



**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

STATE EMPLOYMENT
RELATIONS BOARD

2006 DEC -7 P 12: 03

In the Matter of:	:	
	:	
Ohio Patrolmen's Benevolent Association (Full Time Deputies)	:	06-MED-05-0664
	:	FACT FINDING REPORT
	:	FINDINGS AND RECOMMENDATIONS
and	:	
	:	
Ashtabula County Sheriff	:	December 4, 2006

APPEARANCES

For the Union:

Mark Volcheck, Attorney
Jim Hudson, Deputy
Neil Stout, Deputy

For the Employer:

John Barkan, Employer Representative
Bill Johnson, Sheriff

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I. **BACKGROUND**

The Fact Finder was appointed by the State Employment Relations Board (SERB) on September 18, 2006, pursuant to Ohio Revised Code Section 4117.14(C)(3). The parties mutually agreed to extend the fact-finding period. The parties are the Ohio Patrolmen's Benevolent Association (Union), representing the full time Deputies of the Ashtabula County Sheriff. Ashtabula County is located in the northeast corner of Ohio, contiguous to Pennsylvania. It is the largest county in area in Ohio and, according to the 2000 Census, has a population of just over one hundred thousand (100,000). Jefferson is the county seat.

The fact-finding involves the Sheriff's Department of the County and its full time sworn Deputy Sheriffs. The bargaining unit is comprised of approximately thirty (30) employees. The unit is represented by the Ohio Patrolmen's Benevolent Association, which also represents three (3) other bargaining units in the Sheriff's Department, the Corrections Officers, Corporals, Clerical/Cooks and Maintenance. The Dispatchers are represented by the Fraternal Order of Police/Ohio Labor Council (FOP). This unit was previously represented by the FOP. The collective bargaining agreement between the Sheriff and the FOP expired on December 31, 2004 and the parties entered into an Extension Agreement through December 31, 2005. In the fall of 2005, however, the Deputies petitioned SERB for decertification of the FOP as their representative. On April 6, 2006, the OPBA was certified as the bargaining representative of all full time deputies.

Bargaining began during the summer of 2006. The parties met on a number of occasions and agreed to a number of provisions based on the previous contract with the FOP. The parties were unable to agree on a number of other issues.

II. THE HEARING

The fact-finding hearing was held on Wednesday, November 15, 2006 at the offices of the Sheriff, 25 West Jefferson Street, Jefferson, Ohio. The parties provided pre-hearing statements. The hearing began at 9:30 a.m and adjourned at approximately 4:00 p.m. The parties attended, introduced evidence, and presented their positions regarding the issues at impasse. The parties jointly introduced the following exhibit into evidence:

1. Collective Bargaining Agreement Between the Ashtabula County Sheriff and the Fraternal Order of Police, Ohio Labor Council, Inc., Effective January 1, 2002, Expires December 31, 2004.
2. Extension Agreement.

Additionally, the parties introduced the following exhibits into evidence:

Union Exhibits

1. Ohio Revised Code Section 124.322.
2. Comparison of Layoff and Recall.
3. Deputies Vacations (Comparables).
4. Deputies Officers [sic] Uniform Allowances.
5. Health Care Coverage.

Employer Exhibits

1. Article 20 proposal.

The issues remaining at impasse for fact-finding included:

1. Union Recognition.
2. Grievance Procedure.
3. Seniority.
4. Vacancy, Promotions, and Transfer.
5. Layoffs and Recall.
6. Hours of Work/Overtime.
7. Vacations.
8. On Duty Injury Leave.
9. Sick Leave.
10. Court Time.

11. Wages.
12. Uniform Allowance.
13. Duration.

The Ohio public employee bargaining statute provides that SERB shall establish criteria the Fact Finder is to consider in making recommendations. The criteria are set forth in Rule 4117-9-05(K) and are:

- (1) Past collectively bargained agreements, if any, 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 interests 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 the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

The Fact Finder hopes the discussion of the issues is sufficiently clear to the parties. Should either or both parties have any questions regarding this Report, the Fact Finder would be glad to meet with the parties to discuss any remaining questions.

