STATE EMPLOYMENT
RELATIONS BOARD
2003 MAR 20 A 10: 50

IN THE MATTER OF FACT-FINDING PROCEDURES
BETWEEN

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* *
* **THE SHERIFF OF CUYAHOGA COUNTY** *
* **AND** *
* **OHIO PATROLMEN'S BENEVOLENT** *
* **ASSOCIATION** *
* *
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FINDING OF FACTS
AND
RECOMMENDATION
SERB CASE NO.
02-MED-10-0981

LOUIS M. THOMSON, JR.
FACT-FINDER

APPEARANCES:
FOR THE UNION

S. RANDALL WELTMAN, ESQ.
RONALD G. CAMPBELL
MARTIN LUTZ
DARNELL WORLEY

FOR THE SHERIFF

SANDY TURK
DANIEL PUKACH
CHRISTOPHER RUSS
DOUGLAS BURKHART
PATRICIA KRESTY

SUBMISSION

THIS MATTER CONCERNS FACT-FINDING PROCEEDINGS BETWEEN THE SHERIFF OF CUYAHOGA COUNTY (HEREINAFTER "THE SHERIFF" OR THE "EMPLOYER") AND THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION WHICH REPRESENTS THE DEPUTYS UNIT (HEREINAFTER "THE UNION" OR "THE ASSOCIATION".)

THE STATE EMPLOYMENT RELATIONS BOARD ("SERB") DULY APPOINTED LOUIS. M. THOMSON, JR. OF TOLEDO, OHIO AS THE FACT-FINDER FOR THE SUBJECT CASE, EFFECTIVE AS OF NOVEMBER 29, 2002.

THE PARTIES MUTUALLY AGREED TO HOLD THE HEARING ON FEBRUARY 20, 2003. MS. PATRICIA KRISTY, EXECUTIVE ASSISTANT TO THE SHERIFF WAS THE CHIEF REPRESENTATIVE FOR THE SHERIFF AND S. RANDALL WELTMAN, ESQ. REPRESENTED THE ASSOCIATION.

THE FACT-FINDING PROCEEDINGS WERE CONDUCTED PURSUANT TO THE PROVISIONS OF THE OHIO COLLECTIVE BARGAINING LAW AND THE RULES AND REGULATIONS OF SERB.

BOTH PARTIES PARTICIPATED FULLY IN THE FACT-FINDING HEARING.

THE BARGAINING UNIT IS COMPRISED OF ALL SWORN FULL-TIME DEPUTY SHERIFF'S AS DESCRIBED BY SERB IN CASE NO. 98-REP-09-0206, BUT EXCLUDING ALL OTHERS. THE BARGAINING UNIT INCLUDES 152 EMPLOYEES.

THE UNION WAS CERTIFIED AS THE EXCLUSIVE BARGAINING REPRESENTATIVE FOR THIS UNIT IN 1999.

THIS IS THE SECOND BARGAINING AGREEMENT BETWEEN THE PARTIES.

THE PARTIES HELD NEGOTIATING SESSIONS ON AUGUST 21, 2002, SEPTEMBER 10, 2002, SEPTEMBER 23, 2002, OCTOBER 1, 2002, NOVEMBER 4, 2002 AND NOVEMBER 15, 2002.

WHEN THE SHERIFF REFUSED TO MOVE OFF ITS INITIAL WAGE PROPOSAL OF ZERO PERCENT (0%), ZERO PERCENT (0%) AND ZERO PERCENT (0%) THE UNION DECLARED AN IMPASSE. THAT WAS ON NOVEMBER 15, 2002.

THE FACT-FINDER WAS PRESENTED WITH A COPY OF THE EXPIRED COPY OF THE PARTIES INITIAL CONTRACT AND BOTH PARTIES PRESENTED A NUMBER OF EXHIBITS TO BOLSTER THEIR RESPECTIVE ARGUMENTS.

THE FACT-FINDER IN MAKING THE FOLLOWING FINDINGS OF FACT AND RECOMMENDATIONS ON THE FOLLOWING ISSUES AT IMPASSE HAS TAKEN INTO CONSIDERATION THE CRITERIA LISTED IN RULE 4117-09-05 (I) OF THE SERB REGULATIONS.

