

**IN THE MATTER  
OF  
INTEREST ARBITRATION  
FACT FINDING  
AWARD**

<b>BETWEEN</b>	<b>CASE NO: SERB 02 MED 09 0836</b>
<b>FRATERNAL ORDER OF POLICE,</b>	<b>0837</b>
<b>OHIO LABOR COUNCIL, INC.</b>	<b>0838</b>
<b>And the</b>	<b>FACT FINDER: JOHN S. WEISHEIT</b>
<b>PERRY COUNTY SHERIFF'S</b>	<b>HEARING DATE(S): Jan. 27, 2003</b>
<b>OFFICE</b>	<b>AWARD ISSUED: Feb. 14, 2003</b>

**REPRESENTATION  
by**

**Employer Representatives**

Darrel Hughes Esq. Att. For the Employer  
W. R. Barker, Sheriff  
Charles Booher, SBS  
Thad Cogenlin, Co. Commissioner

**Union Representatives**

Frank Arnold, FOP, LOC, Staff Rep.  
Ed Miller, Sgt.  
Doug Gill, Deputy

**AUTHORITY**

This matter was brought before Fact Finder John S. Weisheit, in keeping with applicable provisions of ORC 4117 and related rules and regulations of the Ohio State Employment Relations Board. The matters before the Fact Finder are for consideration and recommendation based on merit and fact according to the provisions of ORC 4117, particularly those applicable to safety forces.

## **BACKGROUND**

The **Perry County Sheriff's Office**, hereinafter called the "**Employer**" and/or the "**Sheriff**", recognizes the **Fraternal Order of Police, OLC, Inc.**, hereinafter called the "**Union**" and/or "**FOP**", for all full-time **Sergeants, Lieutenants, Deputy Road Patrol, Deputy Dispatcher and Deputy Correction Officers** employed by the Employer. The above named parties engaged in bargaining for a successor Agreement to the one expiring **December 31, 2002**. In the course of good faith bargaining, most issues were resolved in tentative agreement. Three (3) issues remained unresolved and this Fact Finder was called upon as provided in ORC 4117. The Fact Finding period has been extended by the parties until **February 14, 2003**.

The Fact Finding Hearing was convened on **January 27, 2003, at the Perry County Administration Building, New Lexington, Ohio**. The parties timely submitted pre-hearing briefs and presented additional testimony and documentation at the Hearing. The Hearing was adjourned after the parties had indicated they had nothing additional to submit on behalf of their bargaining position and acknowledged that they had sufficient opportunity to present such facts and documentation to support their respective positions.

In compliance with ORC 4117.14(C)(4)(e), and related rules and regulations of the State Employment Relations Board, the following criteria was given consideration in making this Award:

1. Past collectively bargained agreements between the parties;
2. Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. The interest and welfare of the public, the ability of the public Employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the public Employer;
5. Any stipulations of the parties;
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in public service or in private employment.

This Report is based on facts provided in document and testimony introduced at the Hearing and in keeping with statutory consideration cited above.

## ISSUES OF TENTATIVE AGREEMENT

The following Articles were resolved in negotiations and tentatively agreed to:

<b>Article</b>	<b>Title</b>	<b>Article</b>	<b>Title</b>
1	Preamble	16	Severability
2	Recognition	17	Job Related Training
3	Dues Deductions & Lodge Security	18	Equipment, Training & Working Conditions
4	Management Rights	19	Hours of Work
5	Non-Discrimination	20*	Wages (Appendix A)
6	Release Time FOP/OLC	21	Shift Differential
7	No Strike No Lockout	22	Vacations
8	Grievance Procedure	23	Holidays
9	Investigation and Discipline	24	Clothing Allowance
10	Layoff and Recall	25*	Insurance
11	Departmental Rules and Directives	26	Leaves
12	Seniority	27	Work out of Rank
13	Personnel Files	28	Copies of Agreements
14	Labor/Management Meetings	29*	Duration of Agreement
15	Waiver in Case of Emergency	App A	Wage Schedules

**\* TA'd except for provisions cited in the following section.**

### ISSUES AT IMPASSE

The following Articles were at impasse at time of the Fact Finding Hearing. Such impasse is limited to the express provisions noted with all other terms of the Article tentatively agreed to.

