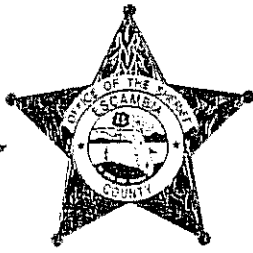


# Sheriff



## DAVID MORGAN

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June 19, 2013

Commissioner Grover C. Robinson, IV  
Escambia County Board of County Commissioners  
221 Palafox Place, Suite 400  
P.O. Box 1591  
Pensacola, FL 32591-1591

RE: Budget Issues

Dear Commissioner Robinson,

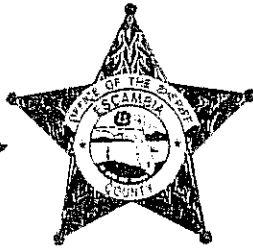
I am in receipt of your letter dated June 14, 2013, same subject. We were initially encouraged by your proposal to use county reserve funds to address the underfunding and understaffing of the jail. This had not been offered as an option before. Unfortunately, after my representatives met with you yesterday, you stated that you did not actually mean BOCC reserve funds but rather the Escambia County Sheriff's Office's own Internal Service Fund. This fund is not a "reserve fund," but monies set aside for the sole purpose of buying leave. The current ISF is only a fraction of the actual leave liability. *Our \$18 million leave liability is a direct result of the severe understaffing of the jail (which the county has been aware of for many years) and the difference in the way the BOCC and the Sheriff handle accrued compensatory leave, overtime, and holiday time. The BOCC employees are paid for their holidays and paid out annually for their compensatory time.* By contrast, the Sheriff's employees are not paid for holidays or compensatory time. Rather, the Sheriff's employees simply accrue the hours in their leave banks, *because BOCC does not fund the Sheriff's budget adequately to pay these accrued balances.* While you may have confused the ISF for reserve funds, the abolishment of the ISF and the resulting available monies had already been factored into negotiations of the committee. It is one of the reasons I have been able to reduce my initial request to a \$7.6 million dollar increase. While the confusion between county reserve funds and the ISF was clarified by you, it doesn't put us one dollar closer to fixing the issues at the jail which are identified in the JCI study in 2011 and in the current DOJ findings. It also does not address the compensation disparities between BOCC and ECSO.

I am also hoping that it was either a matter of confusion or imprecise language when you stated in your letter, "Finally, I respect your opinion, and if you believe the management of the jail is beyond your capacity, I am willing to relieve you of your responsibility as agent." I want to make it perfectly clear that the management of the jail is well within my capacity and the capacity of my staff. The management of the jail is not even in question by the reports or by the national experts who wrote them. What is in question is the staffing and funding of the jail. I am not sure if you read the portions of the JCI study or DOJ report that praised the management of

**ESCAMBIA COUNTY SHERIFF'S OFFICE**

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# Sheriff



## DAVID MORGAN

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the jail as well as all the positive changes that have been made during my tenure in office. This can mostly be attributed to the hard working line officers and staff at the jail. It is fully within our capacity to continue these positive changes. I can confidently report that we have either already corrected or are in the process of addressing every single DOJ issue with the exception of funding, a matter over which I have no direct control. What apparently is not within my capacity is to get the BOCC to realize that additional funds are required to properly run the jail in accordance with Constitutional and legal requirements, whether it is run by the BOCC or the ECSO.

If the Jail transfers from the Sheriff to the BOCC, you will face a myriad of issues. The following are, in my view, among the most significant.

Splitting the Jail from the control of the Sheriff is, in essence, "*de-consolidation*." If one is to believe that consolidation saves taxpayers money by reducing duplication of services, then it stands to reason that de-consolidating the jail by separating it from the Sheriff's control *will result in duplication of services*. I am attaching a document that outlines the potential additional costs if the jail returns to the county under either the BOCC HR Rules or the Road Camp Collective Bargaining Agreement between the BOCC and the PBA. This attachment is a summary of what my representative discussed with you yesterday.