III. ISSUES AND RECOMMENDATIONS

In 2005, Ashtabula County cut the Sheriff's Department budget by over two million dollars (\$2,000,000.00). As a result, the Sheriff had to lay off a number of employees. In 2005, the Sheriff's Department employed ninety-five (95) personnel. Currently, seventy-nine (79) employees are on the payroll. A county Sheriff is required by law to provide only three (3) services to the county, that is, attend to the county courts, execute all warrants, writs and other process, and keep the peace by maintaining a jail. ORC §311.07. As a result, when layoffs occurred in 2005, this bargaining unit was hit particularly hard.

The budget remains reduced from a couple of years ago. In the negotiations for the new collective bargaining agreement, the Sheriff made a number of proposals designed to save money as well as give him more latitude should further cuts be necessary. The bargaining unit recognizes the change in the Department's budget. Given the layoffs in 2005, the unit is concerned that further layoffs may take place. Additionally, it proposes several economic enhancements to the contract.

Issues Resolved Prior to the Hearing

Prior to the hearing, the parties reached agreement on Articles 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 19, 23, 24, 29, 30, 33, 34, 35, and 36.

Issues Resolved During the Hearing

During the hearing, the parties reached agreement on a number of outstanding issues. The Fact Finder recommends that the following provisions be included in the collective bargaining agreement.

1. Article 2, Union Recognition as follows:

Section 1. The Employer recognizes the OPBA as the sole and

exclusive representative for those employees in the bargaining unit listed in Section 2. Whenever used in this Agreement, the term "bargaining unit" shall be deemed to include those full time employees in a classification listed as appropriate to a bargaining unit, as certified by the State Employment Relations Board in Case No. 05-REP-09-0138 on April 6, 2006, which certification orders were filed and served upon each party on May 4, 2006.

Section 2. The term "bargaining unit" shall be defined as the following:

"All full time Deputies."

Section 3. All others shall be excluded from the bargaining unit.

2. Article 16, Seniority, as follows:

Section 1. Seniority shall be computed on the basis of the employee's uninterrupted length of continuous service with the Ashtabula County Sheriff's Office, commencing on the employee's date of hire (DOH) with the Ashtabula County Sheriff's Office. A termination of employment lasting less than thirty-one (31) days shall not constitute a break in continuous service. Once continuous service is broken, unless the employee is reinstated immediately following the expiration of broken service, the employee loses all previously accumulated seniority.

Section 2. An approved leave of absence, with or without pay, does not constitute a break in continuous service, provided the employee follows the proper procedure for such leave and returns to active service immediately following the expiration of the approved leave.

Section 3. Employees laid off shall retain their seniority for a period of two (2) years from the date of the layoff.

Section 4. In all matters wherein the Employer shall give considerations and evaluate two (2) or more employees on a comparative basis, such as, but not limited to, job vacancies, vacation selection, shift selection, or personal day selection as described in this Agreement, said selection shall be awarded on the basis of seniority should all other factors used in the evaluation or selection process be considered equal.

Section 5. Shift selection shall be on the basis of seniority. Assignments requiring specialized training shall also be on the basis

of seniority, but the Sheriff reserves the right to designate the number of deputies with specialized training needed on a shift. The Sheriff shall provide a thirty (30) day notice in advance of any change in shifts, at which time shifts shall be rebid. Annual shift selections under this section shall take place on or about December 1.

3. Article 18, Layoff and Recall, as follows:

Section 1. When the Employer determines that a long term layoff or job abolishment is necessary, the Employer shall notify the affected employees at least five (5) calendar days in advance of the effective date of the layoff or job abolishment. The Employer, upon request from the Union, agrees to discuss, with representatives of the Union, the impact of the layoff on bargaining unit employees.

Section 2. Layoff of bargaining unit employees shall be in the order of seniority, beginning with the least senior employee and progressing to the most senior employee (as defined under Article 16, Section 1) in the bargaining unit up to the number of employees that are to be laid off. The sole exception to this Section shall be that the most senior qualified bargaining unit employee will be retained for an Evidence Room position.

Section 3. When employees are laid off, the Employer shall create a recall list. The Employer shall recall employees from layoff according to seniority, beginning with the most senior employee up to the number of employees to be recalled. An employee shall be eligible for recall for a period of twenty-four (24) months after the effective date of layoff. When the Employer recalls persons off the list, they shall be recalled to their previous position, but not necessarily to the shift on which they were working when laid off.