Article	Issue(s) at Impasse
20	20.1(A) Wages/Appendix A
25	25.1 Insurance
29	Duration ( Ending Date)

### SUMMARY PARTY POSITION

#### ISSUES AT IMPASSE

The following Articles remain, in part and/or whole, unresolved at Fact Finding. Only those issues as specifically reflected below remain unresolved.

Employer	Issue	Union
Eff. 1/1/03 - Status Quo Wage Schedule Reopen wage negotiations only for years 2004 & 2005.	<b>Section 20.1(A) Wages</b>	Inc. wage schedule 8% 1/1/03; 6%-1/1/04; 6%-1/1/05
Proposes permissive language to change insurance coverage consistent with coverage provided non-bargaining unit employees who are governed by a labor agreement by a Board independent of the County Commissioners.  Proposes bargaining unit employees pay 10% of the monthly insurance premiums for single, double, and family coverage.	<b>Section 25.1 Hospitalization Insurance</b>	Propose status quo of language.  Propose bargaining unit employees pay \$20 per month for single coverage and \$50 per month for family coverage, with deductibles not to exceed \$200.
Propose a three-year Agreement.	<b>Section 29.1 Duration of Agreement</b>	Propose a three- year agreement.

## **DISCUSSION & DETERMINATION**

### **General Financial Review**

The economic issues at impasse are first considered collectively while the determinations are entered issue by issue. Economic factors were reviewed in context of total costs of the issues at impasse. The Fact Finder has used generally accepted standards applied in making a finding and recommendation in interest rights matters in this instant situation.

In any service oriented operation, wages and employee economic benefits reflect the majority of the operational cost. The insurance benefit reductions coupled with the proposed “wage freeze” are not new to the Sheriff’s operations. Significant service reductions have occurred in the prior 2 to 3 years by imposing nearly a 50% reduction in bargaining unit personnel. This has resulted in the citizens of the County to routinely go without road patrol and other vital police services. Further adverse action in this department is viewed as not only potentially harmful to County residence, but also causing a serious negative effect on the safety and welfare of the remaining departmental staff.

The facts introduced at the Fact Finding Hearing indicate a pattern in cuts in County service and reduction of personnel due to the loss of the Employer’s operational funds normally attained from the State of Ohio.

Since the year 2000, the County incoming operation funds have reflected a decline or remained stagnant. This is conceded as a basis in causing the Employer a hardship in providing local routine and necessary services to the citizenry of the County. However, reducing services, staff cuts, and reducing staff benefits is not the only way available to the Employer to retain what is considered appropriate and adequate public services. The Employer has options to raise additional local funds by action of the governing board. These options will not necessarily be positively received by the public, but no evidence was introduced that the public endorses the continued reduction of programs and services imposed in the last two years nor those that will result from the continued selected staff cuts as reflected in the issues before this Fact Finder. The bargaining unit members must recognize, in this time of general economic hardship, that a “business as usual” wage and benefit bargaining atmosphere will be tempered by the economic reality of the times. In the collective bargaining forum, both sides must temper bargaining postures for the good of the residents as well as the safety and well being of the employees.

The Employer, in a like manner, needs to seek extraordinary means to sustain vital services to the citizens and businesses of the County. The record does not reflect such action has occurred to date.

### **Ability to Pay**

There is no challenge to the Employer's argument that its services have been greatly reduced and continues to suffer primarily due to loss of State operating fund revenues. However, it is also noted that this is coupled with a lack of local action to offset this shortfall with any increase from local revenue sources.

### **Summation of the Review of Facts**

Recognizing the realities of the economics, in this situation, is seen as a two-way street. As such, the issues at impasse are determined strongly interrelated.

Time is also considered a significant factor. The economic trends resulting in the current situation did not occur overnight nor will they likely improve in the near future.