FURTHER, THE FACT-FINDER HAS TAKEN INTO CONSIDERATION ALL RELIABLE INFORMATION RELEVANT TO THE ISSUES BEFORE HIM.

FACT-FINDERS DISCUSSION AND RECOMMENDATIONS

INITIALLY, THE FACT-FINDER WOULD LIKE TO COMMEND COUNSEL FOR BOTH PARTIES FOR THEIR EFFICIENT AND BUSINESS-LIKE APPROACH TO THE MATTER AT HAND.

THE FOLLOIWNG IS THE FACT-FINDERS FINDINGS AND RECOMMENDATIONS OF THE ITEMS AT IMPASSE -

1. (A) **UNIFORMS**

THE UNION PROPOSES TO INCREASE THE CURRENT UNIFORM MAINTENANCE ALLOWANCE TO THE AMOUNT OF $750.00. THE EMPLOYER SEEKS TO RETAIN CURRENT LANGUAGE.

THE CUYAHOGA DEPARTMENT IS AT THE "LOW END OF THE TOTEM POLE" WHEN IT COMES TO UNIFORM ALLOWANCE WHEN COMPARED TO BOTH THE OTHER LARGE COUNTIES IN THE STATE AND WITH CONTIGUOUS JURISDICTIONS. THE FACT-FINDER RECOMMENDS RETAINING CURRENT LANGUAGE WITH AN INCREASE IN UNIFORM ALLOWANCE OF $50.00 PER YEAR IN PARAGRAPH 3.

2. **HOURS OF WORK/OVERTIME**

THE UNION SEEKS LANGUAGE REQUIRING THE SHERIFF TO CALCULATE AND PAY OVERTIME AS THAT RATE IS DEFINED BY THE FAIR LABOR STANDARDS ACT (FLSA). THE EMPLOYER SEEKS TO RETAIN CURRENT LANGUAGE.

THE FACT-FINDER RECOMMENDS RETENTION OF THE CURRENT LANGUAGE.

SECTION 2

THE OPBA SEEKS TO LIMIT THE SHERIFF'S ABILITY TO ADJUST WORK SCHEDULES WHEN ONE OF THE REASONS IS TO AVOID THE PAYMENT OF OVERTIME. THE EMPLOYER SEEKS TO RETAIN CURRENT LANGUAGE.

THE SCHEDULING TOURS OF DUTY IS A FUNCTION OF MANAGEMENT. WHEN COVERAGE MUST BE DONE ON A 24/7/365 BASIS THE EMPLOYER IS ENTITLED TO FLEXIBILITY. RETAIN CURRENT LANGUAGE.

SECTION 3

THE OPBA PROPOSES THAT OVERTIME BE PAID FOR ANY HOURS WORKED IN EXCESS OF THE EIGHT (8) HOUR DAY. THE EMPLOYER SEEKS TO RETAIN CURRENT LANGUAGE.

THE MAJORITY PAYMENTS FOR OVERTIME IS AFTER FORTY (40) HOURS PER WEEK. RETAIN CURRENT LANGUAGE.

SECTION 4

THE UNION PROPOSES TO EXTINGUISH THE CURRENT CONTRACTUAL BAR THAT PROHIBITS EMPLOYEES FROM BANKING THEIR COMPENSATORY TIME BEYOND ONE HUNDRED EIGHTY (180) DAYS OF ACCRUAL.

THE EMPLOYER SEEKS TO RETAIN CURRENT LANGUAGE.

THE FACT-FINDER CANNOT FIND ANY PERSUASIVE REASON TO INCREASE THE ACCRUAL BEYOND THE PRESENT 180 DAYS. LEAVE LANGUAGE AS IS.

