

FACT FINDER'S REPORT

STATE EMPLOYMENT
RELATIONS BOARD

IN THE MATTER OF:

2008 FEB 21 P 12: 20

Fraternal Order of Police, Ohio Labor Council Inc.
And
Union County Sheriff

Case Number:

07-MED-07-0719

07-MED-~~07~~-0786 08-0786

07-MED-~~07~~-0787

08-0787

Before Fact Finder
N. Eugene Brundige

PRESENTED TO:

Edward E. Turner, Administrator
Bureau of Mediation
State Employment Relations Board
65 East State Street, 12th. Floor
Columbus, Ohio 43215-4213

And

Ross Rader, Representative
Fraternal Order of Police/OLC Inc.
222 East Town Street
Columbus, OH 43215-4611
rossrader@columbus.rr.com

And

John J. Krock, Vice President
Clemans, Nelson, & Associates, Representing the
Union County Sheriff
6500 Emerald Parkway, Suite 100
Dublin, Ohio 43016-6235
jkrock@clemansnelson.com

N. Eugene Brundige was selected by the parties to serve as Fact Finder in the above referenced cases and duly appointed by the State Employment Relations Board in compliance with Ohio Revised Code Section 4117.14 C (3). The Fact Finder was notified of the appointment by letter dated November 21, 2007.

The parties informed the Fact Finder that time extensions would be filed. A hearing date of January 25, 2008, was established. Pursuant to the Ohio Revised Code and Administrative Rules, a good faith effort was made to resolve the remaining issues through mediation. Significant progress and understanding was gained during the mediation process but the participants decided it would best serve the interest of the parties to proceed to hearing. A hearing was conducted.

The parties timely filed the required pre-hearing briefs.

The hearing involved three (3) distinct bargaining units. The parties refer to the three (3) units in the following manner:

Red Unit – Dispatchers

Gold Unit – Sergeants

Blue Unit – Deputies

For ease of discussion this Fact Finder will utilize the same designations.

In their pre-hearing filings one or more of the parties identified the following issues, and/or contract provisions as being unresolved for each of the units. During the course of the hearing, in response to the successful discussions in mediation, several issues were withdrawn. These issues are not included in those remaining to be discussed.

RED UNIT - Dispatchers

Article 22 – Hours of Work and Overtime

Article 23 - Wages

Article 25.1- Vacation

New Article – Mid Term Bargaining

GOLD UNIT – Sergeants

Article 23 – Hours of Work and Overtime

Article 24 – Wages

Article 39 – Duration

New Article – Mid Term Bargaining

BLUE UNIT – Deputies

Article 23 – Hours of Work and Overtime

Article 24 – Wages

Article 26.1 - Vacation

Article 27 – Personal Leave

Article 29.6 Uniforms/Equipment

New Article – Mid-Term Bargaining

Also at the hearing the parties agreed wherein they waived overnight delivery of the *Recommendation and Report*.

BACKGROUND:

Union County is in a growing area of Ohio served by diverse and successful businesses. The County appears to be well managed and a cooperative relationship is apparent between the management of the Sheriff's Office and the FOP.

Because of this economic base, the County does not appear to be plagued by the same level of financial challenges as are present in many other jurisdictions in Ohio.

The parties presented complete and instructive documentation to the Fact Finder and all data and arguments were reviewed and considered in formulating this report.

The FOP relied on a combination of comparable jurisdictions which includes the Cities of Marysville and Dublin and nearby Delaware County.

The Employer submitted comparable data from these jurisdictions plus an expanded list of other nearby city and county jurisdictions.

This Fact Finder is often critical of the comparable data presented, noting that many parties “cherry pick” the jurisdictions submitted in order to present their case in the most favorable light possible. Such is not case here. The parties have made an honest and sincere effort to supply the Fact Finder with the necessary data to get a clear picture of the situation.

DISCUSSION AND RECOMMENDATIONS:

In this report the open Articles will be discussed in the order they appear in the respective contracts. The position of each party will be briefly noted, and a recommendation will be made. The specific contract will be noted utilizing the red – gold – blue designations.

