

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Fraternal Order of Police, Ohio Labor Council, Inc.,

Employee Organization,

v.

Franklin County Board of Commissioners,

Employer.

Case No. 2010-MED-08-0953

**ORDER  
(OPINION ATTACHED)**

Before Chair Zimpher, Vice Chair Spada, and Board Member Brundige:  
December 13, 2012.

On August 11, 2010, the Franklin County Board of Commissioners ("Employer") filed a Notice to Negotiate (Case No. 2010-MED-08-0953). On or about November 16, 2010, the Fraternal Order of Police, Ohio Labor Council, Inc. ("Employee Organization" or "Union") filed a Request for Fact-Finding. On November 29, 2010, the State Employment Relations Board ("the Board") appointed Frank Keenan as the fact finder in this matter. On December 20, 2010, the Employer filed a Motion Requesting Clarification of Application of Ohio Revised Code § 4117.14(D)(1) seeking clarification as to whether the bargaining unit of Court Security Officers is subject to the final offer settlement procedures set forth in this statute as "members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board." On January 3, 2011, the Employee Organization filed a Response to Employer's Motion Requesting Clarification of Application of Ohio Revised Code § 4117.14(D)(1).

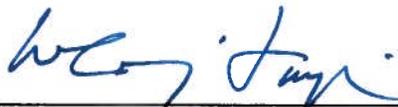
On October 28, 2011, Fact Finder Frank Keenan conducted a hearing in this matter. On June 29, 2012, Mr. Keenan issued his report and recommendations. On July 6, 2012, the Employee Organization filed a Certification of Fact-Finding Vote rejecting the report and recommendations. On July 6, 2012, the Employer filed its Certification of Fact Finding indicating that the Employer has taken no action with respect to the report and recommendations. On July 18, 2012, the Employee Organization filed a Motion Requesting a Panel of Conciliators. On July 19, 2012, the Employer filed a letter requesting that the Board defer the issuance of a panel of conciliators in this matter until it has ruled on the Employer's December 20, 2010 Motion Requesting Clarification of Application of Ohio Revised Code § 4117.14(D)(1).

On August 16, 2012, this matter was directed to an inquiry to gather information regarding whether the employees in the Court Security Officers bargaining unit are "members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board" under O.R.C. § 4117.14(D)(1). The inquiry was held on September 22, 2012, at which time testimony and documentary evidence was presented.

After reviewing the inquiry memorandum, the parties' pleadings and exhibits, and all other documents in this case, for the reasons set forth in the attached Opinion, incorporated by reference in its entirety, the final offer settlement procedures provided in O.R.C. § 4117.14(D)(1) are not applicable to the Franklin County bargaining unit of Court Security Officers. Accordingly, the Fraternal Order of Police, Ohio Labor Council, Inc.'s Motion Requesting a Panel of Conciliators is denied, and the Court Security Officers bargaining unit must proceed under O.R.C. § 4117.14(D)(2).

It is so ordered.

ZIMPHER, Chair; SPADA, Vice Chair; and BRUNDIGE, Board Member, concur.



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W. CRAIG ZIMPER, CHAIR

#### **TIME AND METHOD TO PERFECT AN APPEAL**

You are hereby notified that an appeal may be perfected, pursuant to Ohio Revised Code Section 4117.13(D) by filing a notice of appeal setting forth the order appealed from and the grounds of appeal with the court of common pleas in the county where the unfair labor practice in question was alleged to have been engaged in, or where the person resides or transacts business, within fifteen days after the mailing of the State Employment Relations Board's order. A copy of the notice of appeal must also be filed with the State Employment Relations Board, at 65 East State Street, 12<sup>th</sup> Floor, Columbus, Ohio 43215-4213, pursuant to Ohio Administrative Code Rule 4117-7-07.

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**PROOF OF SERVICE**

I certify that a copy of this document was served upon each party by certified mail, return receipt requested, and upon each party's representative by ordinary mail, this 14<sup>th</sup> day of December, 2012.



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ELAINE STEVENSON, STAFF ATTORNEY

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Fraternal Order of Police, Ohio Labor Council, Inc.,

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and

Franklin County Board of Commissioners,

Employer.