C. LONGEVITY

THE OPBA PROPOSES TO ENHANCE THE CURRENT LONGEVITY BENEFIT INCREASING THE ALLOWANCE TO ONE HUNDRED DOLLARS ($100.00) FOR EACH YEAR OF SERVICE, WITH NO MAXIMUM LIMITATIONS. IN ADDITION, THE UNION SEEKS TO REQUIRE THAT THE LONGEVITY BENEFIT BE PAID IN A CHECK SEPARATE FROM THE PAYROLL CHECK.

AGAIN, THE EMPLOYER SEEKS TO RETAIN THE CURRENT LANGUAGE.

WHEN COMPARED WITH THE OTHER LARGE COUNTIES THE CURRENT $750.00 LONGEVITY COMPARES WELL TO THE AVERAGE FOR THE 4 LARGE COUNTIES OF $649.04. A

COMPARISON WITH THE CONTIGUOUS COUNTIES REVEALS AN AVERAGE OF $678.75 PER COUNTY.

LEAVE PRESENT LANGUAGE IN AGREEMENT.

D. VACATION LEAVE

THE OPBA PROPOSES TO REDUCE THE YEARS OF SERVICE THAT IT TAKES IN ORDER TO OBTAIN VARIOUS INCREMENTS OF VACATION.

ONCE MORE, THE EMPLOYER SEEKS TO RETAIN CURRENT LANGUAGE.

THE PRESENT VACATION POLICY SEEMS TO BE CONSISTENT WITH OTHER UNITS IN THE SHERIFF'S DEPARTMENT.

RETAIN CURRENT LANGUAGE.

E. ON-DUTY INJURY/ILLNESS LEAVE

THE OPBA SEEKS TO MODIFY THE CURRENT INJURY LEAVE BENEFIT SO AS TO INCLUDE ALL JOB-RELATED INJURIES AND EXTEND THE ACTUAL LENGTH OF THE BENEFIT FROM ONE HUNDRED TWENTY (120) DAYS TO ONE HUNDRED EIGHTY (180) DAYS. THE UNION MAINTAINS THAT THE INCREASE IS NECESSARY IN ORDER TO MORE CLOSELY RESEMBLE THE INJURY LEAVE PROVIDED TO DEPUTY SHERIFF'S IN THE COMPARABLE JURISDICTIONS.

THE EMPLOYER SEEKS TO RETAIN CURRENT LANGUAGE.

THIS IS ONLY THE PARTIES SECOND BARGAINING AGREEMENT. THE FACT-FINDER CANNOT AGREE WITH THE UNION RATIONALE TO INCREASE THE LEAVE BY 60 DAYS AT THIS TIME.

USE CURRENT LANGUAGE.

G. SICK LEAVE

THE OPBA PROPOSES TO RESTORE THE ABILITY OF EMPLOYEES TO EARN FIFTEEN (15) DAYS OF SICK LEAVE PER EACH CALENDAR YEAR.

THE SHERIFF SEEKS TO RETAIN PRESENT CONTRACT LANGUAGE.

THE FACT-FINDER PROPOSES THAT THE PARTIES UTILIZE THE UNION'S LANGUAGE FOR SECTION 1 AND SECTION 3 (3) OF THE SICK LEAVE PROVISION. SECTION 6 SHALL BE CURRENT LANGUAGE. SECTION 12 SHALL NOT BE ADDED.

H. GROUP INSURANCE

THE OPBA SEEKS ADDITIONAL LANGUAGE CHANGES TO THE CURRENT HEALTH CARE BENEFIT. FIRST, THE OPBA SEEKS TO ADD A "CAP" TO THE AMOUNTS EACH EMPLOYEE IS REQUIRED TO CONTRIBUTE TOWARD THE BENEFITS MONTHLY PREMIUM. IN THIS REGARD THE UNION PROPOSES THAT THE EMPLOYEE'S SHARE OF THE PREMIUM COST BE LIMITED TO THIRTY DOLLARS ($30.00) PER MONTH.

THE UNION ALSO SEEKS TO ADD LANGUAGE PROHIBITING THE EMPLOYER FROM INCREASING ANY OF THE ECONOMIC TERMS CONTAINED WITHIN EACH OF THE OFFERED HEALTH PLANS.