The ultimate right of the Employer determines the manner and amount in which services and staffing are provided the citizenry of the County. The Fact Finder is without authority to impose directives on such rights reserved unto the Employer. Likewise the Union's rights and responsibilities to seek improvements in terms and conditions of employment under the Ohio Collective Bargaining Law are likewise duly honored. The discussion in this section set forth points for party consideration and resolution of the issues remaining unresolved.

These are the most significant controlling factors in the framing of recommendations in this case.

## Fact Finder's Determination

### Issue by Issue

Issue	Discussion/Determination
<b>Section 20.1(A) Wages</b>	As reflected in the foregoing dialogue, economic conditions are persuasive that are normally persuasive in supporting an annual wage increase are found absent in this situation. However, a wage re-opener can result in wage and benefit erosion without at least some minimal increase set forth in the Contract's duration.
<b>Recommendation</b>	<b>It is recommended that the language in Article 20 of the expiring agreement be included in the Agreement, with Section 20.1 to read as follows:</b> <b>Beginning January 1, 2003, employees in the various bargaining units shall be paid per hour as follows: For the Year 2003, in all job classifications the wage schedule listed in "Appendix A" for the year 2002, will apply. Effective January 1, 2004, all job classifications in the wage schedule for 2003, shall be increased by 3%, . Effective January 1, 2005, the wage schedule shall be a rate agreed to between the Employer and the Union in negotiations occurring between August 1, 2005, and August 30, 2005 under terms of the reopening provisions of ORC 4117.</b>

#### Longevity Pay-

**Effective January 1, 2003, \*\*\* (as per language in expiring agreement)**

**Section 25.1** Wages, hours, and terms and conditions of employment will vary significantly between differing employee groups, even those of the same employer. The significance of benefits attained in the course of collective bargaining usually reflects terms resulting from trade-offs and give and take in the course of deriving a total agreement. To impose a reduction in a bargained benefit because non-bargaining employees were given less is not considered an appropriate basis to recommend a reduced benefit in the collective bargaining process.

Increased cost factors is considered a different matter. However, adding the current economic conditions and the wage recommendation previously stated , does not justify the degree of change as proposed by the Employer. Any increase of a bargaining unit member for health insurance or reduction in benefits is a reduction, not a “freeze”.

**Recommendation** It is recommended that the language in Article 25 of the expiring agreement be included in the Agreement, with Section 25.1 to read as follows:

**During the life of this Agreement the Employer shall furnish substantially the same health insurance as is currently in effect, inclusive of a \$200.00 deductible. Employees shall pay five percent (5%) of the equivalent monthly premium cost, effective July 1, 2003, for the single, double, or family plan. Effective January 1, 2004, the employee equivalent monthly premium cost will be ten percent (10%).**

**Section 29.1** There is no strong voiced or written objection from either party  
**Duration of** regarding the duration of the Agreement.  
**Agreement**

**Recommendation** It is recommended that the language in Article 29 of the expiring agreement be included in the Agreement, with Section 29.1(A) to read as follows:

- A. This Agreement shall be effective as of January 1, 2003, and shall remain in full force and effect until December 31, 2005.

## TOTALITY OF AGREEMENT

- It is recommended that all items of tentative agreement prior to Fact Finding be included in the Agreement. If not otherwise agreed to by the parties, it is recommended all provisions of the expiring agreement be included in the Agreement as stated in the expiring agreement, unless recommended otherwise by the Fact Finder in the Award.
- This will affirm the foregoing report, consisting of **12 pages**, includes the findings and recommendations set forth in this Award by the below signed Fact Finder.
- \* Any matter presented before the Fact Finder and not specifically addressed in this Determination and Award were given consideration but are not recommended for inclusion in the Agreement.
- If there is found conflict in the Report between the Fact Finder's Discussion and Recommendations, the language in the Recommendation shall prevail.

To the best of my knowledge, said Report and its included recommendations complies with applicable provisions of ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.

I therefore affix my signature at the City of Galion, in the County of Crawford, in the State of Ohio, this date of **January 14, 2003**.

A handwritten signature in cursive script, reading "John S. Weisheit", written over a horizontal line.

**John S. Weisheit, Fact Finder**