

**FACT FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
January 4, 2007**

In the Matter of:

**FRATERNAL ORDER OF POLICE
OHIO LABOR COUNCIL, INC.**

CASE NO: 06-MED-08-0863

Employee Organization

-and-

**MIAMI COUNTY SHERIFF
TROY, OHIO
*Employer***

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STATE EMPLOYMENT
RELATIONS BOARD

APPEARANCES

FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.

Dennis Sterling, Staff Representative
Dave Eshelman, Deputy, OLC Local Representative
Mark Slater, Deputy, OLC Local Representative
Chris Bobb, Deputy, OLC Local Representative

MIAMI COUNTY SHERIFF,

Pete Lowe, Clemans, Nelson, & Assoc., V.P./C.O.D.
Fred Lord, Clemans, Nelson, & Assoc.,
Rita Gumerlock, Miami Co. Sheriff Administrative Assistant

Fact Finder: Howard Tolley, Jr., Professor, University of Cincinnati

Introduction

In three negotiating sessions for a three-year successor agreement to begin December 16, 2006, the parties agreed to extend the current language of 20 contract articles, and reached tentative agreement to changes on 14 others. Following rejection of the tentative agreement by FOP members, the parties were unable to agree on Article 17 Wages and Article 20 Insurance. They scheduled a December 13, 2006 fact-finding hearing and agreed to extend time for the report until January 5, 2007.

The Bargaining Unit includes 36 current employees, all sheriff's deputies. Miami County, with about 100,000 residents, employs over 1,000 individuals full time, and about 230 part time. Over 100 represented deputies, dispatchers and corrections officers are members of three bargaining units. The Employer and FOP/OLCI have been parties to collective bargaining agreements since 1995 (95-REP-02-0200).

The parties exchanged and submitted pre-hearing position statements that summarized their proposals, and they prepared supporting documents for presentation at the hearing to address the criteria established by the Ohio Public Employees Bargaining Statute in Rule 4117-9-05:

- 1) Past collectively bargained agreements, between the parties
- 2) Comparison of 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 standard of public service;
- 4) The lawful authority of the public employer;
- 5) Any stipulations of the parties; and,
- 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 the public service or in private employment."

Fact Finding Hearing: December 13, 2006, Hobart Center for County Government, Troy

The fact-finding hearing was conducted from 10 a.m. until 1 p.m. with presentation of evidence and argument on Article 17, Wages and Article 22, Insurance.

Article 17 Wages

FOP/OLCI Position:

The union proposed pay increases of 5% per year for three years in order to achieve salary parity with more highly paid sheriff's deputies in several counties in the region as well as with more highly paid police officers in three cities of Miami County. The union submitted a news article indicating that the 2007 cost of living adjustment for U.S. Social Security benefits is 3.3% and was 4.0% in 2006. In order to demonstrate the county's ability to pay, the union presented evidence of steady population growth and reports of business expansion by Clipay and Honda.

County Position:

The employer proposed a 1.7% pay increase in the first year, and 2% increases in the second and third years, based on CPI-U data of September 2006 used by the Ohio General Assembly to calculate the maximum 2007 pay increase for elected County Commissioners. The county presented data from 1995 to the present indicating that bargaining unit members had received annual increases ranging from 3% to 5%, considerably higher than cost of living increases and also well above the annual 3% increases paid to unrepresented county employees.

The employer disputed the selection of comparable counties presented by the union, noting that within SERB Region 5 the only counties paying higher salaries to sheriff's deputies were those with larger populations. Miami County pay scales for sheriff's deputies were also higher than some counties outside the region with larger population. The county argued that city police departments were able to pay higher salaries to their officers based on income tax revenues unavailable to counties, and that sheriff's deputies did not have the qualifications or perform the responsibilities that warranted parity in compensation. Only five of the 36 bargaining unit members resigned in the past four years; and although four took more highly compensated positions with other law enforcement agencies in the region, turnover has not been a problem in the sheriff's unit. Members' annual income compares favorably to the county median.

The county introduced evidence of property tax losses from the departure of Panasonic Corporation that had 1,500 employees and declining sales tax revenues, as well as increased expenditures for employees' retirement, unemployment compensation, and health care. New homeland security expenses for urban transit and emergency response will also affect the county's ability to pay the \$600,000 increase proposed by the union.

Discussion:

The fact-finder concludes that the salaries of county sheriffs' deputies in the region vary based on population, and that based on its size, Miami County's compensation for deputies is not out of line with comparable jurisdictions. Within the county, the pay disparity between sheriff's deputies and city police officers might have justified additional compensation if the union had provided evidence of salary parity between sheriff's deputies and police officers in other counties. In the absence of any evidence showing parity between city police and county deputies in comparable jurisdictions, the fact finder is unwilling to address disputed claims of equivalent

work performed by Miami County sheriff's deputies and city policy officers in Troy, Tipp City and Piqua.

