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FACT FINDERS REPORT STATE EMPLOYMENT
RELATIONS BOARD

2002 MAR -6 A 10: 20

IN THE MATTER OF:

**Fraternal Order of Police, Capital City Lodge No. 9
And
The Franklin County Sheriff**

**Case Numbers:
01-MED-04-0348
01-MED-04-0349**

**Before Fact Finder
N. Eugene Brundige**

PRESENTED TO:

**Dale A. Zimmer, Administrator
Bureau of Mediation
State Employment Relations Board
65 East State Street, 12th. Floor
Columbus, Ohio 43215-4213**

And

**Russell E. Carnahan, Attorney and Advocate
For FOP Lodge No. 9
199 South Fifth Street – Suite 304
Columbus, Ohio 43215**

And

**Robert D. Weisman, Attorney and Advocate
For Franklin County
The Huntington Center
41 South High Street
Columbus, Ohio 43215-6106**

N. Eugene Brundige was selected by the parties to serve as Fact Finder in the above referenced cases and duly appointed by the State Employment Relations Board in compliance with Ohio Revised Code Section 4117.14 ©(3) on September 27, 2001.

The parties informed the Fact Finder that time extensions would be filed. Hearing dates of January 16 and January 23, 2002 were subsequently established and utilized. The parties timely filed the required pre-hearing briefs and the first hearing date was used to explore areas where additional mediation might prove helpful.

In their pre-hearing filings one or more of the parties identified the following issues, and/or contract provisions as being unresolved:

Health Insurance

Definitions

Duration

Pay Rates

- (a) Pay increase
- (b) Shift Differential
- (c) Service Credit
- (d) Addition of a "step E"

After discussion the parties agreed upon the terms of the Health Insurance provision and any open issues in the Definitions section. They agreed to "T. A." these sections. The Fact Finder agreed to incorporate

them, and the other Articles that have been tentatively agreed to, into this report.

On January 23 the parties proceeded to hearing on the remaining issues.

The remaining issues at impasse include:

1. Contract Duration
2. Compensation
 - a. Pay increase
 - b. Shift Differential
 - c. Service Credit
 - d. Addition of an "E" Step

This fact finding deals with two separate units. The first is composed of full-time sworn uniformed deputies below the rank of corporal. The second includes full time sworn uniformed deputies of the FCSO of the rank of corporal, sergeant, lieutenant and captain. All issues presented by the parties pertained to both units.

The Fraternal Order of Police was represented by Russ Carnahan, Spokesperson; Dennis Palmentera, Bargaining Team Chairperson; Zachary Scott, Wage Team Member; Ed Schillig, Wage Team Member; Tony Graves, Wage Team Member; Steve Hathaway, Wage Team Member; Jack Burns, Wage Team Member; Stephanie Klumpp, Wage Team Member.

The County was represented by Robert Weisman, Spokesperson; Patrick Garrity, Director of Management Services, Sheriff's Office; Deborah C. May, County Director of Office of Budget and Management; Mark J. Barrett, Chief Deputy (Corrections) F.C.S.O.; Gilbert H. Jones, Chief Deputy (Patrol) F.C.S.O.; and Michael Short, Attorney.

The respective parties presented their positions professionally, competently and with clarity

I. CONTRACT DURATION:

Management proposes a one year agreement for wages only. The rest of the agreement would remain in effect for three years. While they are not interested in immediately bargaining new wages, the county is concerned about finances. They believe a one year agreement on salary would allow the financial situation to solidify and they would have more clarity when considering salaries during a wage re-opener.

FOP argues that there is no need for a re-opener on wages. They support a full three year agreement.

Discussion:

ORC 4117 wisely establishes a maximum contract period of three years. This is to provide a period of labor-management peace and respite from the management process.

While there is some financial instability at the present time there is adequate data to negotiate a three year agreement.

This fact finder finds no compelling evidence which would require the extraordinary step of re-opening on salary.

Finding and Recommendation:

This agreement shall be in effect for three years.