Case No. 2010-MED-08-0953

**OPINION**

BRUNDIGE, Board Member:

This mediation case comes before the State Employment Relations Board (“the Board” or “SERB”) upon Franklin County Board of Commissioners’ (“Employer”) Motion Requesting Clarification of Application of Ohio Revised Code (“O.R.C.”) § 4117.14(D)(1). The Employer seeks clarification as to whether its employees in the bargaining unit of Court Security Officers are “members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board” and, therefore, subject to the final offer settlement procedures set forth in O.R.C. § 4117.14(D)(1). On January 3, 2011, the Fraternal Order of Police, Ohio Labor Council, Inc., (“Union” or “FOP”) filed a Response to Employer’s Motion Requesting Clarification of Application of O.R.C. § 4117.14(D)(1). Subsequently, the Union filed a Motion Requesting a Panel of Conciliators. For the reasons set forth below, we find that O.R.C. § 4117.14(D)(1) does not apply to the Franklin County Court Security Officers bargaining unit.

**I. PROCEDURAL HISTORY**

The Employer and FOP are parties to a collective bargaining agreement that was effective January 1, 2008 through December 31, 2010. On August 11, 2010, FOP filed

a Notice to Negotiate. On November 16, 2010, FOP filed a Request for Fact-finding, specifically requesting that a fact-finder be appointed no later than November 29, 2010, to allow a conciliator to award retroactivity under O.R.C. § 4117.14(G)(11). On November 29, 2010, the Board appointed Frank Keenan as the fact-finder in this matter.

On December 20, 2010, the Employer filed a Motion Requesting Clarification of Application of O.R.C. § 4117.14(D)(1), seeking clarification as to whether the employees in the Employer's bargaining unit of Court Security Officers are subject to the final offer settlement procedures set forth in this statute as "members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board." FOP filed a response to that motion on January 3, 2011.

On October 28, 2011, Mr. Keenan conducted a fact-finding hearing in this case. He issued his report and recommendations on June 29, 2012. FOP rejected Mr. Keenan's report and the Employer took no action. Both parties filed the appropriate certifications. Subsequently, FOP filed a Motion Requesting a Panel of Conciliators. In response, the Employer filed a letter requesting that the Board defer the issuance of a panel of conciliators pending a ruling on the Employer's December 20, 2010 Motion Requesting Clarification of Application of Ohio Revised Code § 4117.14(D)(1).

On August 16, 2012, the Board directed this matter to an inquiry to gather information regarding whether the employees in the Court Security Officers bargaining unit are "members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board" under O.R.C. § 4117.14(D)(1). The inquiry was held on September 22, 2012, at which time testimony and documentary evidence was presented. Kay E. Cremeans, General Counsel FOP/Ohio Labor Council, Inc., appeared on behalf of the Union and Robert D. Weisman and J. David Campbell, Attorneys at Law, appeared on behalf of the Employer. Assistant Director of Security and Safety John Cray and Security Officer James R. Wamsley, Jr. presented testimony.

## **II. FINDINGS OF FACT**

1. The Franklin County Board of Commissioners is a “public employer” as defined by O.R.C. § 4117.01(B).
2. The Fraternal Order of Police, Ohio Labor Council, Inc. is an “employee organization” as defined by O.R.C. § 4117.01(D), and is the Board-certified exclusive representative of the Employer’s bargaining unit of Court Security Officers. No other job classifications are included in this bargaining unit.
3. The Franklin County Board of Commissioners has established a Security and Safety Division within the County’s Public Facilities Management Agency. The Security and Safety Division maintains a security force that is composed of seven supervisors, seventy-two Court Security Officers, and sixteen Control Room Operators.
4. The primary function of the Court Security Officers is to provide security for employees and the public within the Franklin County Courthouse and surrounding buildings, which include the Common Pleas Court, Juvenile Detention Center, and Job and Family Services/Child Support. Court Security Officers are not required to have an Ohio Peace Officer Training Certificate; however, such certification is preferred.
5. The primary job duties of the Court Security Officers are to screen all persons and packages entering the court building and grounds, confiscate prohibited objects and materials, conduct daily security checks of interior and exterior of building and grounds, including doors, gates, and other access points. Court Security Officers also provide information and assistance to persons entering the courthouse and they explain and enforce Courthouse policies and procedures. Court Security Officers escort individuals to and from restricted and non-restricted areas, as needed. Court Security Officers respond to various types

of alarms and interact with Police Officers, Fire Fighters, and emergency medical personnel during such alarms. Court Security Officers conduct investigations and prepare incident reports on accidents, complaints, vandalism, thefts, and safety issues. Court Security Officers review closed-circuit television tapes and enter security data into designated computer programs.