Section 4. No new employees shall be hired into positions from which members of the bargaining unit are on layoff until such time that all such eligible employees are recalled. Non-bargaining unit personnel, who are full time employees of this department, shall not be used to perform work or duties of bargaining unit members, with the exception of the Sheriff, Chief Deputy, Lieutenants, and Sergeants. During the period of time that layoffs occur, Sheriff's Patrol personnel may only be used for such duties that are not compensable. Sheriff's Patrol personnel will not be used to prevent the return from layoff of any bargaining unit employees or infringe the rights of bargaining unit employees. Sheriff's Patrol personnel may also be used to fill in for an employee needing time off, but will not be compensated for doing so.

Section 5. Notice of recall from a long term layoff shall be sent to the employee by certified or registered mail with a copy sent to the Union. The Employer shall be deemed to have fulfilled its obligations by mailing the recall notice by registered mail, return receipt requested, to the last mailing address provided by the employee.

Section 6. In the case of a long term layoff, the recalled employee shall have five (5) calendar days following the date of receipt of the recall notice to notify the Employer of his intention to return to work and shall have ten (10) calendar days following the receipt of the recall notice in which to report for duty, unless a different date for returning to work is otherwise specified in the notice. All mailings shall be by registered mail, return receipt requested.

4. Article 20, Hours of Work/Overtime. The Union withdrew its proposal and agreed to the language of Article 20 from the previous agreement with the FOP.

5. Article 21, Holidays. The parties agreed to the language of Article 21 from the previous agreement, with the exception that the Employee's Birthday is to be deleted and Section 11 of Article 26, Sick Leave/Personal Leave modified by adding an additional personal day.

6. Article 25, On Duty Injury Leave. The parties agreed to the language of Article 25 from the previous agreement.

7. Article 26, Sick Leave/Personal Leave. The parties agreed to the language of Article 26 from the previous agreement, with the following changes:

In Section 5, paragraph B, add "aunt, uncle, niece, and nephew" to the end of the first sentence as additional individuals for whom employees may take sick leave to attend the funeral.

Section 11, paragraph A, shall read "Each employee will be given four (4) personal days (a total of 36 hours) per calendar year;"

Section 12 is amended as follows:

Employees may elect to be paid from their sick time accumulation for each of their last three (3) years of service prior to retirement. To

qualify for three (3) annual payments under this section, an employee must notify the Employer of his or her intent to retire at least two (2) years prior to his or her retirement date. The employee shall then be paid according to the formula below and thereafter each of the next two (2) years, also according to the formula below.

<u>Hours of Sick Time</u>	<u>% of Hrs. Paid at Regular Rate of Pay</u>
1500-1800	Nine Percent (9%)
1801-2000	Ten Percent (10%)
2001-	Eleven Percent (11%)

8. Article 27, Hospitalization. The parties agreed to the language in the Extension Agreement regarding medical coverage.

9. Article 28, Court Time. The parties agreed to continue the language in the previous agreement regarding court time.

10. Article 31, Wages/Longevity. The parties agreed to wage increases of three percent (3%) for 2006, three percent (3%) effective January 1, 2007, and three percent (3%) effective January 1, 2008. They also agreed the increase for 2006 was retroactive to January 1, 2006.

11. Article 37, Duration. The parties agreed that the collective bargaining agreement shall be effective as of January 1, 2006 through December 31, 2008.

Unresolved Issues

The Fact Finder feels compelled to note that the parties worked together very well during this process. They were professional and amicable toward each other. The Employer was conscious of the bargaining unit's needs and the bargaining unit was aware of the Employer's financial concerns. Each party withdrew proposals in recognition of the other agreeing to its proposals or agreed to language proposed by the other when there was no real dispute. Even when a significant dispute arose, the parties were able to

amicably reach a resolution on a number of issues. This is exactly how the process is supposed to work, but frequently does not.

The parties successfully resolved all but four (4) issues prior to or during the hearing. Those issues remaining for the Fact Finder are:

Issue: Article 9, Grievance Procedure

Employer Position: The Employer proposes to reduce the time limits to file a grievance from the current fifteen (15) days to seven (7) and shorten other time limits responding to grievances.

