

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

STATE EMPLOYMENT
RELATIONS BOARD

2004 MAR 15 A 9:25

BETWEEN	CASE NO: SERB 03-MED-101198
Fraternal Order of Police, Ohio Labor Council, Inc.	03-MED-10-1199
And the	03-MED-10-1200
Hocking County, Ohio Sheriff	03-MED-10-1201
	FACT FINDER: JOHN S. WEISHEIT
	HEARING DATE(S): February 26, 2004
	AWARD ISSUED: March 12, 2004

**REPRESENTATION
by**

<u>Employer Representatives</u>	<u>Union Representatives</u>
Rufus B. Hurst, Counsel for the Employer Lanny North, Sheriff	Andrea Johan, Staff Rep. FOP, OLR Dustin Grau, Detective Mel Myers, Deputy Eric Matheny, Sargeant Theodore Hayes, 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 parties have complied in a timely manner with all procedural filings. 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 Hocking County Sheriff, hereinafter called the “Employer” and/or the “Sheriff”, recognizes, for purposes of collective bargaining, the Fraternal Order of Police, Ohio Labor Council, Inc, hereinafter called the “Union” and/or “FOP”. The bargaining units include all full-time employees by the Employer in the following positions: Deputy Sheriff, Sergeant, Secretary/Clerk¹, and Non-Deputized Corrections Officers². The above named parties engaged in multi-unit bargaining for a successor Agreement to the one that expired December 31, 2003. They have mutually agreed to extend the Fact Finding period to include the date of March 19, 2004. The agreement for both bargaining units are included in a single labor agreement. In the course of good faith bargaining, several issues were resolved in tentative agreement. This Fact Finder was called upon, as provided in ORC 4117, to assist in attaining resolution of three (3) major issues at impasse.

¹No Secretary/Clerk bargaining unit members employed in this position at this time. Parties agree to retain current applicable language in the successor Agreement.

²Non-Deputized Corrections Officers are employed. The bargaining unit was been de-certified February 4, 2004, by SERB, upon mutual request of the parties.

The Fact Finding Hearing was convened on February 26, 2004, at the 911 Building in Logan, 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 were 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 by tentatively agreed to:

Article	Topic	Article	Topic
1	Preamble	24	Holidays
2	Purpose and Intent	25	Dues Deduction/Union Membership +
3	Recognition	26	Injury Leave
4	Management Rights	27	Hours of Work and Overtime
5	Total Agreement	*	
6	Non-Discrimination	29	Uniforms & Equipment
7 & 8	Grammar & Headings (2 Articles combined into one)	30	Bulletin Boards +
9	Obligation to Negotiate	31	Discipline
10	Conformity to Law	*	
11	No Strike-No Lockout	33	Personnel Files
12	Grievance Procedure	34	Probationary Employees
13	Sick Leave	35	Professional Liability
14	Leave of Absence/Military Leave	36	Copies of Agreement +
15	Funeral Leave	37	Ballot Boxes +
16	Vacation	38	Payment to an Estate
*		39	Communicable Diseases
18	Ordinances, Rues and Regulations	40	Retirement
19	Representation	41	Death of an Officer/Bargaining Unit Member
20	Work Rules	42	Duration of Agreement/Execution
21	Labor-Management Committee	New	Canine Assignment
22	Lateral Transfer and Promotion		
23	Seniority and Layoff	+	text is articles so marked to be included in a single article titled "Union Business"

ISSUES AT IMPASSE

The following Articles were at impasse, in part or whole, at time of the Fact Finding Hearing:

Article	Title
17	Medical Insurance
28	Wages
32	Health & Safety

**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
Individual 90/10 of monthly premium (Employee paying 10%) Couple/Family 50-50	Article 17 Medical Ins	Retain current rate for Individual. Employer to pay 90% of premium for Couple/Family coverage and the Employee to pay 10%. Proposes to include a "Me Too" provision
Increase base rate. 3% each yr of the Contract. Employer proposes to retain status quo on other wage issues.	Article 28 Wages	Base rate of pay Patrol officers - 1 st year of contract, base inc. of 10%. The 2 nd and 3 rd year of called for additional 5% each year of the Contract. Sergeants to be paid 15% above the highest pay rate for deputy. Union proposes increases for detectives, longevity and shift differential.
Proposes to retain current minimum level of 2 deputies.	Article 32 Health & Safety	Proposes to increase minimum staffing level from 2 to 3 deputies on duty each shift.

