

STATE OF OHIO
THE STATE EMPLOYEE RELATIONS BOARD
FACT FINDING REPORT

STATE EMPLOYMENT
RELATIONS BOARD
2004 JAN -7 A 10:29

In Re: :
: :
Madison County Sheriff/ : Case No. 03-MED-08-0785
FOP/Ohio Labor Council :
:

The undersigned, Steven L. Ball, appointed as State Employee Relations Board fact-finder, makes the following report:

I. Hearing

This matter was heard at the offices of the Madison County Sheriff on December 19, 2003 at 9:00 a.m.

The following were present:

Union - Frank L. Arnold, Staff Representative
Nick Linska, Deputy
John Beathard, Deputy

Sheriff - James K. Evans, HR Consultant, Management Representative
Sheriff Soltzman
Chief Deputy Jim Sabin

II. Criteria

Consideration was given to the criteria listed in §4117.14 O.R.C. and Rule 4117.9-05(K) of the State Employee Relations Board, as follows:

1. Past collectively bargained agreements, if any, 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 the public service or in private employment.

III. Issues and Recommendations

Limited Ability to Pay

The county argues a limited ability to pay which is a factor in a number of the issues discussed herein. The fact-finder addresses this issue separately and incorporates this discussion in the appropriate findings of fact noted below.

The county cites a 60% increase in costs county-wide over the last three years and projected 32% insurance benefit cost increases. At the end of 2000 the county began to experience "flat" revenues, and return on investments dropped fivefold. The Commissioners have put a hold on a planned major building expansion and have postponed nearly all capital improvements. In 2003 the county departments operated on the same monies spent in 2002, except for a 3% allocation for pay increases. The county is concerned regarding a potential roll back in the temporary sales tax increase in 2005.

The county added a ¼% sales tax in 1999. It experienced a 25.12% increase in revenue for 2000, .48% increase in 2001, and revenue declined .77% in 2002. Actual revenues decreased \$27,717.20 from 2001 to 2002, but sales tax revenues increased 9% in 2003 over 2002. From 1997-2000, county revenues exceeded expenses by \$3,082,138.20. Expenses have exceeded revenues by a total of \$1,839,420 for the years 2001 and 2002. The county used carryover funds of \$3,225,253.20 in the years 2001-2003. The large increases of expenses in 2001 is attributable to the county's commitment to build, open and operate a regional jail. The county estimates that \$6,265,137.80 in

carryover funds are expected to be exhausted from 2004-2006 per certain budget projections which are not detailed in the county's presentation.

The union points out that the economic downturn has reversed, with a 9% increase in sales tax revenues from 2002 through 2003. A Wal Mart is due to open in London in January, 2004, which should boost sales tax collections. The union cites to a state audit for the year ended 2002 showing \$1,188,718 general fund actual receipts over estimated (a 15% difference). The audit finds a positive \$1,562,792 difference between county disbursements and its expenditures authority. The audit shows total receipts of \$9,188,718, disbursements of \$8,569,053, and with a positive income over expenditures balance of \$619,665, and a cash balance of \$3,671,216. In 2001, the state audit showed a cash balance of \$4,994,553, total receipts of \$9,378,809, disbursements of \$8,243,827, with a positive income over expenditures balance of \$1,134,982, and \$2,494,773 excess of appropriations versus disbursements.

On these state of facts, and without detailed explanation of the budget projections made by the county, this fact-finder cannot conclude that the county's financial condition should result in the sheriff's employees being denied wages and benefits otherwise reasonable and commensurate with comparable employees in comparable communities. True, expenditures dipped dramatically from projections for 2001. However, significant carryover funds exist for just such a downturn, and the recent past, and short term prognosis on receipts does appear positive. In any event, the County Commissioners have demonstrated such fiscal restraint in prior years so as to permit reasonable increases in wages and benefits at least through the contract period 2004-2006.