Union Position: The Union wants to retain the language in the current agreement, except for removing the references to the FOP and using a certain grievance form.

Findings: The parties agree on much of Article 9. During the hearing, they agreed that the references to the FOP and using the grievance form in an appendix be deleted. They also agreed that Section 3 (1) be changed to read "The grieved employee's name and signature of the grievant or Union representative." The only disagreement revolves around the time limits to file and process a grievance.

The Employer contends that the grievance process takes too long. An employee has fifteen (15) days, excluding weekends and holidays, to file a grievance and appeal it to each subsequent step. The Employer has three (3) days to respond at the first step and five (5) days at the subsequent steps. Thus, it can take more than two (2) months to move a grievance through the process. If the Union then takes it to arbitration, resolution is delayed even further. The Employer proposes reducing the time limits so that grievances will move more quickly through the process to resolution.

The Union argues that the fifteen (15) days is necessary to file a grievance and process it to the next step. Given that employees must sign a grievance, if an employee is on vacation or sick leave, it may take more than a week for the Union representative to meet with the employee, discuss the grievance, and determine whether it should be filed or moved to the next level. Additionally, the Deputies work three (3) different shifts and it may be difficult for the Union representative to meet with an employee on midnights or afternoons. In short, the time is necessary to properly process grievances.

The Fact Finder first would like to note that the Employer's goal is commendable. Shortening the grievance procedure to allow for quicker resolution of grievances has its merits. However, the parties' positions are based solely on argument. The Employer claimed that making the process faster has its benefits. On the other hand, the Union contended that decreasing the time limits could result in a grievance not being able to be filed or moved to the next step if an employee were out on vacation, sick leave, etc. No evidence was introduced that the current time limits caused any problems such as losing records needed to prosecute or defend a grievance or witnesses being unable to recall facts due to the length of time that passed since the grievance. Nor was there evidence that there was a backlog of grievances as a result of the time necessary to process them. The Employer only argued that the time periods cause grievances to take some time to be resolved. The Union, while acknowledging the process is not quick, argued that the time is needed. Generally, it is the party proposing a change in contract language who has the burden to show that the change is necessary. Evidence of particular problems caused by the current language is helpful in persuading the Fact Finder the change is needed. On this record, the Employer failed to show the need for the change in language.

Recommendation: The language from the previous agreement shall be retained, with the following exceptions:

1. In Section 2 (D), the reference to FOP/OLC in the second sentence shall be changed to OPBA.
2. The second sentence of Section 3 shall be deleted.
3. Section 3 (1) shall read "The grieved employee's name and signature of the grievant or Union representative."

Issue: Article 17, Vacancy, Promotion, and Transfer

Employer Position: The Employer seeks to change one (1) of the Section 4 criteria for promotion to a Sergeant position from the current three (3) years of continuous service with the Sheriff's Department to two (2) years. It also seeks to clarify the opening clause of Section 4 by having it read as "Criteria to be used in the promotional process:"

Union Position: The Union desires no change from the language in the previous agreement.

Findings: The Employer asserts that reducing the required three (3) years of service with the Sheriff to two (2) years will expand the pool of viable candidates. The Sheriff prior to the current Sheriff often would go outside the department and hire an individual for a position. The current language was negotiated with the prior Sheriff so that promotions would come from within the department. The current Sheriff has hired from within the department, so the language is not as important. Reducing the criterion of service to two (2) years would give the Employer more options when filling an opening in the Sergeant rank. The Union sees no reason to change the current language. Its members believe that time within the department is important and should be a factor in promotions.

Seniority is an important factor in a bargaining unit. It is used as a consideration in many decisions. Indeed, one (1) of the more difficult proposals the parties resolved during the hearing involved seniority. The bargaining unit agreed to the Employer proposal regarding the scope of the unit in exchange for the Employer agreeing to use seniority in layoffs. This corresponds to the Fact Finder's experience that seniority is of primary importance to any bargaining unit.