In those cases where new contract language would be required, the recommended language will be included as well.

HOURS OF WORK AND OVERTIME¹

FOP POSITION:

¹ Article numbers have been omitted from this report due to the fact they differ somewhat in the respective contracts.

In each of the three (3) agreements the FOP proposes increasing the compensatory time accumulation from the current twenty four (24) hours to forty (40) hours.

The FOP notes that Marysville lists no cap and allows an eighty (80) hour carryover from year to year. Delaware County has a one hundred sixty (160) hour cap and Dublin has a two hundred forty (240) cap.

In the gold and blue units the FOP proposes reducing the fourteen (14) day work period from eighty three (83) to eighty (80) hours.

In support, the FOP notes that Marysville, Delaware County, and Dublin all have a forty (40) hour work week while Union County has a forty one and one half hour work week (41.5).

SHERIFF'S POSITION:

In the red unit the Sheriff proposes striking a sentence in Article 22.3 (A) that reads:

"Previously scheduled sick leave (24 hours in advance) and sick leave accompanied by a Physicians statement will count as hours worked for the purpose of overtime."

The Employer argues that the other two (2) collective bargaining agreements (blue and gold) do not contain this provision and there is a need to be consistent.

The Employer favors status quo regarding the proposed compensatory time changes and the change in the work week. Such changes will add significant costs to the operation of the Sheriff's department and would impact the ability of the Sheriff to manage the department.

The Sherriff's representative noted that the last contract was done using interest based bargaining (IBB) and the comp time bank was reduced from 40 to 32 to 24 hours. The Employer notes that even though the bank limits were reduced, employees' use of comp time has actually increased.

The benefit to the Employer is to limit the liability on the books for compensatory time.

DISCUSSION AND RECOMMENDATION:

For reasons that will be more fully discussed in the next Article, I do not recommend any change in the length of the work week of the compensatory time section.

While there may be merit in either or both, a careful review of this situation reveals that this is not where necessary funds need to be spent.

I do recommend the sentence in the red unit relating to sick leave in the computation of overtime be struck. There is a need for consistency between the three (3) units in as far as possible.

WAGES

FOP POSITION:

The FOP recommends the following increases or changes in the wages paid to the respective unit members:

Red Unit – 8% each year of the three (3) year agreement retroactive to January 1, 2008.

Blue Unit – 9% effective January 1 2008; 9% effective January 1, 2009; and 6% effective January 1, 2010.

Gold Unit – A fixed differential between the salary of the top paid deputy or corporal ranging from 3.5% in the first year to 3% in the third year of the Agreement

The Union determined to utilize a labor market approach to its comparables and notes that these employees are significantly underpaid compared to surrounding jurisdictions.

In Marysville at the end of 2007 the top patrol officer earned \$50,903 while the Union County top deputy pay was \$45,510. The Fact Finder awarded pay increases of 6.5%, 4.5%, and 3% over the next three (3) years. In 2007 the top deputy earned \$53,290 in Delaware County and \$67,556 in Dublin.

FOP provided data that sergeants are also underpaid in comparison to the same labor market comparables.

Top level sergeants as of December 2007 were paid:

Union County – \$52,915; Marysville \$70,805; Dublin \$78,703.

While only Dublin utilized the rank of corporal, the top pay there is \$73,129 compared to \$49,816 in Union County.

The FOP submitted newspaper accounts showing Union County as the fourth fastest growing county in the state and indicating that a new 2,000 unit housing development is underway in the County.

Evidence of the financial health of the County was also presented in the form of a newspaper article quoting the financial consultant utilized by the County.

Dispatchers were also compared. The 2007 data shows that the top pay in Union County was \$36,005 compared to Marysville \$41,726; Delaware County \$37,609; and Dublin \$48,432.

It was also noted that the job of the dispatcher has increased greatly in that they now handle all 911 calls for Union County including those previously performed by City of Marysville personnel.

FOP believes this data supports the proposals for pay increases offered by the Union.

The FOP also requests that Section 24.13 allow for deputies assigned as detectives to be paid \$1.00 per hour for all hours they are assigned "on call."