Finding of Fact No. 1 – Wages

The union proposes 4% increases to patrol employees for the first two years of the agreement, with wages remaining the same for the third year. The union proposes raises above 4% for communication employees. The union also proposes keeping the pay steps to four for both communication and patrol employees. The county proposes 3% increases for all county employees, and wishes to expand the number of steps to eight for patrol employees, and ten for communication employees.

Neither party has provided the fact-finder with figures as to how many employees are currently in each step of the patrol pay or communications pay ranges. However, based upon the low rate of attrition described by the county, and the union's contention that the Sheriff's office is under staffed, it would appear that a fairly large proportion of the unit has progressed during the term of the last agreement to the existing "C" or "D" steps. This fact-finder has not been presented with any evidence as to comparable "step" practices by similar agencies. The union's position is that in four years a patrol deputy has achieved his maximum capabilities and experience, and that after four years the patrol deputies should be paid equally. The patrol deputies, including those who have reached the maximum step, obviously see no need for extra steps. The county has not verbalized its rationale to increase the number of steps. This appears to be an area in which the bargaining unit should be given some deference, absent a competing interest by the county, as it represents all employees, including those who will be "maxed-out" if the proposal is accepted.

The county acknowledges 5% historic increases to patrol deputies and other county employees but it appears that the 5% increases are reflected in the 5% differential

between steps in the last agreement. This fact-finder does not view step increases as pay increases in the same sense as across the board increases to wages. Rather, step increases are individual raises based upon experience, and should reflect increased pay for increased skills and increased value of the individual employee to the employer based upon experience. A starting deputy, with no experience should not be paid at the same rate as an experienced deputy as he is not of the same value to his employer. However, at some point (the union says four years), a deputy reaches his full range of skills and becomes more or less what is known in the trades as a journeyman, and reaches his maximum relative wage. Which is not to say that his wages may not also increase through the bargaining process based upon factors other than his experience. Some employees in the last agreement received 5% increases when they did not go up a step. Those who did go up a step may have received a 5% increase in wages but they did not increase in relation to the maximum wage paid. The fact-finder believes that the union's approach in limiting steps is the most logical, especially in the absence of any evidence to the contrary.

The union's proposed Article 25, Section 25.1 describes 4% increases in 2005 and 2006. Actually the increases for each step for patrol employees are 4% in only the first two years of the agreement. Thus, all of the four patrol steps for 2004 and 2005 increase 4%. In the last year of the proposal, all of the patrol rates remain the same, though the 5% differences between steps is preserved. The percentage increases proposed by the union are actually 4%, 4%, and 0%, which is not too far from the 3% yearly increases urged by the county. Thus, if the county's purpose is to increase wages by 3% per year over the life of the agreement, the rates for pay scale D would increase to \$18.26 for

2004, \$18.80 for 2005, and \$19.36 for 2006, a negligible difference from the union's position of \$18.44, \$19.18, and \$19.18, respectively. Granted, some deputies may achieve a total pay increase larger than 4% in any given year because of a step increase, but such increases would be attributable to their particular increased experience and value to the Department. The county projects a difference in payroll per their patrol proposal and the union's of \$10,480.67 for 2004, \$14,291.99 for 2005, and \$3,949.26 for 2006. Thus, the total difference in proposals over three years for patrol employees is \$28,721.92. Given the overall size of the Sheriff's budget, and the limited number of step increases, the disputed increases would not appear to have a significant effect on the sheriff's overall budget. Moreover, the proposed increases are consistent with the pay scales for comparable counties of Pickaway, Union, and Champaign Counties. Thus, the fact-finder adopts the wage proposal of the union as to patrol employees.

The county has provided no rationale for expanding the steps for communications employees (dispatchers). No evidence was presented to justify why a dispatcher with ten years experience should be paid nearly two dollars an hour more than one with five years experience. The union proposes retaining the four steps now existing. As with the patrol employees, this fact-finder sees no reason to change the number of steps for communication employees.