The Employer seeks more flexibility when there is an opening in the Sergeant rank. Requiring only two (2) years of service with the department allows more individuals to qualify for openings. The Employer did not, though, introduce evidence that three (3) years of service limited the number of potential candidates so that there were insufficient applicants for an opening. Nor did it introduce evidence that certain openings could not be filled because the three (3) year requirement placed too great a restriction on its ability to fill them. Had the Employer provided evidence that openings went unfilled because of the three (3) year requirement, reducing the amount of service to two (2) years would increase the number of qualified applicants by a particular amount (e.g., 25%), or that a significant number of bargaining unit employees met the other qualifications, but had less than three (3) years of service and were not eligible for openings in the Sergeant rank, the Fact Finder would have more of a basis to recommend the Employer's proposal. Without such evidence, the benefit of reducing the criteria to two (2) years is speculative. On this record, the Employer has not justified reducing the amount of service to qualify for promotions.

This is particularly important on this issue. Not only is seniority an important issue to this or any bargaining unit, but more service within the department provides additional

benefits in promoting to the Sergeant rank. An employee with three (3) years of service has worked with his or her co-workers that much longer and is more familiar with them. He or she is also more familiar with department procedure and practices. The employee would be more familiar with the County itself, which areas are more problematic, which are less, and the current problems within the County. For instance, the Sheriff testified that the County has a problem with methamphetamine labs. A Deputy or Detective with three (3) years of experience with the department would have more experience with meth labs than an employee with two (2) years.

Recommendation: The contract language as to three (3) years of experience with the department shall remain. The Employer's other language regarding Section 4 will be added so that Section 4 will read "Criteria to be used in the promotional process:..."

Issue: Article 22, Vacations

Employer Position: The Employer proposes to amend Sections 4 and 8 of Article 22 as follows:

Section 4. The Employer shall require that all vacation requests be made and submitted to the Employer by December 1st of each year. The Employer will post the vacation schedule no later than December 15th of each year. The Employer will provide a copy to the employee, of the employee's vacation leave or personal day request, be it approved or denied.

To provide for vacation leave scheduling, the employees will commence vacation leave selections from September 1st to November 30th of each year, and said selection shall be based on the employee's seniority as defined under this Agreement.

Employees failing to submit their vacation requests, as required under this Article, will have any unscheduled vacation leave scheduled by the employee's immediate supervisor in order to have all vacation leave scheduled prior to December 1st of each year.

Section 9. Vacation leave can be scheduled in eight (8) hour minimum increments.

Union Position: The Union wants to retain the language from the previous agreement.

Findings: The Employer is interested in having vacations for the upcoming year scheduled prior to the end of the current year. This would help it with scheduling employees for work given the limited number of employees in the unit. Since employees cannot carry vacation over to the next year and all vacation is not scheduled early in the year, there is a crunch at the end of the year when employees attempt to schedule their remaining vacation. This has been a problem for the Employer in scheduling work and some vacation has been denied. This often results in overtime or being shorthanded on a shift.

According to the Union, the present system works adequately. Employees must request vacation by February 15. The Employer's proposed December 1 deadline and scheduling of vacation should an employee not request all of his or her time are drastic changes. The current system provides an incentive to schedule vacations by February 15 because vacations are scheduled in seniority order. If an employee waits until after February 15, then vacation is scheduled on a first come, first served basis.

The current system has its flaws. Not all employees request vacation by February 15, for various reasons. For example, Deputy Neil Stout testified that he takes a vacation in September every year, after the summer vacation season. However, he does not know which week he will be able to go on vacation until sometime around May of each year. The current system gives him this flexibility. He also realizes that, if other employees have already scheduled vacations that particular week, he may be unable to take his vacation. Employees also leave vacation unscheduled until the end of the year, resulting in a year

end rush to schedule, which can leave the Employer shorthanded, require overtime, or cause vacation to be denied. Since vacation cannot be carried over, employees sometimes lose vacation time.

Given the seniority in the bargaining unit, many employees get four (4) or more weeks of vacation. It can be difficult to schedule all of this time, particularly when vacation is left until the end of the year. It is understandable that employees do not know at the beginning of the year when they will be able to take all of their vacation. After all, they may have to take into account the vacation schedule of a working spouse, children in school, and so forth. However, the current system also provides a mechanism to change an employee's scheduled vacation so no one is locked into a particular requested time. The current system requires a thirty (30) day advance notice, but the Employer has not denied any requested change, even when the notice has been less than thirty (30) days.