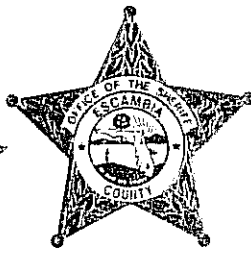
You may have been told that the costs in this attachment for assuming responsibility of the jail can be lowered or even eliminated by simple changes to your Human Resources ("HR") Rules. Indeed, your budget personnel have expressed this view to my representatives. I cannot state strongly enough that we do not share that opinion. If the prospective BOCC Jail employees are covered by your HR Rules as classified employees, we don't believe that the BOCC would be legally successful in creating a second class employee, through HR rule changes, not entitled to the same benefits as the rest of your employees. We have recent precedents of employees who have transferred back and forth between the BOCC and the ECSO who were only allowed to transfer their maximum caps of Annual and Sick Leave. They were NOT permitted to transfer accrued holiday or compensatory leave.

We are not even of the opinion you could legitimately place the Jail staff under your HR Rules as classified employees. We believe that if you accepted the Jail employees, they would automatically be covered by your Road Camp Collective Bargaining Agreement. Attached to this letter is the PERC Certification between PBA and the BOCC. Included in the agreement is "All classified civil service employees within the appointing authority of the Escambia County Board of County Commissioners with the job classifications of: correctional corporal, correctional officer trainee, correctional officer, road correctional officer, and medical correctional officer." There is a separate PERC Certification for Correction Sergeants. In our opinion, the majority of our Jail Staff, once transferred as employees, would immediately be covered by your existing CBA, thus affording them all of the benefits outlined in the attachment.

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Sheriff



**DAVID MORGAN**

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We have researched the topic thoroughly to form these opinions, but even if you disagree and attempt to *create a second-class employee*, one cannot dispute that transferring these employees to the BOCC will be a change in the terms or conditions of employment. As a result, there will most assuredly be negotiations and potential unfair labor practice claims, arbitrations, and impasses. This matter is far more complex than a simple change in HR Rules as may have been presented to you.

*Transfer of the Jail to the BOCC is not "cost neutral."* In fact, our projections are that it will prove very costly, even before the cost of the DOJ issues is addressed. An impartial and objective review of our projections will show that transfer of the Jail from the Sheriff to the BOCC will only come at a substantial one-time cost in excess of **\$3 million** and a recurring budget increase of **over \$5 million**. ***These costs are all IN ADDITION to the funds necessary to fix the issues identified by the Department of Justice.*** The decision on placement of the jail should be a 'no brainer.' It should remain with the Escambia County Sheriff's Office with adequate funding, and an annual MOU with the county. If you get *accurate information* on the various options I believe you will come to this understanding as the best and most cost- efficient means.

Moving forward, I will require a BOCC commitment that, regardless of the source of funds, the BOCC will negotiate in good faith to provide the additional funds needed to address adequately the DOJ findings. We need no more sideshows about whether the Jail is now adequately managed, whether the BOCC can more effectively manage the Jail, or whether the Jail should be privatized. The DOJ specifically stated that additional detention staff and additional mental health staff **ARE NEEDED**. Regardless of who manages the Jail, additional funds will be needed – the additional staff needed cannot be hired without these funds. The issue is finding a source for the needed funding, and not anything else.

My personnel will be actively engaging and answering questions throughout this process.

Sincerely,

A handwritten signature in black ink, appearing to read "David Morgan".

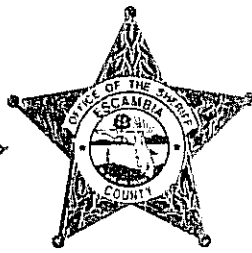
David Morgan, Sheriff  
Escambia County, FL

CC's: As with the past correspondence

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Sheriff



**DAVID MORGAN**

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Commissioner Gene Valentino, Dist 2  
Commissioner Wilson Robertson, Dist 1  
Commissioner Lumon May, Dist 3  
Commissioner Steven Barry, Dist 5  
Interim County Administrator George Touart  
DOJ, David Deutsch  
Ms. Alison Rogers, Esq.

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STATE OF FLORIDA

PUBLIC EMPLOYEES RELATIONS COMMISSION

FLORIDA POLICE BENEVOLENT  
ASSOCIATION, INC.,

Petitioner,

v.

ESCAMBIA COUNTY BOARD OF  
COUNTY COMMISSIONERS,

Respondent.