6. Court Security Officers may attempt to calm an unruly or dangerous individual but they do not have, under any circumstances, the authority to detain an individual pursuant to the Security and Safety Division's "Hands-Off" policy. The Court Security Officers do not carry weapons. Court Security Officers do not have the authority to arrest individuals, execute warrants, transport prisoners, or enforce laws. When a Court Security Officer cannot defuse a dangerous situation, he or she must call the Sheriff's Deputies on duty from the Court Services Unit of the Franklin County Sheriff's Office for assistance.
7. The Franklin County Sheriff's Deputies assigned to the Franklin County Sheriff's Court Services Unit are law enforcement officers who have the authority to arrest individuals, carry weapons, execute warrants, transport prisoners, and enforce Ohio's laws within their jurisdiction. The Franklin County Sheriff's Deputies assigned to the Court Services Unit perform law enforcement duties for the Franklin County Courthouse and surrounding buildings to maintain safety and security. When a judge activates a panic alarm in a particular court room, the Sheriff's Deputies are dispatched to assist in handling the situation. In emergency situations, the Sheriff determines whether to evacuate a building.

### **III. DISCUSSION**

As previously stated, the issue in this case is whether the employees in the Franklin County Court Security Officers bargaining unit are "members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board" and, therefore, subject to the final offer settlement procedures set forth in O.R.C. §

4117.14(D)(1). For the reasons set forth below, we find that O.R.C. § 4117.14(D)(1) does not apply to the Franklin County Court Security Officers bargaining unit.

O.R.C. § 4117.14(D)(1) states as follows:

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Public employees, who are members of a police or fire department, members of the state highway patrol, deputy sheriffs, dispatchers employed by a police, fire or sheriff's department or the state highway patrol or civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel and units, an exclusive nurse's unit, employees of the state school for the deaf or the state school for the blind, employees of any public employee retirement system, corrections officers, guards at penal or mental institutions, special police officers appointed in accordance with sections 5119.14 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, youth leaders employed at juvenile correctional facilities, **or members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board,** shall submit the matter to a final offer settlement procedure pursuant to a board order issued forthwith to the parties to settle by a conciliator selected by the parties. The parties shall request from the board a list of five qualified conciliators and the parties shall select a single conciliator from the list by alternate striking of names. If the parties cannot agree upon a conciliator within five days after the board order, the board shall on the sixth day after its order appoint a conciliator from a list of qualified persons maintained by the board or shall request a list of qualified conciliators from the American arbitration association and appoint therefrom. [Emphasis added.]

Upon review of the relevant clause in O.R.C. § 4117.14(D)(1), we initially note that there is no dispute that the Franklin County Board of Commissioners has established and maintains a security force whose members are employed by that Board. Therefore, the issue before us is a narrow one, specifically, whether the employees in the bargaining unit of Court Security Officers are members of a "law enforcement security force" as contemplated by O.R.C. § 4117.14(D)(1). Since O.R.C. Chapter 4117 does not define the phrase "law enforcement security force," SERB has the statutory duty to interpret this phrase in order to clarify the application of O.R.C. § 4117.14(D)(1) in this case. See *Lorain City School Dist. Bd. of Edn. v. State Emp.*

*Relations Bd.* (1988), 40 Ohio St.3d 257. "A basic rule of statutory construction requires that words in statutes should not be construed to be redundant, nor should any words be ignored." See *Teamsters Local Union No. 348 v. Cuyahoga Falls Clerk of Court*, 2011-Ohio-2416 citing *DABE., Inc. v. Toledo-Lucas Cty. Bd. of Health*, 96 Ohio St.3d 250, 2002-Ohio-4172.

In considering the phrase "law enforcement security force," we find it significant that the legislature did not use the term "security force," but rather "law enforcement security force." That particular designation suggests a higher level of responsibility for members of such a security force as opposed to a security force whose members are restricted to performing security duties. For these reasons, we find that the combination of the term "law enforcement" with the term "security force" indicates that members of this type of security force must perform a combination of law enforcement duties and security officer duties that includes one or more typical law enforcement duties, such as the authority to arrest, carry a weapon, or enforce laws.

In *Fraternal Order of Police, Ohio Labor Council, Inc., and Owens Community College*, 2010-REP-04-0075 (10-12-2011) (*Owens Community College*), SERB had occasion to compare the scope and nature of the types of job duties performed by police officers to those performed by security officers. SERB noted that while both police officers and security officers protect property and the safety of persons within their stated jurisdictions, there are significant differences in the scope and nature of their respective job duties: "Specifically, Police Officers perform law enforcement duties that are not performed by Security Officers. Calls for service that involve criminal activity are assigned to Police Officers, not Security Officers. Police Officers have the power of arrest, which the Security Officers lack. Police Officers carry a firearm, whereas Security Officers do not. Police Officers are required to possess an Ohio Peace Officer Training Certification...." *Id.* at 2.

