

**FACT FINDING REPORT**

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**STATE OF OHIO**

**STATE EMPLOYMENT RELATIONS BOARD**

**AUGUST 17, 2005**

OHIO PATROLMAN'S BENEVOLENT  
ASSOCIATION

CASE # 05-MED-05-0566

and

FACT FINDING REPORT

CUYAHOGA COUNTY SHERIFF'S  
DEPARTMENT

APPEARANCES

For the Union

Kevin Powers, General Counsel  
George Metz, Bargaining Committee Member  
Terry Neff, Bargaining Committee Member  
Connie Burnett, Bargaining Committee Member  
Frank Costanzo, Bargaining Committee Member

For the Employer

Christopher J. Russ, Employer Relations Administrator  
Kevin McDonough, Warden of Operations  
John Summers, Lieutenant  
Dave Wervey, Associate Warden  
Mary O'Toole, Employer Relations Specialist

ROBERT M. LUSTIG  
Fact Finder  
615 Leader Building  
526 Superior Avenue, E.  
Cleveland, Ohio 44114-1964

## **Introduction**

This Fact Finding involves the corrections officers (“COs”) represented by the Ohio Patrolmen's Benevolent Association (“OPBA”) and the Cuyahoga County Sheriff's Department (the “Employer”). There is a wage reopener in the parties current three year agreement that applies to wages for calendar years 2005 and 2006. The wage rates for those years are the sole issue in this fact finding.

The undersigned was duly appointed fact finder. The fact finding hearing was set by agreement of the parties for August 16, 2005. The hearing commenced at 10:00 AM and was closed at 11:30 AM subject to the Sheriff providing an explanation of a \$5,000,000 charge against revenue from 2006 real estate taxes.

Both sides presented such evidence as they desired without objection from the other party. The Fact Finder thanks both parties for their professionalism and courtesy.

In considering the recommendations made in this report, the fact finder considered the criteria set forth in Rule 4117-9-05 which are:

- 1) Past collectively bargained agreements, if any.
- 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, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards 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 agree-upon dispute settlement procedures in the public service or private employment.

### **Facts**

The parties entered in an agreement covering the period 1/1/04 through 12/31/06 which contains a wage reopener at mid-term that affects wages for calendar years 2005 and 2006.

Wages for 2004 were frozen but all employees in the bargaining unit received a bonus in 2005 based on the number of months worked in 2004, the majority of bargaining unit employees receiving the maximum \$1,000 for working the full 12 months of 2004. The bonus is about 2.75% of 2004 pay.

### **Issue**

What should wage rates be for 2005 and 2006?

### **Union Position**

The Union asks for a 6% increase for 2005 and a 5% increase for 2006.

### **Employer's Position**

The Employer proposes a 2% increase for 2005 and no further change for 2006.

### **Discussion**

The Union argues that its members are paid far less than COs in surrounding counties and in Hamilton and Franklin Counties. It further points out that, over the past 14 years, wage settlements in the public sector have averaged 3.56% in the Cleveland area according to data provided by SERB.

The Employer argues that, while the hourly rates of pay are less than surrounding counties, the actual pay of the COs is greater due to the fact that they work 12 hour shifts; 48 hours on week and 36 hours the next. Thus they are paid 8 hours at overtime rates.

The Employer further asserts that the Sheriff's budget for 2005 is already in deficit and that the County's revenues are diminishing, its reserves have dwindled and it is unable to pay.

As to comparable wages, Franklin County will be disregarded as it uses sworn deputies who are paid at higher rates. The data from the surrounding counties and Hamilton County is not truly comparable as all of these counties work their COs on 8 hour shifts so a normal work total is 2080 hours for a year. Due to the 12 hour shifts the normal total for a year for Cuyahoga County COs is 2184 hours.

Fran McEntee, a Senior Budget Analyst for the County testified that the County's General Fund Revenues, excluding revenue from the new Health and Human Services Levy, were on the decline. However, she was unable to explain why \$5,000,000 charge against property tax revenue in 2006 is a reduction in revenue rather than an item of expense. The \$5,000,000 was excess funds raised from the issuance of certain bonds. That excess does not appear to be shown in 2005 General Fund Revenue so it should not reduce the 2006 General Fund Revenues.

There is much conflict as to the amount of General Fund Reserves. The County's own website shows the 2005 Budget as having a year end balance of \$120,000,000. The first quarter actual results show \$131,000,000 or 26.8% of total expenditures. Without the Health and Human Services funds the reserve at the end of the first quarter is \$96,000,000 or 18.5% of total expenditures. What level of reserves are appropriate and necessary is open to question.

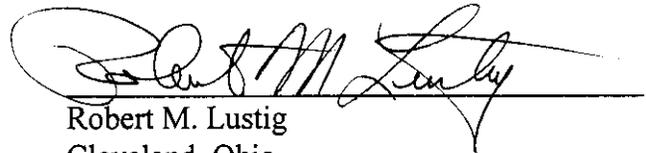
What is beyond question is that the costs of living continues to rise. The Department of Labor's Consumer Price Index showed a 3% increase during 2004. One need only look at the price of gas today to see the CPI for 2005 will again increase.

**Finding of Fact**

The Union has established that an adjustment in wage rates is appropriate. The Employer has not established an inability to pay a reasonable increase.

**Suggested Language**

The Salary Schedule as set forth on page 41 of the parties agreement for the year 2004 shall be adjusted to reflect 3% increases in all rates for 2005, retroactive to 1/1/05 and a further 2.5% increase for 2006.

A handwritten signature in black ink, appearing to read "Robert M. Lustig", is written over a horizontal line.

Robert M. Lustig  
Cleveland, Ohio  
August 17<sup>th</sup>, 2005