Case No. RC-98-074

VERIFICATION OF ELECTION  
RESULTS AND CERTIFICATION  
OF EXCLUSIVE COLLECTIVE  
BARGAINING REPRESENTATIVE

Gene "Hal" Johnson, Tallahassee, attorney for petitioner.

Michael Mattimore, Tallahassee, attorney for respondent.

A secret ballot election was conducted February 23-24, 1999, in the following unit:

INCLUDED: All classified civil service employees within the appointing authority of the Escambia County Board of County Commissioners with the job classifications of: correctional corporal, correctional officer trainee, correctional officer, road correctional officer, and medical correctional officer.

EXCLUDED: All other employee classifications within the appointing authority of the Escambia County Board of County Commissioners.

The election results are as follows:

1.	Approximate number of eligible voters	45
2.	Void ballots	0
3.	Votes cast for Petitioner	36
4.	Votes cast against participating organization	6
5.	Valid votes counted	42
6.	Challenged ballots	0
7.	Valid votes counted plus challenged ballots	42
8.	Challenges are not sufficient to affect the results of the election.	

1247

The Commission VERIFIES the results of the election conducted February 23-24, 1999. Petitioner (OR-86-153) received a majority of the valid votes plus challenged ballots.

Pursuant to Section 447.307(3)(b), Florida Statutes, the Commission CERTIFIES the Petitioner as the exclusive bargaining representative for employees in the unit described above. Certification number 1247 is issued to the Petitioner.

This order may be appealed to the appropriate district court of appeal. A notice of appeal must be received by the Commission and the district court of appeal within thirty days from the date of this order. Except in cases of indigency, the court will require a filing fee and the Commission will require payment for preparing the record of appeal. Further explanation of the right to appeal is provided in Sections 120.68 and 447.504, Florida Statutes, and the Florida Rules of Appellate Procedure.

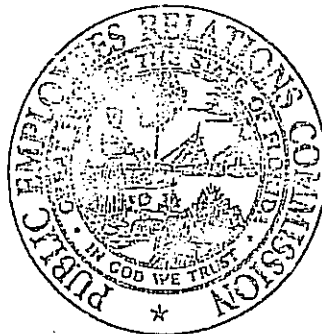
Alternatively, a motion for reconsideration may be filed. The motion must be received by the Commission within fifteen days from the date of this order. The motion shall state the particular points of fact or law allegedly overlooked or misapprehended by the Commission, and shall not reargue the merits of the order. For further explanation, refer to Florida Administrative Code Rule 38D-15.005.

It is so ordered.  
GERTZ and JACKSON, Commissioners, concur.

I HEREBY CERTIFY that this document was filed and a copy served on each party on March 12, 1999.

BY: Darlene Allgood  
Chief Deputy Clerk

/las



STATE OF FLORIDA

PUBLIC EMPLOYEES RELATIONS COMMISSION

FLORIDA POLICE BENEVOLENT  
ASSOCIATION, INC.,

Petitioner,

v.

ESCAMBIA COUNTY BOARD OF  
COUNTY COMMISSIONERS,

Respondent.

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VERIFICATION OF ELECTION  
RESULTS AND CERTIFICATION  
OF EXCLUSIVE COLLECTIVE  
BARGAINING REPRESENTATIVE

Gene "Hal" Johnson, Tallahassee, attorney for petitioner.

Michael Mattimore, Tallahassee, attorney for respondent.

A secret ballot election was conducted February 23-24, 1999, in the following unit:

INCLUDED: All classified civil service employees within the appointing authority of the Escambia County Board of County Commissioners with the job classification of: correction sergeant.

EXCLUDED: All other employee classifications within the appointing authority of the Escambia County Board of County Commissioners.

The election results are as follows:

- |    |  |          |
|----|--|----------|
| 1. | Approximate number of eligible voters                                | <u>6</u> |
| 2. | Void ballots   | <u>0</u> |
| 3. | Votes cast for Petitioner  | <u>4</u> |
| 4. | Votes cast against participating organization                        | <u>1</u> |
| 5. | Valid votes counted  | <u>5</u> |
| 6. | Challenged ballots   | <u>0</u> |
| 7. | Valid votes counted plus challenged ballots                          | <u>5</u> |
| 8. | Challenges are not sufficient to affect the results of the election. |          |

1248

The Commission VERIFIES the results of the election conducted February 23-24, 1999. Petitioner (OR-86-153) received a majority of the valid votes plus challenged ballots.