The increases proposed by the union the first year of the new agreement for communication employees are 8.7% for step "A," 8.4% step "B," 8.1% for step "C," and 14 ½% for step "D"; the second year and third year increases are 4% for all steps. The differences between the union's proposed increases and the county's proposed increases totals \$41,872.91 over the life of the agreement. As is the case for the patrol deputies,

Pickaway and Union counties appear to this fact-finder to be the closest comparable wages for communication employees. Pickaway County employees were recently given a 3.5% increase. A 3.5% yearly increase to the communications employees in Madison County would roughly maintain their parity with both Pickaway County and Union County employees. Also, 3.5% increases would roughly meet the average increases granted statewide for similar offices. Thus, the fact-finder recommends that the communication employees receive 3.5% yearly raises.

The parties have proposed somewhat different provisions relating to reassignments, neither of which were discussed in the documents or argued at hearing. The current §25.7 does not appear necessary in view of the language in the current 25.6. The current language in Article 25 does not address the situation that occurs when a patrol employee is temporarily assigned to communications duties (if that ever occurs). It seems only fair to pay an employee temporarily assigned to a lower paying job his regular pay. However, if an employee performs the work of a higher paying classification, it appears only right that he receive the higher rate. Accordingly, the fact-finder recommends that the language addressing these issues in the attached Article 25 be adopted.

Recommendation

Article 25, as per the attached should be adopted in place of the current Article 25.

Finding of Fact No. 2 – Insurance Benefits

The union proposes that the county pay 80% of the family coverage premium for health benefits equal to that provided other county employees. The union's proposal to

require substantially equal benefits to that currently provided was dropped at the fact finding hearing. Currently, the county pays 94.61% of the single coverage premium per month. The employee pays \$10 per pay period. The county pays a like dollar amount toward family coverage (which now stands at 31.21% of the family premium). Currently this results in an employee with family coverage paying 61.79% (\$567.62) of the premium.

The county proposes changing Article 28 to make available to the Sheriff's employees those benefits provided to other county employees upon the same terms and conditions. In its letter of December 9, 2003, the Commissioners stated an intent to maintain the current \$10 per pay period employee contributions. The county points to a trend by which employees are expected to assume greater share of the premiums. Given the budget considerations previously discussed, and the increasing premiums, the county argues that this is no time to be increasing the county's share.

The union has provided the 2002 Annual Report on the Cost of Health Insurance in Ohio's Public Sector, which shows the average employer contribution toward family coverage at 83.7%, and the employee at 16.3%. Statewide, the average employee contribution was \$72.57 with a statewide average premium of \$744.34. In counties of less than 50,000 the average employee contribution was \$159.04, upon an average premium of \$834.60. Table 5 shows that for counties of less than 50,000, the average single employee contribution is 18.4% and the average family employee contribution is 20%. The average family contribution statewide was 13%. Champaign County currently pays 90% of the family premium.

The county's projected costs of the union's proposed change would total \$47,979.84 in 2004. There is no question but that the current family employee contribution percentage, if continued as in the current agreement, would result in some sheriff's employees falling behind comparable employees in their total compensation (wages and benefits) package. Rates in the new insurance package reflect a 13% increase for single coverage and a 29% increase for family coverage. Based upon rates listed in a December 9, 2003 letter from the County Commissioners, new rates are as follows:

Single	\$396.09
+ Spouse	\$872.60
+ Children	\$711.78
Family	\$1188.29

The Sheriff's employees are required to pay well in excess of the average family coverage premiums when compared with employees of like-sized counties. How this situation came to exist is not a matter of record. Though the trend may be for employees to make a greater contribution toward their health care, few public employers pay as low a percentage as Madison County. An increase in percentage may go against the trend, but an increase is demonstrably fair, when compared with statewide practices, comparable counties and the increase in family premiums. However, the fact-finder must also consider the historical context of the payment of family premiums in Madison County. For whatever the reason, the current percentages were approved in the last contract, and presumably the contract before that. Perhaps the number of deputies needing family coverage has heretofore been low. In any event, this fact-finder, considering the historic percentage of employee contributions cannot recommend jumping the county contribution to 80%. The obvious disparity of such contributions when compared statewide needed, however mandates that some increase be made to keep

the wage and benefit package in the new agreement closely approximating that now provided. Accordingly, the fact-finder recommends that the county's share be increased to 55% of the family premium.