Having heard much evidence on this proposal, the Fact Finder concludes that the Employer has proved the need to change the current system. It has a legitimate interest in knowing in advance the vacation schedules of its employees so that it can properly schedule working time. This benefits employees as well. At the same time, employees have a legitimate interest in scheduling vacation time when it suits their particular needs. For some employees, this may mean holding some vacation until later in the year when it can be scheduled factoring in the plans of other family members. All in all, the Employer's proposal goes a bit too far.

The Employer proposes that employees begin selecting vacation for the following year by September 1 of the current year. It is difficult for many employees to know that far in advance what their plans will be for the following year. With the holiday season

beginning at the end of November and many employees taking time off at the end of the year, scheduling vacation prior to the end of the year poses problems, also. To allow employees to schedule some vacations after the first of the year and meet the Employer's interest in knowing employees' schedules in advance, the Fact Finder concludes that two (2) vacation selection times are needed. The first can take place just after the first of the year, moving the current date ahead somewhat, but not the several months the Union claims is too drastic a change. This selection period can start beginning December 1 of each year and carry through mid-January. Vacation can be scheduled by January 15, giving employees approximately six (6) weeks to request vacations. Since many employees are off during the holiday period, this should be ample time to schedule vacations.

Another selection period can begin on June 1 so that any remaining time can be scheduled. This meets the Employer's need to know in advance and the employees' need to wait sometimes to schedule vacation. By the middle of the year, employees should know what other family members schedules are for the year, the summer vacation period has already begun, and it is sufficiently close to the end of the year so that employees have a better idea of when they can take their vacations. Vacations can be scheduled by July 15, giving the Employer an idea of its schedule for the remainder of the year. It can also serve as a reminder to employees that any remaining vacation time must be scheduled. The current mechanism for making changes to vacations should be retained, so that any changes can be accommodated.

Additionally, the Employer proposes that, should an employee not request vacation, his or her immediate supervisor is empowered to schedule vacation for the employee. The

Union contends that this step goes too far. The Fact Finder agrees. Comparables introduced by the Union (Un. Ex. 3) show that none of the other northeastern Ohio counties cited permit the employer to schedule an employee's unscheduled vacation. Further, the contract language provides that unscheduled vacation does not carry over. Permitting the Employer to schedule such vacation is not necessary.

Recommendation: The language of the previous agreement is adopted with the following changes:

Section 4. Vacation scheduling for each year will begin on December 1 of the previous year. Employees shall have until January 15 to make and file vacation requests. The Employer will post the vacation schedule no later than January 31 of each year. The Employer will provide a copy to each employee of his or her vacation leave or personal day request, be it approved or denied.

There will be a second vacation scheduling period beginning on June 1 of each year. Employees shall have until July 15 to make and file vacation requests for any unused vacation. The Employer will post the vacation schedule no later than July 31 of each year. The Employer will provide a copy to each employee of his or her vacation leave or personal day request, be it approved or denied.

Section 5. Where scheduling of vacation conflicts may occur, the preference shall be given to the senior employee, provided the conflict is reported prior to January 15 for the first selection period or July 15 for the second selection period.

Section 8. There shall be no carry over of vacation leave from one year to the next. Newly hired employees shall be allowed to take their vacation entitlements, after they have completed one (1) year of service, but before December 31, of the year. Only newly hired employees, if they are unable to take their initial vacation leave prior to December 31, will be allowed to carry over any unused vacation into the following year and all vacation leave must be used by December 31 of the following year.

Section 9. Vacation leave can be scheduled in eight (8) hour minimum increments.

Issue: Article 32, Uniform Allowance

Employer Position: The Employer wants to alter the uniform allowance from the current vendor system to a quartermaster system and replace worn out or damaged items.

Union Position: The Union proposes retaining the current vendor system, increasing the current stipend from seven hundred dollars (\$700.00) to eight hundred dollars (\$800.00), and requiring the Employer to purchase a bulletproof vest for each bargaining unit member every five (5) years at no cost to the employee.

Findings: The Employer believes a quartermaster system will help it to control costs and keep its budget in line. A line item in its budget simply means money and has to be budgeted. Under the quartermaster system, if an employee needs an item, the Employer will replace it. Further, while the Employer is attempting to obtain bulletproof vests for each employee, they are expensive and requiring the Employer to provide them will balloon the budget.

