

IN THE MATTER OF FACTFINDING

STATE EMPLOYMENT
RELATIONS BOARD

2005 JUL -5 A 9:48

BEFORE

NORMAN R. HARLAN, FACTFINDER

STATE EMPLOYMENT RELATIONS BOARD (SERB) STATE OF OHIO CASE NO. 04-MED-12-1314

FRATERNAL ORDER OF POLICE (FOP)) HEARING: JUNE 24, 2005
OHIO LABOR COUNCIL (OLC) INC.)

) REPORT: JULY 5, 2005

AND

JEFFERSON COUNTY SHERIFF

APPEARANCES

UNION

PAT DAUGHERTY, SENIOR STAFF REPRESENTATIVE, FOP/OLC

EMPLOYER

MICHAEL L. SEYER, SENIOR CONSULTANT, CLEMANS-NELSON & ASSOCIATES,
INC.

FRED ADBALLA, SHERIFF, JEFFERSON COUNTY

BACKGROUND

Jefferson County is located in northeastern Ohio. It is located on the east bank of the Ohio River and is about thirty five (35) miles south-southwest of Pittsburgh, Pennsylvania. Carroll County, Belmont County, Stark County and Harrison County also border Jefferson. Steubenville is the County Seat and is its largest

City. The 2000 Census shows seventy four thousand (74,000) residents.

The County has three (3) elected Commissioners who are its chief officials. The Commission has statutory duties related to managing funds generated by County taxes and disbursement of funds from State and/or Federal Agencies. The Sheriff's Department is funded through the County Commission. The Sheriff is an elected official who is responsible for compliance with Federal and State Laws, Departmental Policy and any applicable County Regulations. The Sheriff's staff includes Clerical and Secretarial Personnel, Patrol (Road) Officers, a Transport Officer, Turn Sergeants, one Officer attached to the County Engineer to weigh trucks, personnel to provide security at the Court House and other County funded facilities and Corrections Officers at the Justice Center, commonly referred to as the County Jail.

The Sheriff and the Fraternal Order of Police have been Party to a COLLECTIVE BARGAINING AGREEMENT (CBA) for some fifteen (15) years. The current LABOR AGREEMENT expires September 30, 2006. ARTICLE 31 of the current CBA is entitled WAGES. It states:

"Employees in the bargaining unit shall be paid in accordance with the following hourly rate schedule:

October 1, 2002	\$11.83
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Section 2. The parties agree that during the period of December 15, 2004, through January 15, 2005, either party may reopen the agreement for the sole purpose of negotiating modifications to the above-referenced hourly rate. The party initiating the re-opener shall serve

a written notice to the State Employment Relations Board (SERB) with a certified copy to the other party. Should the present hourly rate be increased, such increase will be retroactive until October 1, 2004."

The Union exercised its right under Section 2 of ARTICLE 31 to reopen the CONTRACT "for the sole purpose of negotiating modifications to thehourly rate." The Parties were unable to reach agreement. On January 11, 2005 the STATE EMPLOYMENT RELATIONS BOARD (SERB) advised the Undersigned by letter that he had been appointed as the Factfinder under the OHIO REVISED CODE (ORC), Section 4117.14. The Board noted the per diem rate of \$550.00 per day and the maximum expense reimbursement of \$150.00 per day as specified by Ohio Administrative Code Rule 4117.9-01(C). It also referred to the billing procedures as found in the OHIO REVISED CODE, Section 4117.14(C)(5) as amended. A second letter of appointment followed, dated February 1, 2005 appointing the Undersigned "in compliance with Ohio Revised Code Section 4117.14(C)(3)." In addition, the Factfinder is directed to proceed under Ohio Administrative Code Rule 4117.-9-05(G).

The Parties were contacted expeditiously. They advised the Factfinder they had not reached agreement but they had agreed to extending the period of fact-finding and would keep SERB and the Factfinder advised. They were unable to reach agreement after a lengthy extension and contacted the Factfinder to set a date for the Hearing. The Hearing was scheduled for June 24, 2005; 10:00 a.m. at the Justice Center, Route 7, Steubenville, Ohio. As previously noted, Steubenville is the County Seat.

DISCUSSION

Based upon a reading of the LABOR AGREEMENT it is apparent the Union and the Sheriff have engaged in meaningful negotiations over the years. We should mention Sheriff Adbølla has held office for eighteen (18) years. As such, he has been involved in negotiations on a continuing basis since the first CBA. The same is true for Mr. Daugherty.

UNION POSITION

Section 1 of ARTICLE 31 shows the hourly rate for the bargaining unit members, Corrections Officers, as \$11.83 per hour. The Union stresses the Corrections Officers (CO's) have not had an increase since October, 2002. It notes Patrol or Road Officers in the County, who are also under the supervision of the Sheriff but who are represented by another Union, the OHIO PATROLMENS' BENEVOLENT ASSOCIATION (OPBA), have an hourly rate around \$14.00 (fourteen dollars) per hour. It also noted the high turnover rate among CO's, particularly Jailers. It remarked it was fully aware of economic conditions in Jefferson County and the northern Ohio Valley but argued the CO's are being left behind and deserve an increase. Of course, the Union is aware there are seven (7) CO's on layoff which has increased overtime for those employed. However, it states employees cannot rely upon overtime and it is imperative that the Corrections Officers receive a fair increase.