DISCUSSION & DETERMINATION

General

The economic issues at impasse are first considered collectively. Economic impact was reviewed in context of cost estimates of the issues at impasse. Though recommendations are required to be made issue by issue, the totality of the financial condition must be given first consideration with priority by issues then being given appropriate attention. The Fact Finder has used generally accepted standards applied in making a finding and recommendation in interest rights matters in this instant situation.

The Union does not challenge the basic contention of the Employer regarding its current financial situation, most notably the decline in income and increase in operating costs. The County does not raise an inability to pay argument in this instant situation .

The bargaining unit membership has been less stable than what has been observed traditionally in similar units by this Fact-finder.

All three issues before the Fact-finder for consideration have significant financial implications. A determination of one cannot be made without understanding and consideration of the others.

**Fact Finder's Determination
Issue by Issue**

Issue	Discussion/Determination																
<p>Article 17 Medical Ins.</p>	<p>The current health insurance program provided to bargaining unit members is the same plan offered other County employees. This includes employees in other collective bargaining units as well as non-bargaining unit employees, management and elected officials. The plan is a self-insured consortium with third party administration. By Contract, the Employer has the right to determine the medical healthcare plan. The parties did agree to include in the Agreement the creation of an insurance advisory committee.</p> <p>The issue before the Fact-finder is limited to the payment of premium by the employee/employer. Terms of the expiring agreement, and past practice has been the Employer to pay the total cost of the premium for the individual coverage and a like dollar amount paid by the Employer toward two-party and family premium payments with the employee paying the remaining premium cost. Current payment of monthly insurance premiums are reflected in the following table³:</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Type</th> <th>Single</th> <th>Two-Party</th> <th>Family</th> </tr> </thead> <tbody> <tr> <td>Monthly Prem Cost</td> <td>\$529.43</td> <td>\$1,055.69</td> <td>\$1,557.60</td> </tr> <tr> <td>Employer Cost</td> <td>529.43(100%)</td> <td>529.43 (50%)</td> <td>529.43 (34%)</td> </tr> <tr> <td>Employee Cost</td> <td>000.00(0%)</td> <td>526.26 (50%)</td> <td>1,028.17 (66%)</td> </tr> </tbody> </table> <p>There is no doubt that employee insurance benefit costs have been increasing for some time. In the last few years, rates have significantly risen. It is more the rule than the exception that employees are sharing in the premium costs of such benefits. The benefit level in this case is solely determined by the Employer. It is understood that the same benefit plan provided for bargaining unit members is provided, at the same rate, to other County employees and elected officials.</p>	Type	Single	Two-Party	Family	Monthly Prem Cost	\$529.43	\$1,055.69	\$1,557.60	Employer Cost	529.43(100%)	529.43 (50%)	529.43 (34%)	Employee Cost	000.00(0%)	526.26 (50%)	1,028.17 (66%)
Type	Single	Two-Party	Family														
Monthly Prem Cost	\$529.43	\$1,055.69	\$1,557.60														
Employer Cost	529.43(100%)	529.43 (50%)	529.43 (34%)														
Employee Cost	000.00(0%)	526.26 (50%)	1,028.17 (66%)														

³ The expiring agreement includes only a dollar amount. The percentages are for reference only.

The quality of the plan, coverage restrictions, co-pay rates, deductibles and sharing of premium cost between the employer/employee are often associated in employer group medical plans. The issue before the Fact-finder is limited to premium costs associated with the current plan. It is understood that this practice has been in place for some time in this relationship. The problems associated with this situation did not arise overnight. Particularly in the trying economic times the Employer is operating under, it cannot be totally "fixed" by this Fact-finder. However, the ultimate recommendation is made as means to slow the growth of the wedge that is noted to be continuously expanding, stabilize the situation, and provide a format to attain future resolution by the parties. Not all sub-issues submitted by the parties are addressed in this report and award. Rather the attention is focused on what is considered the issue considered most pressing at this time.

The information in the State Employment Relations Board 11th Annual on cost of Health Insurance in Ohio's Public Sector, is found as a useful tool in this matter.

Each party has put a shared premium cost position on the table. SERB's published research indicates such is found to be the case about 60% of the time in Ohio's Public Sector. The Union notes that, in the SERB cited report, employees in the southeast Ohio region were found to pay about 12% of the single insurance coverage premium cost and about 15% for the family coverage premium. An employee 10% premium contribution for single plan coverage is considered reasonable. This would amount to about \$52.50 a month, based on current rates.