Section 26.1 Duration. , first sentence shall be amended to read:

“The provisions of this Agreement shall be for a term of three (3) years and are effective at 12:01 A.M. October 28, 2001 and continue in full force and effect through midnight October 27, 2004. “

II. COMPENSATION:

a. Pay Increases:

As noted above, the County proposes a one year pay increase of 1.5% with a wage re-opener in years two and three.

To support their position the County points to the fact that Franklin County is in the midst of a recession. The County Budget Director predicts a 1.6% decrease in sales-tax receipts for 2001 as compared to 2000 receipts and will likely suffer an additional 2% decrease in 2002. Overall the County projects that it will have \$11.1 million less in revenue as compared to 2001 when one includes sales-tax revenue, state support and income from investments on county tax receipts.

The County also is concerned about state support due to the financial condition of the State Budget and the potential impact of school funding litigation.

Commendably, the County asserts its primary goals to be maintenance of the County workforce, without layoffs, and of the current level of services.

The FOP proposes increases of 4% for the first year, 4.5% the second and 5% for the third year of the agreement. These increases would permit FCSO bargaining unit employees to keep up with increases granted to other Franklin County law enforcement agencies.

The FOP acknowledges a "mild" recession but argues that all signs point to a recovery which is either already underway or will soon be.

The employee organization notes that the County is not advancing an "inability to pay" argument but rather is advancing a conservative, financially prudent position.

Discussion:

It is not surprising that the parties view the populations to which they should be compared, quite differently.

The Employee Organization argues that persons employed in law enforcement compete with law enforcement agencies in the same geographic area. Consequently Franklin County is the appropriate universe to look to for comparable data.

The County points to other urban Sheriff's departments throughout the state. These views of the comparables are not unique and both have some validity.

What makes Franklin County different is the fact that the persons working in the jails in Franklin County are sworn deputies wherein most other jurisdictions utilize a Corrections Officer Classification.

The employer argues that since most deputies work their first seven or eight years in the jail, they should be compared to corrections officers, not deputies.

The FOP argues that the County benefits from having sworn officers in the jail in that those deputies assigned to the jails can be used in law enforcement duties unlike correction officers.

The truth likely lies somewhere in the middle. Franklin County deputies assigned to the jails clearly have more value to the County than do their correction officer counterparts in other jurisdictions. The County makes use of their law enforcement powers and this justifies compensation beyond correction officers. The current pay system seems to support this premise. Beginning deputies make approximately \$4,000 more per year than do their correction officer counterparts in other large counties.¹ This differential increases as years of service accumulate.

This argument does not apply after a deputy leaves the jail and functions on patrol or other duty within the structure of the Sheriff's office. (This will be discussed in greater detail later in this report.)

This Fact Finder is convinced that adequate evidence has been presented to determine that the County is involved in an economic downturn which will limit its ability to provide significant increases in the first part of this contract.

It is noted that AFSCME settled for a 2% first year increase and County Administrators were awarded a 2% raise.

Evidence is also adequate to indicate that the County should recover from this downturn and will be able to provide a more traditional salary adjustment in the second and third years of the agreement.

The Fact Finder is aware of the argument raised by the Employee Organization that the County has not raised an "ability to pay" argument. While there is some validity to it, the County does have a realistic reason to be concerned about the economic situation facing them and the State and Country as a whole.

In the opinion of this Fact Finder, Franklin County is as well managed as any entity of government with which he is acquainted. Its somewhat conservative economic forecasts have served the citizens well.

Likewise, while due deference should be given to the immediate economic situation, the County must , (and I believe, desires to) stay competitive in providing adequate salary adjustments to the employees of the Sheriff's department who provide vital services the residents of the county

¹ Pre-hearing brief of the Franklin County Sheriff's Office, page 8,

Finding and Recommendation:

In the first year of the Agreement (2001-2002)	2.0%
In the second year of the Agreement (2002- 2003)	3.5%
In the third year of the Agreement (2003-2004)	4.0%

b) Shift Differential:

The FOP proposes an increase in the shift differential from its current \$.70 per hour to \$1.00 per hour. Comparables offered were Columbus \$.85 per hour, Westerville \$.90 per hour and Worthington \$1.00 per hour.