The Union argues that the current vendor system has greater flexibility. The Employer has permitted employees to purchase various job related items, such as cameras, first aid kits, and laptops. This may not be possible through a quartermaster system. As to controlling costs, employees have helped keep costs down when asked. Finally, the Employer used to have a quartermaster system and the employees believe it did not work. Deputy Jim Hudson testified that employees were told items were not needed or clothing and equipment were simply not ordered when the employee felt an item should be replaced. Under the current system, employees have discretion to spend the money.

The Employer introduced sufficient evidence of its budget concerns. Its budget was cut by over two million dollars (\$2,000,000.00) in 2005, resulting in a number of layoffs, and remains reduced. Every employer has a legitimate interest in controlling costs. This is particularly so here when the Employer's budget has been cut severely. A quartermaster system will help to control costs. In the Fact Finder's experience, a uniform allowance acts as another way for employees to receive money without increasing wage rates. A vendor system is somewhat different in that the money does not go directly into the employees' pockets, as it does with some uniform allowances. However, since employees are given a set amount to spend, it is more likely they will spend the money than in a quartermaster system. This is only natural, since the money is budgeted for that purpose. When looking to save money, though, a quartermaster system provides less of an incentive to spend it. Further, the Union seeks an increase in the allowance. While it is only one hundred dollars (\$100.00) per employee, or approximately three thousand dollars (\$3,000.00) for the unit, this is in addition to the approximately twenty-one thousand dollars (\$21,000.00) the Employer must currently budget. A quartermaster system not only will save the three thousand dollars (\$3,000.00), it should help reduce costs.

The Union's request for bulletproof vests is laudable. The safety of employees, particularly sworn officers, is important. However, no evidence was introduced as to any particular need for bulletproof vests, such as recent shootings of deputies or a marked increase in injuries to deputies. Additionally, given the Employer's budget constraints, the additional cost of bulletproof vests weighs against it. No evidence was introduced as to the cost of a vest, but purchasing one (1) for each of thirty (30) employees would be costly. At this time, the Fact Finder concludes this would be too much of a burden. When the time

for the next contract negotiations arrives, the parties should have a better handle on the budget situation. The budget may be increased by that time or the Employer and employees will have several years experience operating under a reduced budget. In either case, the parties will have had some time to adjust to its financial situation and they can better plan for the additional cost.

Finally, the Union introduced evidence that the Employer previously had a quartermaster system. Employees believe it did not work well, so the current system was instituted. The current system, though, has been in place for at least ten (10) years. That a quartermaster system may not have worked well over ten (10) years ago is an insufficient reason to prevent trying it again at this time. Circumstances have changed, that is, the budget cuts, warranting instituting a quartermaster system again in an attempt to control costs.

Recommendation: Article 32 is to be amended as follows:

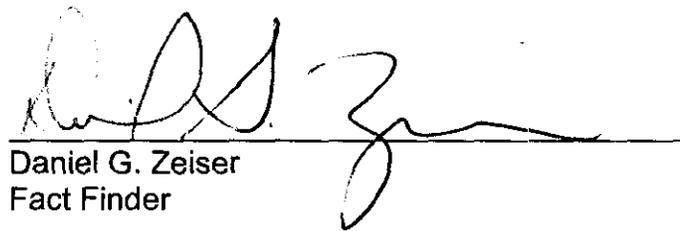
Section 1. Effective January 1, 2007, all newly hired Deputy Sheriffs shall be issued an initial issue of clothing at no cost to the employee. All items to be issued shall be determined by the Sheriff from the BSSA approved list of clothing and equipment. Any non-BSSA approved clothing and/or equipment may be placed into service under the sole discretion of the Sheriff.

Section 2. During the course of their employment, bargaining unit members will be provided clothing and equipment replacement on the quartermaster system, administered by the Employer. Employees needing or requesting clothing and/or equipment must make a written request to the employer for replacement under this article.

Section 3. All Deputy Sheriffs will produce at least one (1) full winter and one (1) full summer uniform when so demanded by the Sheriff.

Section 4. There shall be no monetary value to bargaining unit employees for clothing, equipment, or maintenance.

DATED: December 5, 2006



Daniel G. Zeiser
Fact Finder