Pursuant to Section 447.307(3)(b), Florida Statutes, the Commission CERTIFIES the Petitioner as the exclusive bargaining representative for employees in the unit described above. Certification number 1248 is issued to the Petitioner.

This order may be appealed to the appropriate district court of appeal. A notice of appeal must be received by the Commission and the district court of appeal within thirty days from the date of this order. Except in cases of indigency, the court will require a filing fee and the Commission will require payment for preparing the record of appeal. Further explanation of the right to appeal is provided in Sections 120.68 and 447.504, Florida Statutes, and the Florida Rules of Appellate Procedure.

Alternatively, a motion for reconsideration may be filed. The motion must be received by the Commission within fifteen days from the date of this order. The motion shall state the particular points of fact or law allegedly overlooked or misapprehended by the Commission, and shall not reargue the merits of the order. For further explanation, refer to Florida Administrative Code Rule 38D-15.005.

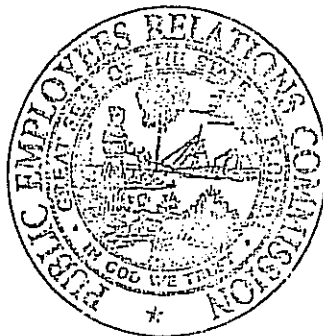
It is so ordered.

GERTZ and JACKSON, Commissioners, concur.

I HEREBY CERTIFY that this document was filed and a copy served on each party on March 12, 1999.

BY: Darlene Allegood  
Chief Deputy Clerk

/las





## PROJECTED COSTS OF TRANSFER OF JAIL TO BOCC

It has become readily apparent that the reversion of the Jail back to the County Commission will be costly and filled with many unknowns. The following are our best projections given the time constraints and the information that is readily available. Something as simple as what days holidays fall on will impact the exact dollar amounts that paid holidays would cost. In addition, there are areas that would require examination of extensive public records and quotes from outside vendors and are listed as only as areas of concern.

**ONE TIME COSTS:** The following items would be one-time costs. Even if the BOCC is able to negotiate transfer of this leave liability over to the BOCC, it will transfer as a future financial liability on the BOCC books.

Purchase of all Comp and Holiday for Correctional Personnel per BCC Rules	\$2.75 million
Buying A/L down to 400 Cap	\$750,000
<b>TOTAL ONE-TIME COSTS:</b>	<b>\$3.5 million</b>

**RECURRING (ANNUAL BUDGET) COSTS:** The following items would be annual recurring costs if jail employees are covered by the BOCC HR Rules or the Road Camp CBA:

Paid Holidays for Correctional Personnel (Assuming 2x for Holidays)	\$1.84 Million
Paid Overtime for Correctional Personnel	\$1.7 Million
DBM Parity for Correctional Personnel	\$244,428
Increase in Workers Comp / Liability Insurance (We are currently at 5%, County 6% plus risk multiplier)	\$400,000
Paid Shift Differential for Corrections Personnel	\$400,000
<b>TOTAL ADDITIONAL ANNUAL RECURRING COSTS:</b>	<b>\$4.6 Million</b>

**AREAS OF CONCERN / ADDITIONAL COSTS:** The following items are areas of concern where additional costs are anticipated, but the dollar amount of the anticipated cost cannot be quantified within the constraints of time and/or without additional research and data:

1. DE-CONSOLIDATION COSTS - For example, we have one polygraphist position at the Sheriff's office. ESCO could not transfer that position. A new polygraphist for the county would have to be created or the services would

have to be contracted out. There are many such positions that would have to be duplicated like this. If there are even 20 such positions, the cost would be estimated at \$1 Million. Consolidation of the Sheriff with the Jail results in economies of scale and cost savings in terms of personnel, operating, and capital costs.

2. SOFTWARE. There are many exclusive software systems that would have to be duplicated. The County would have to purchase all the software yet the ECSO would also need to retain the software as it is used for Detention and Law Enforcement. There are many other software suites the ECSO has running systems at the jail the county does not have, such as Smart COP, Papervision, Power DMS, etc. We estimate several hundred thousand dollars in duplicated software.

**TOTAL ADDITIONAL COSTS:                      Unknown**