Recommendation

Article 28 as attached hereto should be adopted in place of the current Article 28.

Fact Finding #4 – Officer in Charge Pay

The union wishes to add Section 25.9 to pay an additional \$1.00 to the senior deputy on a shift if the senior deputy is in charge for four hours or more. The county argues that there is no need for such pay, as the sheriff, lieutenants, or sergeants are always “on call” when not “on-station and working.”

This fact-finder is most sympathetic to paying employees for the work assigned, if in fact additional tasks are imposed by necessity upon persons outside of the usual pay range for such work. An employee should not expect a senior deputy to assume any supervisory duties without paying for such. To do so would be to defeat one purpose of a collective bargaining agreement. However, the fact-finder heard no testimony nor was presented with any facts to show that such practices are occurring in Madison County. Thus, this fact-finder sees no need for altering the agreement to provide additional pay to the senior deputy on shift.

Recommendation

The agreement should contain no provision for “officer in charge” pay.

Fact Finding #5 – Vacation

The union proposes to move the current 8 year anniversary for 3 weeks vacation to 6; and to move the current 15 year anniversary for 4 weeks vacation to 13; and to move the current 25 year anniversary for 5 weeks to 24 years. The union argues that the stress of the job is increasing, but provides no comparables to judge the fairness of the current language. The county has provided comparables which show the current vacation language to be typical and virtually identical to Pickaway and Union counties (Pickaway does provides 25 days off after 22 years). The fact-finder sees no need to alter the current vacation schedule.

Recommendation

Article 31 of the current agreement should remain unchanged in the new agreement.

Fact Finding #6 – Shift Differential

Management proposes to increase shift differential \$.05 to \$.30 per hour. The union proposes a shift differential increase of \$.25 to \$.50 per hour. The county has provided facts showing a shift differential of \$.30 to be sixth highest in the state for afternoons, and 10th highest for evening shifts, and comparing to \$.25 per hour for union and \$.30 per hour for Pickaway County for both shifts. The union has not verbalized any compelling reason for its proposal to double the differential.

The fact-finder finds that the county's proposed \$.05 increase is reasonable.

Recommendation

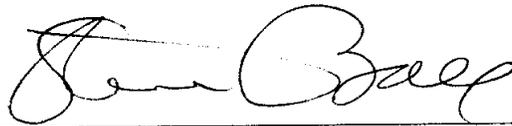
Article 26, as attached hereto, should be included in the new agreement.

Fact Finding #7 – Longevity

The union proposes to increase longevity pay to \$100 per year from the current \$50. The union also proposes to remove the current cap at 20 years. The union has provided no comparables. Management proposes that the current language of Article 27.1 remain the same. The county has provided data to show that the longevity pay for Madison County employees is commensurate with such pay awarded throughout the state. The fact-finder sees no compelling reason to alter the current contract language.

Recommendation

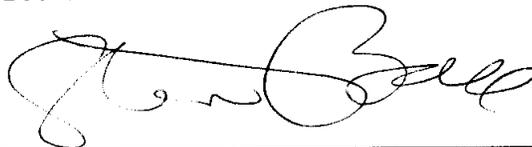
Article 27 of the current agreement should remain unchanged in the new agreement.



Steven L. Ball, Fact-Finder
January 6, 2004

CERTIFICATE OF MAILING

I hereby certify that the Fact-Finding Report has been sent by fax and overnight mail to Frank Arnold, FOP/OLC, 222 East Town Street, Columbus, Ohio 43215; and James Evans, 833 Market Street, P. O. Box 822, Zanesville, Ohio 43701; and the original Report has been sent by ordinary U.S. mail, postage prepaid, to Dale A. Zimmer, Administrator, Bureau of Mediation, SERB, 12th Floor, 65 East State Street, Columbus, Ohio 43215, on this 6th day of January, 2004.



