

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
FACT FINDER'S REPORT**

STATE EMPLOYMENT  
RELATIONS BOARD  
2005 FEB 25 A 11:40

In the Matter of Fact Finding	)	SERB No. 04 – MED – 09 – 0904
-between-	)	
Van Wert County Sheriff's Office	)	
the Employer	)	Daniel L. Merritt Esq.
-and-	)	Fact Finder
Fraternal Order of Police	)	
Ohio Labor Council, Inc.	)	23 February 2005
The Union	)	

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Pursuant to the Ohio Revised Code Section 4117.14 (c) (3) the State Employment Relations Board appointed a Fact Finder in the above referenced matter. In their negotiations for a successor contract to replace one that expired on 31 December 2004 the parties were unable to reach agreement on all of the issues in dispute. A fact finding hearing was accordingly scheduled.

## **APPEARANCES**

### **For the Employer**

Marc Fishel Esq.	Attorney of Employer
Stan Owens	Van Wert County Sheriff
Nancy Dixon	Van Wert County Auditor
Sara Lape	Personnel Department

### **For the Union**

Jacki Wegman	Staff Representative Fraternal Order of Police
Jeremy Carlson	Van Wert County Jail Suspension
Bob Gordon	Correction Officer Union Representative

### **Fact Finder**

Daniel L. Merritt Esq.

## **BACKGROUND**

The Van Wert County Sheriff's Office (herein called the "County or Employer") and the Fraternal Order of Police, Ohio Labor Council, Inc. (herein called the "Union") are the parties involved in the current labor dispute. The bargaining unit consists of approximately twenty one full time corrections officers, and part time corrections officers. About twenty three other road deputies, cooks and dispatchers are also employees of the Van Wert County Sheriff's Office and are represented by the Teamsters. The parties negotiated a previous Collective Bargaining Agreement which expired on 31 December 2004. The Parties met for

negotiations on 13 October 2004, 29 October 2004 and 19 November 2004. The parties failed to reach agreement on all issues. Approximately eight issues remained unresolved. On 1 December 2004 the State Employment Relations Board appointed Daniel L. Merritt Esq. as the impartial Fact Finder in compliance with Ohio Revised Code 4116.14 (c) (3).

A Fact Finding hearing was scheduled for 3 February 2005 at the Van Wert County Sheriff's Office in Van Wert Ohio. Mediation was offered to the parties and was accepted. Some of the unresolved issues were resolved by the parties during the mediation sessions. The issues resolved by the parties during the mediation included: Work Hours and Overtime, Uniforms/Equipment, Longevity Payment, Officer in Charge and Sick Leave. The parties also agreed that the Duration of the Collective Bargaining Agreement should be three years.

Three main economic issues remained to be resolved and include: Holidays, Wages and Shift Bidding. The parties presented testimony and extensive documentary evidence to support their respective positions on each of the three issues. The Fact Finder met with each party separately to elicit additional information to aid the mediation process and provide information for the fact finding process and provide information for the fact finding process.

The Fact Finder considered all testimony of witnesses and all of the detailed documentation submitted by the parties to reach the conclusions and recommendations listed below. The Fact Finder considered the criteria listed in Rule 4117-9-05 (k) of the State Employment Relations Board. The issues to be addressed in the report are: Holidays, Wages and Shift Bidding.

## **ISSUES AND RECOMMENDATIONS**

### **1. ARTICLE 24 – HOLIDAYS**

#### **Union Position**

The Union had proposed that new sections be added which would provide time and one half pay for part time bargaining unit members who actually work on a scheduled holiday. An additional new section would provide that when County Commissioner declare an additional holiday beyond those already approved by the Board then the bargaining unit would automatically receive the additional holiday.

#### **Employer Position**

The Employer proposed to change the way holiday pay was provided. The Employer would eliminate the employee use of the holiday as scheduled time off similar to vacation leave. Employees would receive eight hours of pay for each holiday and would receive time and one half for all hours worked on a holiday. Only full time employees receive holiday pay.

#### **Recommendation**

The Fact Finder was persuaded that any person who worked on holiday should receive some extra compensation. Those who work are indeed

separated from family and friends on a recognized special holiday. Therefore full time and part time should receive the time and one half compensation. A new Section 24.1 should include "Part time bargaining unit members who actually work on a scheduled holiday shall be paid time and one half for all hours worked." No other changes suggested by the Employer or the Union are recommended for adoption.