The County proposes status quo noting that only Mahoning County Sheriff offers a shift differential. There \$.30 is offered for the afternoon shift and \$.40 for the evening shift.

Discussion:

The current \$.70 per hour is competitive among all law enforcement units and above the norm for urban Sheriff's departments.

Finding and Recommendation:

The current shift differential be maintained.

(In the County's pre-hearing submission "Rank Differential" was discussed. The FOP offered no proposed change to Rank Differential.

Thus the Fact Finder recommends the current language be maintained on Rank Differential.)

c). Service Credit:

The current service credit is \$375.00 for five years continuous service and \$75.00 shall be paid to members with six to ten years of continuous service for each additional year of service beyond the initial five years. In addition \$110.00 shall be paid to members with eleven or more years for each additional year of service beyond the tenth year.

The County proposes to change the basis of Service Credit payments to provide a comparable amount added to the member's hourly wage rate instead of the current lump sum payment at the end of the year.

The FOP prefers the current Service Credit system.

Discussion:

The only advantage to the County's proposal might be some convenience of administration. The FOP seems to prefer the annual "bonus" type payment.

Finding and Recommendation:

There is no compelling reason for a Fact Finder to disturb a system that is working. The recommendation is to maintain the status quo.

d.) "E Step"

The FOP argues that if there is any merit to the County's argument that Deputies are more like Correction Officers, that logic breaks down after eight years of service. By this time in the career of a Franklin County Deputy persons have bid out of the jail and are serving in traditional deputy roles.

The Employee Organization notes that a deputy at the ten year level makes nearly \$9,000 less than their counterpart in the Columbus Police Department.

The County notes that they have no retention problem among deputies at the 10 year level and Sheriff's departments in urban counties are more appropriate comparables. As such there is no need to add any step at this level.

Discussion:

Clearly comparison with other urban Sheriff's Departments is appropriate however the fact that the available talent pool from which Deputies are selected, is the same one that supplies other Police agencies in the same geographic area must also be considered.

The fact that deputies do not leave after several years of service may be due to the reality that other police departments make new hires start at the bottom of the pay scale. While retention is one consideration, it is not the only one. Morale must also be considered.

Finding and Recommendation:

A pay adjustment is deserved at the ten year level due to the changing nature of the work of a deputy following the period when deputies move out of the jail.

Therefore the Fact Finder recommends the addition of a new section 14.6 which would read as follows:

All non-supervisory bargaining unit members with ten (10) or more years of continuous service and all supervisory bargaining unit members shall receive a training and experience retention credit that will be reflected in their hourly rate of pay. This credit, which shall be equal to four percent (4%) of D step of the pay range where the member is placed (as established in Section 14.1 of this Agreement). This credit shall be in consideration of the effected member's training and experience.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated on SERB Rule 4117-9-05(J) the Fact Finder recommends the provisions as enumerate herein.

In addition, all agreements previously reached by and between the parties and tentative agreed to, along with any sections of the current agreement not negotiate and/or changed, are hereby incorporated by reference into this Fact Finding Report, and should be included in the resulting Collective Bargaining Agreement.

Respectfully submitted and issued at London, Ohio this 5th. Day of March,
2002.


N. Eugene Brundige
N. Eugene Brundige,
Fact Finder

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **Fact Finders Report** was served by hand delivery upon Robert D. Weisman, Schottenstein, Zox and Dunn, 41 South High Street, Suite 2600, Columbus, Ohio 43215, Attorney for the Employer, and Russell E. Carnahan, Attorney for FOP Lodge No. 9, 199 South Fifth Street – Suite 304 Columbus, Ohio 43215, and by regular U.S. Mail upon Dale A. Zimmer, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th. Floor, Columbus, Ohio 43215-4213, this 5th. Day of March, 2002.


N. Eugene Brundige
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