In the absence of general budget data from the County, the fact-finder asked the employer's representative at the hearing whether ability to pay was an issue. While arguing in a written submission that the union's proposal was "unaffordable," the representative indicated at the hearing that given the small size of the bargaining unit, inability to pay was not the primary concern. A February 10, 2006 *Dayton Daily News* article submitted by the union to document 3% pay raises for county employees also reports: "The county has forecast another year of tight finances after tapping a general fund reserve account for the second straight year in 2005." The union's proposed 5% annual pay increase appears unreasonably high given prior salary agreements and county finances; the employer's proposal appears unreasonably low in the absence of any documentation on the general fund budget and reserve account.

Union members have averaged more than a 4% annual wage increase over the past 12 years, well above increases in the cost of living index, higher than the statewide agreements reported by SERB, and significantly higher than the increases awarded to unrepresented Miami County employees. In 2005 union members received a 3.5% increase as the county reduced the annual pay increase for other employees from 3% to 2.3% as a result of budgetary constraints.

The employer's representative insisted that the County had agreed to prior large increases for the FOP in return for a union agreement that members would pay more toward health insurance. The union representative rejected that explanation, insisting that the unusual wage increases resulted from concessions on longevity increases, vacation, and salary steps. The deputy sheriff's unit will be the first group of represented employees granted an increase for 2007, establishing a marker for other bargaining units and the unrepresented. The employer presented compelling evidence about increased personnel expenses that directly benefit FOP members' pensions, workers compensation and health care that preclude the size of increase the union received in prior agreements. The county has successfully retained 20 of the 36 members now at the top step for more than eight years, and entry level wages appear adequate to attract new recruits.

The fact finder makes a salary recommendation based on cost of living data in combination with anticipated future increases in health care premiums. In 2007 unit members will have only nominal increases in health care premiums. Ideally, compensation increases should exceed the annual cost of living increase as employees gain seniority. The Social Security COLA adjustment of 3.3% appears like a more appropriate benchmark than the Ohio General Assembly provision of a 1.7% increase for elected County Commissioners, as it corresponds to prior agreements between the parties as well as SERB data on recent Ohio collective bargaining agreements. The COLA adjustment was based on September 2006 data, and more recent CPI-U and CPI-W reports through November indicate an annual cost of living increase closer to 3%.

Recommendation:

Section 17.1. Effective the beginning of the first pay period which includes January 1, **2007**, the following pay scale shall be in effect: **a 3.0% increase over 2006 wages.**

2007	<u>STEP A</u>	<u>STEP B</u>	<u>STEP C</u>	<u>STEP D</u>	<u>STEP E</u>	<u>STEP F</u>
Annual	\$38,156.67	\$40,097.75	\$42,091.99	\$44,166.01	\$46,863.56	\$48,743.48
Hourly	\$18.34	\$19.28	\$20.24	\$21.24	\$22.53	\$23.43
Biweekly	\$1,467.56	\$1,542.22	\$1,618.92	\$1,698.70	\$1,802.45	\$1,874.75

Section 17.2. Effective the beginning of the first pay period which includes January 1, **2008**, the following pay scale shall be in effect: **a 3.0% increase over 2007 wages.**

2008	<u>STEP A</u>	<u>STEP B</u>	<u>STEP C</u>	<u>STEP D</u>	<u>STEP E</u>	<u>STEP F</u>
Annual	\$39,301.37	\$41,300.68	\$43,354.75	\$45,490.99	\$48,269.46	\$50,205.79
Hourly	\$18.89	\$19.86	\$20.85	\$21.88	\$23.20	\$24.14
Biweekly	\$1,511.59	\$1,588.49	\$1,667.49	\$1,749.66	\$1,856.52	\$1,931.00

Section 17.3. Effective the beginning of the first pay period which includes January 1, **2009**, the following pay scale shall be in effect: **a 3.0% increase over 2008 wages.**

2009	<u>STEP A</u>	<u>STEP B</u>	<u>STEP C</u>	<u>STEP D</u>	<u>STEP E</u>	<u>STEP F</u>
Annual	\$40,480.41	\$42,539.70	\$44,655.39	\$46,855.72	\$49,717.55	\$51,711.96
Hourly	\$19.46	\$20.46	\$21.47	\$22.53	\$23.90	\$24.86
Biweekly	\$1,556.94	\$1,636.14	\$1,717.52	\$1,802.15	\$1,912.22	\$1,988.93

Article 20 Insurance

FOP/OLCI Position:

The union seeks to maintain at 15% the current employee contribution level to health insurance premiums while adding a cap of \$7 per pay period to any future increase. When prior caps were removed, members' costs nearly doubled in 2002, significantly offsetting salary increases. Since 2004, the current agreement has only limited cost increases to the employee's 15% share.