## 2. ARTICLE 38: WAGES

### Union Position

The Union proposed that a number of pay steps from one year to a six year level be introduced for Corrections Officers and Corrections Supervisor and that there be a three percent wage increase for each level during year 2005 and that a four percent increase be provided for each level during the years 2006 and 2007. In addition the assigned pay rate shall correspond with the employee's anniversary date. Further, upon promotion or serving in an acting capacity in a higher position an employee shall be assigned to the pay step which is no less than a five percent wage increase. The Union also presented evidence which supported their position that the County of Van Wert had the financial ability to pay but lacked the inclination to pay.

### Employer Position

The Employer proposed a wage freeze for the year 2205 with a wage reopener for the years 2006 and 2007. The Employer submitted extensive documentation and witness testimony which supported their position that the Employer lacked the ability to pay for any wage increase.

### Recommendation

The Fact Finder has reviewed the documentation provided by both parties regarding the financial condition of the County. The County has passed through some lean months but is fiscally sound. The economic picture has improved lately and is expected to continue to grow in a positive direction. The comparables and other comparative data show that the Correction Officers deserve an increase in salary. The Fact Finder recommends an increase of three percent be given for each year of the three year Collective Bargaining Agreement. The Fact Finder agrees with the County that the inclusion of the six wage steps for the Correction Officers and Correction Supervisors desired by the Union would be a cost burden that would be difficult economically at this time.

The Fact Finder recommends that Section 38.1 read "Effective January 1, 2005 all employees governed by this Agreement shall receive: a wage increase of three percent (3%) for the year 2005, a wage increase of three

percent (3%) for the year 2006 and a wage increase of three percent (3%) for the year 2007.”

### 3. ARTICLE SHIFT BIDDING

#### Union Position

The Union asserted that the very stability of the employee’s work life is aided by the right to select a schedule based upon seniority. A consistent work schedule would help the employee plan his or her life within and outside of the work organization. The present contract was silent on this issue and resulted in inconsistency and instability in the scheduling process.

#### Employer Position

The Employer asserted their Management Rights and refused to offer a counter proposal. The lawful authority would be impeded by any bidding procedure. The sheriff is the one who should run the jail and not any Collective Bargaining Agreement.

#### Recommendation

Shift bidding procedures do exist in law enforcement labor contracts in Ohio. They do indeed introduce consistency and stability into idiosyncratic personnel scheduling. However management rights need to be respected

when the situation calls for management intervention based upon some verifiable operational needs or extraordinary circumstances. The Fact Finder recommends that a shift bidding section be added to the new Collective Bargaining Agreement. The language would be as follows.

**NEW ARTICLE: SHIFT BIDDING**

Section 1. Non-probationary, full-time employees in the classification of Correction Officer shall have the opportunity to select a regular shift preference every 120 days on the basis of departmental seniority starting May 1<sup>st</sup> and every four months thereafter. Permanent days off shall be part of the shift selection, unless an employee agrees otherwise to change of days off.

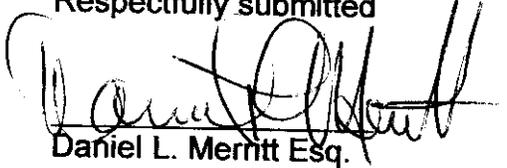
Section 2. Non-probationary, full-time employees in the classification of Supervisor of Correction's shall bid by classification seniority, defined as date of promotion, shall have the opportunity to select a regular shift preference every 120 days starting May 1<sup>st</sup> and every four months thereafter.

Section 3. Non-probationary, full-time employees in the classification of Supervisor of Correction's shall work a 5 days on/2 days off permanent schedule with weekends off. Supervisors agree to rotate "on-call" status to cover the weekend.

Section 4. Once shift preference has been selected by May 1<sup>st</sup>, the schedule for the following 120 days by June 1<sup>st</sup>.

Section 5. The selection of shift schedules does not preclude the Employer from changing schedules should demonstrated and verifiable mitigating circumstances arise and operational requirements change. One (1) week notice shall be given prior to a change of shifts.

23 February 2005  
Sylvania, Ohio

Respectfully submitted  
  
Daniel L. Merritt Esq.  
Fact Finder