out. I would point out that acceptance of liability for payment of leave balances is not limited to Jail employees, but extends to law enforcement deputies and civilian employees as well. However, due to the BOCC's decision to assume control of the Jail, the Sheriff is at risk of liability for payment of leave balances from this fund during the current fiscal year as a part of the Jail transfer process. The message we recently received from Ms. Lovoy, and reiterated by the Interim Administrator at the COW meeting, was that our FY 2013-14 budget would be reduced dollar for dollar for every dollar of the Sheriff's ISF expended. As explained below, we do not believe that such action is justified.

The ISF is a fund that was established for the limited purpose of paying for accumulated leave balances. It has been on the books for years. It is not a "reserve" or "slush" fund, and the ONLY purpose for which this fund can be used is to pay for employee leave balances. It is not over-funded; indeed, as indicated by the correspondence distributed to the Commissioners at the COW meeting, we have been the subject of audit discrepancies based on the finding that this fund has been **under funded** based on the Sheriff's liability for accrued leave. ISF funds have never been used for any purpose other than payment of accrued employee leave.

We have three broad classes of Jail employees:



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**Detention Deputies/Supervisors** – They are part of a collective bargaining unit and are represented by the PBA. They may form a new PERC under the BOCC or may merge with the existing Road Camp PERC. Our respective HR rules provide that, in the case of a transfer to another Escambia County agency, annual leave and sick leave balances can be transferred to the receiving agency. But both our HR rules and the County's rules are silent on what happens to the other leave balances, in our case, holiday leave, union compensatory time, and FLSA compensatory time. Past practice has been to transfer over the annual and sick leave banks to the receiving agency, and to pay out the others (FLSA compensatory time, Holiday Leave compensatory time, and union compensatory time). If we follow past practice, we would pay these out and the payment would be made from the ISF. While it is conceivable that you may be able to negotiate the transfer of some or all of the other leave banks, in our view a negotiated agreement with the PBA and the Sheriff will be required. Our position is that one impediment to release of the ISF is that the Sheriff must have adequate assurance that the Sheriff is relieved of the liability to pay for the these employees' leave balances.

**Detention Civilians (70+ employees)** - Civilians on both the law enforcement side and detention side are covered by the same PERC – Sheriff's Direct Support. They are represented by the PBA. Therefore, the existing PERC will remain with the Sheriff. Presumably, the Detention civilian employees who transfer will form a new PERC of County Direct Support in the Jail. Again, if we follow past practice, we would transfer the annual and sick leave balances and pay out the other leave balances, and the payment would be made from the ISF. If the County wants to establish some process that would permit transfer of these banks, you need to negotiate an agreement with the PBA and provide the Sheriff with adequate assurance that he will have no liability for payment of the leave balances of these employees



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**Health Care Employees (approx. 60 employees)** – These employees all have individual private employment contracts with the Sheriff. I don't know how they are going to be transferred over. It is likely the easiest solution to terminate them and then the BOCC rehire. Under our HR rules, we are required to pay out the employees leave balances under these circumstances. In the alternative, the County may be able to construct a process for transfer of this leave. But again, negotiating such a process will be the responsibility of the County, and we will not release the ISF unless the Sheriff is provided with adequate assurance that the County is assuming liability for all of these employees' leave balances.

I would point out that all of the leave payouts discussed above are required because of the decision to transfer the Jail to the County.

In our view, as a condition of transfer of the ISF, the County must either:

1. Assume liability to actually pay out our employee leave balances as they come due. And by "pay out" under this option, we mean actually cut the check from County funds to the compensate the departing employee for existing leave balances whenever an employee terminates employment with the Sheriff; or
2. Add an annual budget line item allocation to pay for accumulated leave for all deputies or civilian employees who terminate employment or enter the DROP program, because the funding to pay these leave balances is not included in our budget request.

We will cooperate to take any steps to facilitate the transfer of leave balances, but the Sheriff's view is the burden is on you (the County) to construct the process and negotiate the details. Unless and until you do so, we must retain the ISF, and use the fund to pay for leave balances if required, until we are assured that the Sheriff has no risk of liability for failure to pay out leaves upon transfer of employees to the County.



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All this being said, the Sheriff does not intend to spend anything out of the ISF other than what is required as part of the jail transfer or to compensate other employees for their leave balances if they terminate employment or enter the "DROP" program before October 1, 2013. We have had six jail employees come in and fill out paperwork to

leave as they don't want to transfer to the BOCC. Payment for the employee leave balances upon termination of employment will be coming out of the ISF.

The amount that will be spent from our ISF will be the amount indicated at yesterday's COW Meeting, unless you are able to work out agreements with the Sheriff, MOUs with the PBA and/or individual employee agreements.

To the extent that we do have to pay for accumulated leave balances as part of the Jail transfer, there does not seem to be any legitimate basis for the threat to reduce our fiscal year 2014 budget for each dollar spent. To the extent that the County is able to negotiate and secure agreements that are satisfactory to the Sheriff and that relieve the Sheriff of liability for payment for employee leave balances, we are agreeable to the transfer of funds remaining in the ISF.

I hope this clarifies our position and the reasons for our position. As always, if you have any questions, please to not hesitate to contact me.

*Gerald E. Champagne*  
General Counsel  
Escambia County Sheriff's Office



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