County Position:

The employer adamantly opposes any cap and seeks an increase to 20% for all county employees' contribution to insurance premiums. Steadily increasing health care costs must be equitably shared, and the county cannot continue paying more than 5 times the share born by

employees when prices skyrocket. Effective controls will only be realized when employees shoulder a greater share of the burden.

The employer contends that prior generous wage agreements were made to remove the caps for union members that caused inequity with unrepresented employees. In return for the benefits of reduced health care costs resulting from membership in a large insured group, union members must accept parity in burden sharing. A Health Insurance Committee with union representation has worked successfully to resolve coverage and related issues. The county now offers an alternative health plan with higher deductibles and less coverage for those employees unwilling or unable to pay the increased premiums on the standard plan. For 2007, premium increases for the standard plan are minimal -- \$1.19 per pay period for family coverage.

Discussion:

The county's proposed wage increase of 1.7% would provide additional annual compensation of \$807.43 for the 20 FOP members at the top step. The employer's proposal that members pay 20% of the health insurance premium would increase the costs to 18 FOP members in the family plan by \$743 per year -- a clearly unacceptable 92% of the proposed wage increase. In addition, the fact-finder finds it inappropriate to recommend that a small unit of represented employees be the first to incur more than a 33% increase in health insurance premiums before the county has imposed that burden on other employees.

Since the employer never raised health care premiums at all during the 1990s when increases were to be shared 50-50 and fixed \$ caps were in effect, the fact finder accepts the union claim that large wage increases in prior contracts were the result of other concessions, possibly with no relation to health insurance. The union's proposed cap of \$7 per pay period nevertheless appears unacceptable given the shared responsibility of employer and employee for controlling health care expenditures and the administrative advantage of maintaining uniformity for all covered by the insurance plan. The fact-finder notes the exorbitant increase that occurred when the cap was removed in the 2001-2003 agreement, and concludes that the % cap initiated in the most recent agreement is preferable to the absolute fixed dollar contractual cap on employee health care contributions.

Given the likelihood that health care costs will continue to increase, it appears reasonable for public employers and employees to share in the risk, rather than to lock in for three years a fixed dollar ceiling on increased employee contributions beyond the limit set by a % share. A fixed dollar cap provides unequal benefit to members, providing the greatest advantage to those on the family plan, and no saving whatever to those outside the plan. A % share treats equally members on family and single plans, in the same way that an across the board % pay raise gives all members a common benefit.

The data presented by the county supports a continuation of the 15% employee share rather than an increase to 20%. Prior to 2004 the employer was free to increase the employee share, but the contribution for the family plan never exceeded 15%. Table 1 from SERB's 2005 Annual Report on Cost of Health Insurance provided by the County indicates the average monthly employee contribution for the family plan of \$166, comparable to the current Miami County plan. In addition, Table 5 at page 14 indicates that 15.2% was the statewide average.

Based on the limited information provided about successes of the Health Insurance Committee, combined with the Commissioner's ultimate authority to determine the level of

benefits, the fact-finder concludes that the current allocation of risk is appropriate. The county has realized savings from five of the 36 members of the bargaining unit who declined coverage in 2007. Another four members have accepted a plan with a considerably lower premium. If a flex care spending account is not currently provided, that option might be explored as a cost saving for employees.

In Article 20, Section 20.1 "The Employer reserves the right to make cost containment adjustments in the benefit coverage." If the county concludes that it is unable to sustain an 85% contribution level to the current plan, the Commissioners can contain the expense by reducing coverage and increasing copays and coinsurance; union members will have no contractual right other than to "meet and confer" prior to implementation of major changes in economic benefits. Given the county's authority to control the plan, its share of 85% of the cost appears reasonable.

Recommendation:

No change in current language.

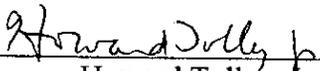
Conclusion:

The fact finder has attempted to resolve the wage and insurance issues presented with careful attention to all the evidence and argument presented. If the parties find any substantive error in this report needing correction, a conference call should be arranged to discuss the concern, and a request may be filed with SERB for authorization to adjust the report [O.A.C Rule 4117-9-05(L)]. The Fact Finder appreciates the courtesy extended by all individuals involved in the process.

Professor Howard Tolley, Jr., University of Cincinnati
January 4, 2007

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the foregoing Fact Finding Report has been served via electronic mail and by regular mail to Dennis L. Sterling, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc., 222 East Town St., Columbus, OH 43215, and Pete Lowe, Cleman, Nelson and Associates, Inc. 417 North West St., Lima, OH 45801-4237 on this 4th day of January, 2007. In addition an electronic mail copy was sent to Charles A. Cox, 201 W. Main St., Troy, OH 45373. E-mail to adminassist@miamicountyso.com


Howard Tolley, Jr.