The family plan premium is recognized as the major cost factor in this matter. It is reiterated the recommendation is not an immediate "fix", but rather a reasonable foundation regarding this single defined issue.

<p>Article 17 Medical Ins. Cont'd</p> <p>Recommendation</p>	<p>It is recommended that Article 17 be included in the Agreement as set forth in the expiring agreement as modified by tentative agreement of the parties and the following recommendations of the Fact-finder:</p> <p>Section 17.1 As additional compensation for employees covered by this agreement, the Employer will pay the medical insurance premiums on the Employer medical insurance plan, subject to the provisions of this Article.</p> <p>An employee selecting single coverage shall pay 10% of the monthly premium cost of the plan and the employer will pay 90%. An employee selecting two-party or family plan coverage will pay 20% of the monthly premium cost of the plan and the employer will pay 80%.</p>
<p>Article 28 Wages</p>	<p>The Union seeks a significant wage increase. The proposal is strongly supported by comparables of similar law enforcement agencies in the immediate geographic area and the high turnover rate of officers. The FOP contends low wages and high employee cost for insurance are primary factors in this situation. The Employer does not strongly challenge this Union contention. The Sheriff has proposed increases of 3% per each year of a three year Agreement.</p> <p>Considering the general financial conditions, the Employer's position reflects a need to raise wages to keep in line with what area law enforcement agencies pay. Arguably, a higher wage increase could easily be justified however, the cost associated with the recommended insurance premium payment recommendation is considered relevant in this case.</p> <p>The matter of addressing wage rates for Sergeants as a percent of the highest wage level of an officer is common and considered an appropriate practice. The Employer has offered no major argument in opposition to this format. The rank of Sergeant was added in this department during the life of the expiring agreement. The percentage of the rank differential is adjusted in this recommendation as a component of the total economic package.</p>

<p>Article 28 Wages cont'd</p>	<p>The current financial situation, as well as the pattern of decreasing funds in the more recent years for the Employer, is given due consideration. Expenditures of the County continue to rise. Yet, it is noted that while certain departments have cooperated with the Commissioners by accepting recommended budget reductions others departments have not. The Employer is one department that demonstrated attempts to restrict expenditures. The attaining and retaining of a quality full compliment of officers is considered a priority matter in meeting the health and safety of the community. Such is viewed as regressing to a near crisis situation. While funding of wages and health insurance program at an "average", compared with comparable similar employers in the geographic region, some increase needs immediate attention. A realistic estimate to the recommended increase cost to the Employer for insurance premiums will not be known until the number of employees indicate participation in the plan, in particular the two-party and family programs.</p> <p>It is determined that the economic times are not sufficient to recommend a significant wage increase as well as improved financial assistance related to the health plan premium costs.</p> <p>It is a generally accepted practice that any increase in benefits are considered as an equivalent wage increase and is so considered in the following recommendation.</p>
<p>Recommendation</p>	<p>It is recommended that Article 28 be included in the Agreement as set forth in the expiring agreement as modified by tentative agreement of the parties and the following recommendations of the Fact-finder:</p> <p>Section 28.1 wage scale, currently in effect, for Officers shall be increased by 3% at all steps effective January 1, 2004. Effective January 1, 2005, and January 1, 2006, the steps on the wage scale are to be increased by 3% respectively.</p> <p>Sergeant Employees holding the rank of Sergeant will be paid at an hourly rate of 10% more than the top pay for an Officer.</p>

<p>Article 32 Health and Safety</p>	<p>The Union proposed increase of minimum staffing per shift, from two (2) to three (3) deputies, is not found convincing at this time. The Employer is particularly persuasive that to attain such a staffing level would require an increase in staffing. Any increase in staffing would require a significant increase in cost to the Employer. With financial conditions currently determined strained and the other wage and benefit issues being addressed, the cost to expand the minimum staffing limits at this time is lacking.</p>
<p>Recommendation</p>	<p>It is recommended Article 32 should be included in the Agreement as written in the expiring agreement.</p>

SUMMATION OF FACT FINDING RECOMMENDATIONS

**Article 17
Medical Ins.
Recommendation**

It is recommended that Article 17 be included in the Agreement as set forth in the expiring agreement as modified by tentative agreement of the parties and the following recommendations of the Fact-finder:

Section 17.1 As additional compensation for employees covered by this agreement, the Employer will pay the medical insurance premiums on the Employer medical insurance plan, subject to the provisions of this Article.

An employee selecting single coverage shall pay 10% of the monthly premium cost of the plan and the employer will pay 90%. An employee selecting two-party or family plan coverage will pay 20% of the monthly premium cost of the plan and the employer will pay 80%.