The comparable data shows that Dublin provides \$1.05 per hour.² This benefit would be included in the gold and blue contracts.

The FOP also notes that many officers in Union County are cross trained as fire fighters and paramedics which add even greater value to their service to the County.

POSITION OF THE SHERIFF:

The Sheriff does not dispute the data submitted by the FOP but adds additional comparable jurisdictions consistent with those utilized regarding other issues covered by this report.

The Sheriff's representative notes that the Sheriff would like to be able to grant the increases requested by the FOP but prudent fiscal management does not make that possible.

The Employer believes the approach proposed by FOP regarding the built in differential between deputies, corporals and sergeants is a good approach and while not in total agreement with the percentages offered, believe that they are "in the ballpark."

² The other comparable jurisdictions do not offer such benefit.

The Employer opposes the "on call" hour addition requested by FOP for detectives. The Sheriff's representative surveyed fourteen (14) neighboring jurisdictions and only two (2) had any type of an "on call" benefit.

DISCUSSION AND RECOMMENDATION:

There is no question that the significant difference in pay between the comparable jurisdictions is a recruitment and retention issue for Union County. This Fact Finder commends the forthright way in which the Sheriff's representative acknowledged this reality.

While the amounts seem higher than a Fact Finder normally recommends, I believed the data and evidence supports the following finding:

Blue Unit – Increase the base pay by 7% each of the three (3) years of the Agreement retroactive to the first pay period of 2008.

Red Unit – Because of the same issues, and the increased responsibilities that have been placed on members of this unit, increase the base pay by 8% each of the three (3) years of the Agreement retroactive to the first pay period of 2008.

Gold Unit – I recommend the proposal offered by the FOP be incorporated into the Collective Bargaining Agreement and members be paid retroactive to the first pay period of 2008. A copy of the proposed language is attached as Appendix A to this report.

I am not persuaded that the data supports the addition of "on call" pay for detectives and thus recommend such language not be included in this Agreement.

VACATION

FOP POSITION:

In each of the three (3) units the FOP proposes improving the earned vacation accumulation schedule. While each of the three (3) units differs in the way the proposals are structured, each would add significant benefits for bargaining unit members.

The FOP argues that the Union County vacation scale is primarily that which was offered under civil service prior to the collective bargaining statute in Ohio.

While each of the comparable jurisdictions differs, overall the FOP believes the other jurisdictions offer richer vacation benefits.

POSITION OF THE SHERIFF:

The Sheriff notes that time off is money in any 24 hour operation, and also notes that the top rate was dropped from 25 years service to 22 years service in the last *contract as an effort to deal with this issue.*

DISCUSSION AND RECOMMENDATION:

While the parties will likely need to deal with this issue at some time in the future, based upon the significant increases I have recommended in the wages article, I cannot justify recommending an addition in this Article. I recommend no change in the vacation article in this contract.

PERSONAL LEAVE (Blue Unit only)

FOP POSITION:

The FOP is not proposing an increase in the number of days earned but rather wants to make one of those days an "on demand" day wherein as long as the employee calls in at least one (1) hour prior to the shift, the day must be granted.

The FOP argues that there are times when an employee simply needs a day off. The Union argues that on such days it is in the best interest of the employee and the Department that the employee not report to work.

The FOP notes that Marysville allows that time can be used "on demand" in an emergency.

The proposal also provides for carry over of two (2) days into the next calendar year.

POSITION OF THE SHERIFF:

The Sheriff's representative argues that if an employee approaches a supervisor, such approval will be granted. The Employer argues that there is no demonstrated problem in this area and thus no change should be recommended.

The Sheriff also opposes carrying over days.

DISCUSSION AND RECOMMENDATION:

The FOP failed to demonstrate a significant problem to me that would justify such an addition. I recommend no change.

UNIFORMS (Blue Unit only)

FOP POSITION:

The FOP recommends the current uniform allowance for detectives be increased from the current \$750 to \$950. The rationale given is that due to the tax consequences of this benefit, the amount needs to be increased.

