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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Corrections, Law Enforcement and Safety  
Employees of Ohio, Local No. 740,  
Employee Organization,  
and  
Warren County Sheriff,  
Employer.

CASE NUMBER: 84-RC-05-0924

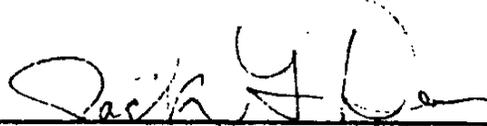
CORRECTION

Before Chairman Day, Vice-Chairman Sheehan and Board Member Fix, July 10, 1985.

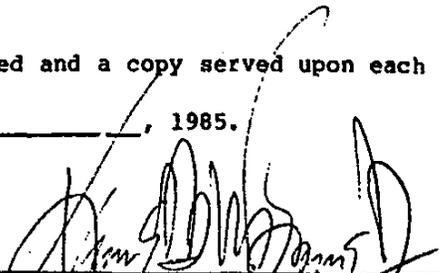
Sua Sponte the opinion accompanying and incorporated in the order issued in this case on May 1, 1985, is amended to correct an error in the opinion.

That correction can be effected by inserting a period after "unit" in the second sentence of the fourth paragraph of the opinion and striking the remainder of the original sentence. Footnote 5 is also stricken.

It is so directed.

  
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JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 11<sup>th</sup> day of July, 1985.

  
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KENNETH W. BARRETT, EXECUTIVE DIRECTOR

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Corrections, Law Enforcement and  
Safety Employees of Ohio, Local  
No. 740,

Employee Organization,

Case No. 84-RC-05-0924

and

DIRECTION OF ELECTION

Warren County Sheriff,

Employer.

Before Chairman Day, Vice Chairman Sheehan and Board Member Fix; April 24,  
1985.

The employee organization's Motion For Oral Argument is denied.

The consent election agreement executed by the parties violates Ohio Revised Code Section 4117.06(D)(3) because the proposed unit combines with other employees those who are "members of a police department" (deputy sheriffs appointed pursuant to Ohio Revised Code Section 311.04). See Ohio Revised Code Section 4117.01(M). The interplay of Ohio Revised Code Sections 4117.06(D)(3) and 4117.01(M) requires that the Board deny the consent election agreement.

Because the parties have indicated their mutual desire to proceed with an election, the Board directs that election be held in these appropriate units (see attached Opinion, incorporated by reference):

Unit 1

Included:

All full-time deputized employees, including: deputized dispatchers; deputized court officers; deputy road patrol; deputized transportation officers; deputized complaint takers; deputized correction officers;<sup>1</sup> deputized detectives; and deputized patrol corporal.

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<sup>1</sup>By deputizing correction officers they may be properly classified as within O.R.C. 4117.01(M).

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**Excluded:**

Non-deputized dispatchers, non-deputized control officers, non-deputized complaint taker, non-deputized correction officer/cook, non-deputized custodial worker; all other personnel.

**Unit 2**

**Included:**

All non-deputized employees, including non-deputized dispatcher, non-deputized control officer, non-deputized complaint taker, non-deputized correction officer/cook,<sup>2</sup> and non-deputized custodial worker

**Excluded:**

All deputized employees; all other employees.

While there may be concern about potential fragmentation and the number of collective bargaining agreements that may result from this unit structure, the prohibitions of the Act cannot be ignored. Moreover, Ohio Revised Section 4117.06(D)(6) mitigates the problems of fragmentation by expressly permitting multi-unit bargaining.

The election for these units shall be held at the date, times, and places to be determined by the administrator of elections in consultation with the parties. No later than May 1, 1985, the employer shall serve on the employee organization and file with the Board an alphabetized election eligibility list setting forth the names and addresses of all employees eligible in each unit to vote as of the pay period ending just prior to April 24, 1985.

It is so directed.

DAY, Chairman; SHEEHAN, Vice Chairman; and FIX, Board Member, concur.

  
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JACK G. DAY, CHAIRMAN

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<sup>2</sup>Correction officers employed by a sheriff's department are not "correction officers at penal or mental institutions" subject to the exclusive unit restrictions of Ohio Revised Code Section 4117.06(D)(2). Non-deputized correction officers and non-deputized dispatchers are properly included in one unit because both are prohibited from striking. See Ohio Revised Code Section 4117.14(D)(1). Other non-deputized employees who have the right to strike are included in the same unit under the principle articulated in City of Reading and the Fraternal Order of Police, Ohio Labor Council, Inc., (1984) Case No. 84-VR-04-0161 and 84-VR-04-0162.

I hereby certify that this document was filed and a copy served upon each party on this 1<sup>st</sup> day of May, 1985.

By P. Kenneth W. Barrett  
KENNETH W. BARRETT  
EXECUTIVE DIRECTOR

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Corrections, Law Enforcement and  
Safety Employees of Ohio, Local  
No. 740,

Employee Organization,

CASE NO. 84-RC-05-0924

and

Warren County Sheriff,

Employer.

OPINION

Day, Chairman:

The parties in this case have agreed to a consent election. Their agreement encompasses an impermissible joinder of classifications in one bargaining unit.<sup>1</sup> Thus, both have indicated a clear desire for a representation election in a unit to which both agree but which the statute prohibits the Board to order.

The Board has recast the agreed unit into two. An election has been ordered in the modified units. The rationale supporting the decision to redesign the units in a fashion to conform to law is sufficiently intricate and unique to warrant explanation.

To demonstrate the operative principle, consider two provisions of the statute, O.R.C. 4117.01(M) and O.R.C. 4117.06(D)(3). O.R.C. 4117.01(M) defines a "member of a police department" and O.R.C. 4117.06(D)(3) forbids the inclusion of "members of a police or fire department or members of the state highway patrol in a unit with other classifications of public employees of the department."<sup>2</sup> It is a necessary conclusion from these provisions that even

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<sup>1</sup>Members of a police department as defined in the Act [O.R.C. 4117.01(M)] and other public employees are joined in the unit.

<sup>2</sup>There are other prohibitions, see p.e. R.C. 4117.06(D)(1), (2), (4), (5) and (6).