**Article 28
Wages
Recommendation**

It is recommended that Article 28 be included in the Agreement as set forth in the expiring agreement as modified by tentative agreement of the parties and the following recommendations of the Fact-finder:

Section 28.1 wage scale, currently in effect, for Officers shall be increased by 3% at all steps effective January 1, 2004. Effective January 1, 2005, and January 1, 2006, the steps on the wage scale are to be increased by 3% respectively.

Sergeant

Employees holding the rank of Sergeant will be paid at an hourly rate of 10% more than the top pay for an Officer.

**Article 32
Health and Safety
Recommendation**

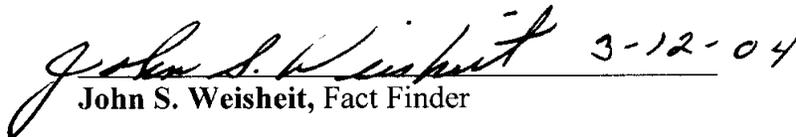
It is recommended Article 32 should be included in the Agreement as written in the expiring agreement.

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 **13 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 **March 12, 2004**.

 3-12-04
John S. Weisheit, Fact Finder

JOHN S. WEISHEIT

Arbitrator

440 Portland Way S.
Galion, OH 44833
Phone: 419-462-5228
Fax: 419-462-1230

STATE EMPLOYMENT
RELATIONS BOARD

2004 MAR 15 A 9: 25

March 12, 2004

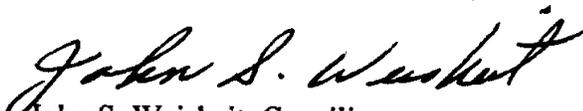
Dale Zimmer, Director
Bureau of Mediation
State Employment Relations Board
65 East State Street
Columbus, OH 43215-4213

Case No(s).	Parties
03-MED-10-1198 1200, 1201	Fraternal Order of Police , OLC v Hocking County Sheriff Office

Mr. Zimmer:

Find enclosed a copy of the Fact Finder's Award in the above cited case.

Sincerely,



John S. Weisheit, Conciliator

JSW:jw

enc.

JOHN S. WEISHEIT

Arbitrator

440 Portland Way S.
Galion, OH 44833
Phone: 419-462-5228
Fax: 419-462-1230

March 12, 2004

Rufus Hurst, Esq
DOWNES, HURST & FISCHER
400 S. Fifth St., Suite 200
Columbus, OH 43215

Andrea Johan
Fraternal Order of Police, OLC, Inc.
222 Town St.
Columbus, OH 43215

Case No(s): 03-MED-10-1198 1200, 1201
Fraternal Order of Police, OLC
Parties: v
Hocking County Sheriff Office
Issue: Fact Finding
Site: OH

Ms. Johan & Mr. Hurst::

Enclosed find a copy of the Determination and Award, W-9 Form, and the Invoice for professional services and related expenses in the above cited case. This is submitted in keeping with the terms of the Contract and understandings at the Hearing.

Thank you for the opportunity to be of service.

Sincerely,


John (Jack) S. Weisheit, Arbitrator

JSW:jw

cc: Dale Zimmer, SERB-Award only
enc.

CERTIFICATE OF SERVICE

This will affirm that the Fact finding Report in the Matter of Fact finding between

BETWEEN The Fraternal Order of Police, Ohio Labor Council Inc. And the Hocking County, Ohio Sheriff	CASE NO: SERB 03-MED-101198 03-MED-10-1199 03-MED-10-1200 03-MED-10-1201
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was served to the below named parties at the stated addresses

Rufus B. Hurst, Esq., Emp. Counsel Downes, Hurst, Fishel 400 S. Fifth St., Suite 200 Columbus, OH 44833 Fax 614.221.8769	Andrea Johan, Staff Representative FOP, OLC, Inc. 222 E. Town St. Columbus, OH 43215-4611 Fax 614.447.9653
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by **Facsimile and U.S. Postal Service mailed, overnight express, as of March 12, 2004.**

Copy of this Award was also submitted **U. S. Postal Service, First Class Mail, on March 12, 2004,** to the Director, Bureau of Mediation, SERB, 65 E. State St., Columbus, OH 43215-4213.

I affirm, to the best of my knowledge that the foregoing is true and accurate and in keeping with ORC 4117 and related SERB Rules and Regulations.


John S. Weisheit, Fact Finder 3-12-04
Date