Data submitted shows that Marysville provides a \$975 benefit; Delaware County \$750; and Dublin \$850 after an initial hiring amount of \$1,025.

POSITION OF THE SHERIFF:

The Sheriff opposes increasing the amount of uniform allowance noting that the County is within the range of the comparable jurisdictions the Employer surveyed.

DISCUSSION AND RECOMMENDATION:

Union County is not far off the mark regarding this benefit but a modest increase may be justified. I recommend Section 29.6 read:

*“Detective Allowance: Effective January 1, 2008, employees who are assigned to the position of Detective shall receive **\$850** per year toward the purchase of clothing through a purchase order and a requisition. Receipts will be provided for all clothing purchased. Any portion of the allowance not used will be forfeited and will not be carried over into the following year.”*

MID TERM BARGAINING (New Article)

During the course of the hearing the FOP reviewed the language in Article 17.2 and decided that it could live with that statement governing mid term bargaining. Thus, it decided the article could be dropped.

RECOMMENDATION AND RECOMMENDATION:

I recommend the proposed new article on mid term bargaining not be included and that Article 17.2 be continued into the new Agreements.

DURATION (Gold Unit only)

FOP POSITION:

The FOP proposes that Section 39.1 in the Gold Agreement read as follows:

*“Duration. This Agreement shall be effective upon signing, and shall remain in full force and effect through midnight, **November 30, 2010.**”*

POSITION OF THE SHERIFF:

After discussion at hearing the Sheriff's representative stated no serious reservations regarding the FOP proposal.

DISCUSSION AND RECOMMENDATION:

I recommend the position of the FOP as stated above for Section 39.1.

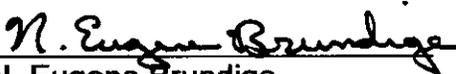
SUMMARY:

In this report I have attempted to consider and make recommendations regarding a number of issues. If errors are discovered or if any of the recommendations appear to the parties to be onerous to implement, I urge them to *mutually agree* (emphasis added) to alternate language consistent with the spirit of the recommendations.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated on SERB Rule 4117-9-05(J) the Fact Finder recommends the provisions as enumerated herein.

In addition, all Agreements previously reached by and between the parties and tentative agreed to, along with any sections of the current Agreement not negotiated and/or changed, are hereby incorporated by reference into this Fact Finding Report, and should be included in the resulting Collective Bargaining Agreement.

Respectfully submitted and issued at London, Ohio this 20th day of February, 2008.


N. Eugene Brundige,
Fact Finder

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **Fact Finder's Report** was served by electronic mail and regular U. S. Mail upon Ross Rader, Representative, Fraternal Order of Police/ Ohio Labor Council Inc., 222 East Town Street, Columbus, OH 43215-4611, (rossrader@columbus.rr.com) and John J. Krock, Vice President, Clemans, Nelson, & Associates Inc., 6500 Emerald Parkway, Suite 100, Dublin, OH 43016, (jkrock@clemansnelson.com), and by regular U.S. Mail upon Edward E. Taylor, Administrator of the Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, this 20th Day of February, 2008.


N. Eugene Brundige,
Fact Finder

Appendix A

ARTICLE 24 WAGES

Section 24.1 Wages. Effective the first full pay of January 2008, employees covered by this Agreement shall be paid in accordance with the following hourly rate schedule:

Corporals

Step	A	B
Rate	3.5% above Deputy E	9% above Deputy E

Sergeants

Step	A	B
Rate	3% above Corp B	7% above Corp B

Effective the first full pay of January 2009, employees covered by this Agreement shall be paid in accordance with the following hourly rate schedule:

Corporals

Step	A	B
Rate	3.25% above Deputy E	8.75% above Deputy E

Sergeants

Step	A	B
Rate	3% above Corp B	7.25% above Corp B

Effective the first full pay of January 2010, employees covered by this Agreement shall be paid in accordance with the following hourly rate schedule:

Corporals

Step	A	B
Rate	3% above Deputy E	8.5 % above Deputy E

Sergeants

Step	A	B
Rate	3% above Corp B	7.5% above Corp B