Steven L. Ball

ARTICLE 25 WAGES

Section 25.1 Employees covered by this Agreement shall be paid, effective on the first pay period following January 1, 2004, in accordance with the following wage schedule and terms.

Patrol

A	B	C	D
\$14.45	\$15.17	\$15.93	\$18.44

Communications

A	B	C	D
\$11.60	\$12.19	\$12.80	\$13.43

Effective the first pay period following January 1, 2005, the wage scales shall be as follows: 4%

Patrol

A	B	C	D
\$15.03	\$15.78	\$16.57	\$19.18

Communications

A	B	C	D
\$12.01	\$12.62	\$13.25	\$13.90

Effective the first full pay period following January 1, 2006 the wage scales shall be as follows: 4%

Patrol

A	B	C	D
\$15.03	\$15.78	\$16.57	\$19.18

Communications

A	B	C	D
\$12.43	\$13.06	\$13.71	\$14.39

Section 25.2 Employees shall be assigned one of the above steps (A, B, C, or D) in the above wage scale as of January 1, 2004 in a step which represents an increase over their current wage rate. Thereafter, the employee shall move to the next step each January 1 until the employee reaches step D. New hired employees shall be hired in at step A and shall progress through the steps based on the anniversary date. Example and employee hired in June of 2004 would start in Step A, receive an increase in January 1, 2005 and then a step increase in June of 2005.

Section 25.3 Employees shall normally continue to work within their assigned division on a

Regular basis, except as otherwise provided for within Sections 25.4 through 25.5

Section 25.4 An employee may be temporarily assigned to work within a division, other than his regularly assigned division, at the discretion of the Sheriff. When assigned to a division with a pay range higher than the division for which the employee is regularly assigned, the employee shall be temporarily assigned to the higher pay range, for the duration of the assignment, at the step to which the employee is currently assigned. When temporarily assigned to a division with a lower pay range, the employee will continue to be paid according to his regular pay range and step.

Section 25.5 An employee may be reassigned to a division with a lower pay range due to a disciplinary demotion, layoff bumping or because of a reasonable accommodation made for a physical and mental disability which precludes the employee from performing essential job duties in his prior assigned division. When reassigned to a division with a lower pay range on a regular basis as provided for in this section, the employee will be assigned to his current step but within the range designated for that division to which the employee is newly assigned.

Section 25.6 An employee may, for any reason, submit a request to the Sheriff to be reassigned to a division with either a higher or lower pay range. The Sheriff will consider the request, and may approve or disapprove it based upon the needs of the Employer, the employee's qualifications to effectively perform the job, and for other relevant business reasons.

Section 25.7 An employee called in to work outside his regularly scheduled shift, including court time, which call-out does not abut his regularly-scheduled shift, shall be paid for all time actually worked, but in no event will the amount be less than two (2) hours pay, at one and one-half times the employee's regular rate of pay, if required by the Fair Labor Standards Act. Any employee called in to rectify his own error shall be credited with the actual time worked at his regular rate of pay, and not with the minimum premium herein stated.

ARTICLE 26
SHIFT DIFFERENTIAL

Section 26.1 An employee who works more than 50% of his shift between the hours of 3:00 pm and 8:00 am. shall receive, in addition to his base rate of pay, a shift differential in the amount of **\$0.30** per hour for all hours worked.

ARTICLE 28 INSURANCE

Section 28.1 The Employer shall, for the terms of this Agreement, make available to each full-time employee in active pay status the hospitalization, dental and vision benefits that are provided to the County by the County Commissioners.

Section 28.2 The Employee agrees to contribute \$10.00 per pay for the life of the contract for the coverage for insurance premiums for single coverage. For Family coverage the employee agrees to pay 45% of the monthly cost of family coverage, with the Employer paying the balance.

Section 28.3 The Employer agrees to provide, at its expense, term life insurance in the amount of Ten Thousand Dollars (\$10,000.00) for each employee covered by this Agreement with accidental death and dismemberment coverage.

Section 28.4 The Employer agrees to carry professional liability insurance for all members of the bargaining unit.