The Police proposed that ARTICLE 31 be revised as shown below.

ARTICLE 31

WAGES

"Employees in the bargaining unit shall be paid in accordance with the following hourly rate schedule:

	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Annually</u>
October 1, 2005			
0 to 1 year	\$13.00	\$1,040.00	\$27,040.00
1 to 2 years	\$14.00	\$1,090.00	\$28,350.00
Starting 3 years	\$14.50	\$1,160.00	\$30,160.00

Upon completion of years of service using the employees anniversary date, the employee shall move to the next higher step in which his years of service are completed."

The Union entered as its Exhibit No. 2 a Document entitled STATE EMPLOYMENT RELATIONS CLEARINGHOUSE BENCHMARK REPORT, February 25, 2005, three (3) pages. The Police reviewed the Data, which lists by column the County, Population, Union, Local, the Bargaining Unit and its Size, the Start Date and the End Date, the Effective Date, Entry Level, Top Level, Hours Per Week and per Day, the number of steps and the Population. The Police examined the REPORT, comparing other Counties of similar size and population to Jefferson.

EMPLOYER POSITION

Management recognizes that the Corrections Officers have not had a wage increase for almost five years and Sheriff Adballa stated that he supports a wage increase for the Officers. While he does not agree with the proposed increase by the Union (see supra, p. 5), he agrees the Officers deserve a wage increase. The Employer reviewed the declining economy in Jefferson County and the northern Ohio Valley and its impact upon revenue, noting:

- a. The population has declined from 84,000 74,000 during the past two census period the 1990 Census and the 2000 Census.
- b. The new Justice Center went over budget several million dollars.
- c. The Center was projected to have a staff of 42 CO's but the money provided has never permitted the Center to reach this level.
- d. There are currently twenty five (25) CO's actively employed. There has already been a considerable amount of overtime worked this year because of various forms of absenteeism, such as vacations, holidays, illness and the like. To stay within the budget overtime will have to be stopped.
- e. The staff had to add a doctor and a nurse due to court cases.
- f. The bottom line is the Sheriff's Department is facing a deficit of \$200,000 (two hundred thousand dollars). There is simply no money available.
- g. The Union is welcome to examine the books and to talk with the Commissioners.

In support of its Position the Employer introduced the following Documentary evidence:

- No. 1. CORRECTIONS OFFICERS LIST
(Active, Terminated and on Layoff)
June 23, 2005 (three (3) pages)

- No. 2. JEFFERSON COUNTY 5 YEAR APPROVED BUDGET REPORT (Eleven (11) pages)
June 14, 2005

- No. 3. COMMISSIONERS PROPOSED BUDGET REQUEST REPORT (AUDITOR) Correction Officers)
March 29, 2005 (One -1- page)

- No. 4. COMMISSIONERS PROPOSED BUDGET REQUEST REPORT (Patrol or Road Officers) One -1- page
March 29, 2005

Sheriff Adballa gave detailed testimony related to the Exhibits. Firstly the Union objected to the introduction of the Exhibits on the basis the authors of the Documents were not present for cross examination. Secondly Mr. Daugherty carefully examined the Exhibits, noting in particular that the Road Officers currently have a base pay of some \$14.00 (fourteen dollars) per hour.

FINDINGS OF FACT

- 1. The Officers stationed at the Justice Center have not had an hourly wage increase since October 1, 2002.

- 2. The projected workforce of forty two at the Justice Center has never been budgeted.

- 3. A number of circumstances beyond the control of the Sheriff and the Commissioners have impacted significantly upon County revenue.

4. The Sheriff has attempted to have funds placed in the Budget specifically for a wage increase for Corrections Officers. For the coming year he added \$40,000 (forty thousand dollars) for such an increase.
5. There are seven (7) Officers currently on lay-off due to insufficient funding to pay their wages.
6. The Documentation presented by Management and the supporting testimony are credible. Variable costs, such as utilities, typically increase from year-to-year. Currently there is simply no money available for a wage increase for the CO's.

SUMMARY

The evidence is at least clear and convincing that the Sheriff does not have funds available to increase the hourly wage rate for CO's. There is no evidence to show a wind-fall could occur which would **eliminate** or ease the projected \$200,000 (two hundred dollar) deficit. Neither is there any evidence to be optimistic concerning a significant upward move in the stagnated economy of Jefferson County or the immediate area.

RECOMMENDATION

The current hourly rate specified in ARTICLE 31
Of the LABOR AGREEMENT will remain at \$11.83
(eleven dollars and eighty three cents) an hour.



Norman R. Harlan, factfinder

July 5, 2005
Steubenville, Ohio