THE SHERIFF IS OFFERING A GUARANTEE ON FUTURE BY CAPPING THE EMPLOYEE'S PARTICIPATION LEVEL.

IN ORDER TO MAINTAIN A CONSISTENT PATTERN COUNTY-WIDE USE THE EMPLOYER'S GROUP INSURANCE PROPOSAL.

I. SALARIES

THE OPBA PROPOSES WAGE INCREASES AT THE "GOING RATE" FOR EACH OF THE THREE (3) YEARS OF THE SUCCESSOR CONTRACT THE OPBA PROPOSAL REQUIRES AN INCREASE TO THE CURRENT WAGE SCALE EVERY SIX (6) MONTHS AS FOLLOWS:

EFFECTIVE JANUARY 1, 2003 - 1 1/2%

EFFECTIVE JULY 1, 2003 - 2 1/2%

EFFECTIVE JANUARY 1, 2004 - 2 1/2%

EFFECTIVE JULY 1, 2004 - 2%

EFFECTIVE JANUARY 1, 2005 - 2 1/2%

EFFECTIVE JULY 1, 2005 - 2%

WHICH IN EFFECT AMOUNTS TO A 13% INCREASE OVER THE LIFE OF THE AGREEMENT.

THE UNION'S PROPOSAL IS NEEDED TO "OFFSET THE INCREASES IN HEALTH CARE DOLLARS THAT BARGAINING UNIT EMPLOYEES HAVE BEEN FORCED TO PAY DURING THE LIFE OF THE EXPIRED CONTRACT.

THE SHERIFF, ON THE OTHER HAND, IS PROPOSING A WAGE FREEZE FOR FISCAL YEAR 2003 AND A SINGLE WAGE RE-OPENER FOR FISCAL YEARS 2004 AND 2005.

WHILE THE COMPARISONS MADE WITH THE 3 OTHER LARGE COUNTIES WOULD PLACE CUYAHOGA COUNTY AT THE BOTTOM OF THE TOP PAY CATEGORY FOR 2002, THE COMPARISON WITH SURROUNDING COUNTIES IS NOT QUITE SO BLEAK. THE FIGURES PROVIDED FOR 2002 WOULD APPEAR TO PLACE CUYAHOGA COUNTY TOP PAY IN THE "MIDDLE OF THE PACK" AND WITHIN $1000.00 OF THE AVERAGE.

BASED UPON AN EXAMINATION OF THE FINANCIAL DATA PROVIDED THIS FACT-FINDER WOULD FIND THAT THE CUYAHOGA DEPUTIES ARE DESERVING OF A WAGE INCREASE FOR THE LIFE OF THEIR SECOND CONTRACT.

THE RECOMMENDED INCREASES SHOULD MAKE THE COUNTY MORE COMPETITIVE IN TERMS OF WAGES.

THE RECOMMENDED INCREASES WILL NOT PLACE THE COUNTY AHEAD OF THE HIGHER PAID COUNTIES, BUT WILL HOPEFULLY CLOSE THE GAP.

THE FACT-FINDER RECOMMENDS A WAGE INCREASE OF:

EFFECTIVE JANUARY 1, 2003 - 1 1/2%

EFFECTIVE JANUARY 1, 2004 - 1 1/2%

EFFECTIVE JANUARY 1, 2005 - 1%

THE FACT-FINDER IS HOPEFUL THAT THESE RECOMMENDATIONS WILL HELP THE PARTIES REACH A SUCCESSFUL CONCLUSION TO THEIR NEGOTIATIONS.

WITH BEST WISHES,

L. M. Thomson Jr.

L. M. THOMSON, JR.

STATE EMPLOYMENT
RELATIONS BOARD

2003 MAR 20 A 10 50

UNITED STATES POSTAL SERVICE

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AMOUNT

$0.83

U.S. POSTAGE
PAID
TOLEDO,OH
43614
MAR 18 '03
00033399-14
43215

LOUIS M. THOMSON, JR., ARBITRATOR
P.O. Box 140968
Toledo, Ohio 43614-3850

TO:

Dale A. Zimmer, Administrator
Bureau of Mediation
SERB
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FIRST CLASS