

STATE EMPLOYMENT RELATIONS BOARD

COLUMBIANA COUNTY, OHIO,	:	
SHERIFF'S DEPARTMENT	:	
	:	<u>CASE #'s:</u>
The Employer	:	03-MED-09-0879
	:	03-MED-090881
and	:	03-MED-090880
	:	03-MED-090882
	:	03-MED-090883
FOP/OLC, INC.	:	
	:	
The Union	:	

FACT FINDING AWARD

Appearances:

For the Employer:

Sandy Conley, Employer Advocate  
Peter Whittemore, Chief Deputy  
Walt Wilson, Sheriff, Tuscarawas County  
Thomas Maurer, Sheriff, Wayne County

For the Union:

Hugh Bennett, FOP/OLC Staff Representative  
Jacqueline Endicott, Union Representative  
Wes Smith, Union Representative

MARVIN J. FELDMAN  
Attorney/Fact Finder  
1104 The Superior Building  
815 Superior Avenue, N.E.  
Cleveland, Ohio 44114  
216/781-6100

Fax: 216/781-6119

Email: [marvfeldmn@aol.com](mailto:marvfeldmn@aol.com)

This matter came before this fact finder pursuant to the appropriate appointing process, both parties agreeing that this matter was properly before me. The hearing took place at the Sheriff's office, Columbiana County, Ohio, on January 30, 2004, whereat the parties presented their extensive packet of evidence and oral argument. It was upon the evidence and argument that this matter was heard and submitted and this Award was thereafter written.

The issues are covered in no particular order. The parties chose their own sequence.

1. Duration of Contract

The parties, historically, have had a three year duration to their collective bargaining agreements. The union desires to continue that practice. The employer seeks to extend to that a period of thirty eight months. There was no good reason indicated or stated in the evidence to change the period of contract. Therefore, present language in that regard is indicated.

2. Wages

The employer failed to reveal any inability to pay. Therefore, it is presumed that the employer realizes and expects a wage increase of a reasonable amount with retroactivity back

to January 1, 2004. It is therefore ordered a wage rate increase of 3% for 2004, an additional increase of 3% for 2005 and an additional increase of 3% for 2006. There was no evidence that other jurisdictions receive less wage for like work. Peace officers are involved in hazardous work. Carrying firearms presupposes the use of them. A recognition of this type of duty must be understood. Without peace officers, we would be living in a treacherous society.

3. Differential

There is presently a differential of 8% between ranks. There was no good reason shown to increase that amount. By way of an aside, the amount will grow with the advent of the wage increase. A percentage increase is denied.

4. Holiday Pay

A portion of the work force has to work on holidays. Historically there has been a payment of three and one half times the regular wage for such work. The employer has allowed and agreed to such holiday wage for a number of contracts. There was no evidence of an inability to pay. There are other jurisdictions paying the same. Simply put, there is no reason to change the current contract.

5. Educational Pay

There is a current clause involving such activity. The clause should be reworded so as to include dispatchers and secretaries continuing education that is work related but to limit the use of two years with a maximum of five hundred dollars in the aggregate for costs. There was no showing of an inability to pay. The clause has similar writings in other jurisdictions.

6. Prevailing Rights Clause

There was no compelling evidence to change this clause. It might be well to add the parenthetical clause, “except for those rights provided in the agreement.” A mere dislike by one party or the other to determine the life a contractual clause is insufficient, generally, to change or delete a clause.

7. Hospitalization

The union has requested no contractual change for the new contract period. The employer has requested that a new plan be initiated so as to comport with the County Commissioners plan. The Commissioners were not at the table to negotiate terms or present evidence. This fact finder cannot merely adopt a plan without evidence of needful changes. The process, it appears, is still within the purview of the State Employees Relations Act,

even though one Court of Appeals in this state has ruled contrariwise. However, until the new ruling becomes the general and accepted rule, this fact finder has decided that the current language shall prevail.

8. Bargaining Unit Work

This is the only county in the State of Ohio that has privatization of the county jail system. The history is that the Commissioners caused this and deprived bargaining unit members of their work load. Without the protection of this clause (Article 29) the employer can deprive a certified bargaining unit of their rightful contractual work load. The current clause is very important therefore and should remain. This fact along with no compelling evidence to the contrary denies any change to this clause therefore.

9. Civil Service Law

There was a proposition forwarded by the employer to have the union waive the right to have civil service law apply to the bargaining units herein. The proffered clause failed because it lacked specificity demanded for such waivers. There is no need for any further discussion.

10. Minimum Manning

The employer herein has a history of tampering with the bargaining agreement by a refusal to recognize a certified unit. The privatization of the county jail is one such activity. The union has proven a need for contractual protection not only on that ground but for safety reasons. There should be a minimum of at least two Columbiana County full time deputies on duty at all times within the county. The clause should read:

“There shall be a minimum of two (2) deputies on duty within the boundaries of Columbiana County at all times (excluding contract deputies). If an on duty deputy (other than a contract deputy) must leave the boundaries of Columbiana County for a period in excess of ten (10) minutes, a call out shall be made and a second deputy shall be called out to work in Columbiana County until the regularly assigned deputy returns to the County. Members that are called out shall be compensated a minimum of four (4) hours at the overtime rate.”

Note that this is a safety issue and as such triggers mandatory bargaining.

The above becomes the Award of the Fact Finder.



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Marvin J. Feldman, Fact finder

Made and entered  
this 2<sup>nd</sup> day  
of February 2004.