We find additional guidance regarding the nature of law enforcement duties in O.R.C. § 2901.01(A)(11), which contains an extensive list of what qualifies as a "law enforcement officer." A review of that list and the Ohio Revised Code provisions cited therein reveals that the powers and duties of a law enforcement officer generally consist

of all or some of the following: the authority to arrest individuals, carry a weapon, execute warrants, transport prisoners, and enforce laws.

In the present case, the testimony and evidence presented at inquiry establishes that the Franklin County Court Security Officers have no law enforcement duties; rather their job duties are limited to security duties, such as screening persons and packages, confiscating prohibited objects and materials, and conducting daily security checks of buildings and grounds. The Court Security Officers also provide information and assistance to persons entering the court building, respond to various types of alarms, and assist in building emergencies such as fire, bomb threats, and evacuations. Court Security Officers interact with Sheriff Deputies, Police Officers, Fire Fighters, and Emergency Medical Technicians during alarms and they conduct investigations and prepare incident reports on accidents, vandalism, thefts, and safety issues.

While the Court Security Officers perform security duties, the evidence in the record demonstrates that the Franklin County Sheriff's Deputies assigned to the Sheriff's Court Services Unit perform law enforcement duties for the Franklin County Courthouse. The evidence establishes that the Sheriff's Deputies are law enforcement officers with the authority to arrest an individual, carry a weapon, execute a warrant, and enforce Ohio's laws. In situations where a judge has activated a panic alarm in a particular courtroom, the Sheriff's Deputies, along with Court Security Officers, are dispatched to the scene. In situations where a Court Security Officer cannot defuse a dangerous situation, he or she must let the individual go under the Security and Safety Division's "Hands-Off" policy. Only the Sheriff's Deputies have the authority to detain and/or arrest an individual. Therefore, although the security duties performed by the Franklin County Court Security Officers are an integral part of the Franklin County Courthouse security force, the Court Security Officers are not members of a "law enforcement security force" within the meaning of O.R.C. § 4117.14(D)(1) because they do not perform any law enforcement duties.

The Union argues that SERB should construe the term "law enforcement security force" to include the Franklin County Court Security Officers because the word "security" is included in the phrase "law enforcement security force" and the employees' duties

involve public safety and welfare. The Union further argues that a finding that the Court Security Officers are subject to conciliation under O.R.C. § 4117.14(D)(1) supports the goal set forth in O.R.C. § 4117.22, which provides that O.R.C. Chapter 4117 shall be construed liberally for the purpose of promoting orderly and constructive relationships between public employers and their employees.

Although O.R.C. § 4117.22 provides for liberal construction of O.R.C. Chapter 4117, we decline to construe this provision as a mandate to abandon a basic rule of statutory construction when interpreting other code provisions in O.R.C. Chapter 4117. In order to accept the Union's argument regarding the meaning of the phrase "law enforcement security force" as set forth in O.R.C. § 4117.14(D)(1), we would have to disregard the above discussed rule of statutory construction by ignoring the term "law enforcement." When the legislature amended O.R.C. § 4117.14(D)(1) to include members of a "law enforcement security force" established and maintained exclusively by a board of county commissioners, the legislature did not use the term "security force." Had the legislature intended to include security officers who perform *only* security duties under the final offer settlement provisions of O.R.C. § 4117.14(D)(1), the term "security force" rather than "law enforcement security force" appears to be the most likely term the legislature would have used to achieve that aim.

#### **IV. CONCLUSIONS OF LAW**

1. The Franklin County Board of Commissioners is a "public employer" as defined by O.R.C. § 4117.01(B).
2. The Fraternal Order of Police, Ohio Labor Council, Inc. is an "employee organization" as defined by O.R.C. § 4117.01(D).
3. The employees in the Franklin County bargaining unit of Court Security Officers are not "members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board" and, therefore, they are not subject to the final offer

settlement procedures set forth in O.R.C. § 4117.14(D)(1). As a result, the Court Security Officers bargaining unit must proceed under O.R.C. § 4117.14(D)(2).

#### **V. DETERMINATION**

Based on the foregoing, we find that the employees in the Franklin County bargaining unit of Court Security Officers are not "members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board" and, therefore, they are not subject to the final offer settlement procedures set forth in O.R.C. § 4117.14(D)(1). Accordingly, the Union's Motion Requesting a Panel of Conciliators is denied and the Court Security Officers bargaining unit must proceed under O.R.C. § 4117.14(D)(2).

Zimpher, Chair, and Spada, Vice Chair, concur.