

BEFORE THE

STATE EMPLOYMENT
RELATIONS BOARD

STATE EMPLOYMENT RELATIONS BOARD

2008 JUL 18 P 1:39

IN THE MATTER OF:

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CASE NO. 07-MED-09-0949

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FRATERNAL ORDER OF POLICE/ OHIO
LABOR COUNCIL, INC.

*

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UNION

*

AND

*

VAN WERT COUNTY SHERIFF

*

EMPLOYER

*

REPORT AND RECOMMENDATIONS OF THE FACT FINDER

July 15, 2008

I. BERNARD TROMBETTA

Fact Finder

P.O. Box 391403

Solon, Ohio 44139

(440) 349-2110

I. DATE AND PLACE OF HEARING

This hearing was held in Van Wert, Ohio at the County Sheriff's office on the 26th day of June 2008.

II. BACKGROUND INFORMATION

a. Parties

This matter arises out of a contract impasse between the Corrections Officers represented by the Fraternal Order of Police/ Ohio Labor Council, Inc., sometimes referred to herein as the "Union" and their employer, the Van Wert County Sheriff, hereinafter sometimes referred to herein as the "Sheriff".

b. Appearances

For The Union

For the Employer

Mark Drum, Staff Representative

Mark Fishel, Attorney

Jackie Wegman, Staff Representative

Nancy Dixon, County Auditor

Bob Gordon

Jane Harris

Sara Lane

Stan Owens, Sheriff

c. Witness Appearances

For the Union

For the Employer

Mark Drum

Nancy Dixon

Bob Gordon

Stan Owens, Sheriff

Jackie Wegman

d. Exhibits

Each side presented the Fact Finder with a binder consisting of various tax reports, budgetary information, comparables and other relevant information. Neither side objected to the exhibits of the other and the Fact Finder admitted all exhibits into evidence.

e. Issues Presented

1. Article 23- Longevity Clause: The Union proposal that the Sheriff pick up 25% of the employees pension contribution.
2. Article 24- This is a double proposal, one from the Union seeking the Employee's birthday as an additional holiday, and the second from the Employer in which the employee would be paid for each holiday, and not permitted to accumulate days to take off at a later time.
3. Article 36- Health Insurance- This is a Union proposal and seeks to cap employee contributions and guaranty of present benefit levels.
4. Article 38- Wages- This is a Union proposal in which increases of 5% per year were sought and countered by the Employer's offer of 0%, 1 ½% and 2%.
5. Article 50- A Mid Term Bargaining Plan- A Union proposal patterned after a SERB recommended procedure for handling mid term bargaining disputes to speed the resolution of such grievances and/or issues.

f. Background

There have been two prior collective bargaining agreements between these parties, The initial contract for the corrections officers was with the Teamsters in 1999. (There was some confusion between the testimony at the hearing as to whether the recently expired collective bargaining agreement (CBA) was the second or third between these parties). The Teamsters continued to represent the other branches of the Sheriff's office. The first agreement , between the Union and the Sheriff apparently was successfully bargained between the parties, but the second agreement (the present agreement that expired on December 31, 2007) went to conciliation.

ii) Unit

This unit consists of the 6 full-time and 8 part-time corrections officers who oversee, administer and provide security for the county jail. In 2006, the three supervisors petitioned for a representation election between this Union and the Teamsters. The Teamsters won and successfully bargained a separate collective bargaining agreement for the three supervisory corrections officers.

iii) County Economy

Van Wert County is located on the western edge of the state, approximately 30 miles from Fort Wayne, Indiana. It has a population of less than 50,000, and is estimated to have lost population since the last census. The county is substantially rural/ agricultural and has few urban areas. It has little industry. Its 6.5% unemployment rate is higher than the state average and is expected to increase when two major employers either move jobs or simply eliminate them. It has a rather low, lower than the state average, per capita income. A development project of a few years past did not attract either the number or type of retailers as had been anticipated and the growth of sales tax revenues, a major source for the general fund, did not materialize.

The testimony of the County Auditor painted a rather bleak picture of county finances. The Sheriff's entire operation is funded through the General Fund which relies heavily on sales taxes, real estate taxes, personal property taxes (unavailable after 2008), fees, fines and interest. The Sheriff's office is the largest operation funded from this source. Many county offices, including the Sheriff, were required to pare back budget requests when the Commissioners passed the annual budget for the upcoming year in December. In 2008, the Commissioners passed a 3-month interim budget when revenues could not be determined accurately enough to pass a budget.. The permanent budget for 2008 was passed at the end of March.

The County's permissive sales tax is already at the maximum rate, 1 ½%, permitted under state law, yet sales tax revenues were \$100,000 less between 2006 and 2007. Carry-overs from the preceding year were expected to be lower or totally erased. The Auditor did not know whether the commissioners intended to place either a general or special safety forces levy on the ballot to try to raise funds for the general fund. If a levy is passed, tax collections could begin in January 2009.

The auditor added that the county government is not permitted to operate in the red and that the adopted budgets must match the expected revenues. She added that two bills were held for payment due to insufficient funds within the last month when the County borrowed against expected revenues as permitted under the law.

The County also faced unanticipated expenses of \$117,000 for CSEA and \$20,000 for children's services.

There was no evidence of lay-offs in other departments, but there was testimony that non-bargaining unit employees did not receive a wage or salary increase in 2008. No evidence of the numbers of unionized workers in comparison to non-union workers was introduced.

The Sheriff testified that his office also experienced unanticipated expenses in the form of security camera repairs and training costs. He stated that he had to pay these expenses by transferring funds from a line item when the Commissioners refused his request to pay for the above expenses. The Sheriff, also claimed of having to postpone the purchase of replacement patrol cars, limit road patrol deputies to 75 miles per shift and spend more time in stationary, high-visibility areas rather than actually patrolling.

He claimed that his office was so strapped for operating funds that he approached the State to permit him to reduce the minimum staff on the third shift and the state permitted him to reduce third shift corrections officers from 4 to 3 as long as the number of prisoners did not exceed 50 in number. This change permitted his office to postpone the hiring of another corrections officer and helped him operate within his revised budget.

Turnover in the ranks of corrections officers is high, The Sheriff admitted that 2 full-time officers resigned during the preceding year, (the Union maintained that 3 had quit). He covered their shifts with present part-time staffers and did not hiring full-time replacements.

iv. Criteria Used By The Fact Finder

The Ohio Revised Code and the Ohio Administrative Code mandate that the Fact Finder give weight to the following factors when forming his recommendations:

1. Past collectively bargained agreements between the parties;
2. Comparison of the issues between the unit members and those performing similar services in comparable areas;
3. *Interest and welfare of the public;*
4. Ability of the employer to finance and administer the issues proposed by the parties

(usually referred to as the ability to pay);

5. The effect that the adjustments (proposals) would have on the standard of public service;
6. The authority of the employer;
7. Other factors normally or traditionally taken into consideration in determining the issues submitted (voluntary bargaining, mediation, fact finding and other impasse resolution procedures (conciliation) in public service sectors;
8. Section 4117.14(G)(7)(a) through (f) Ohio Revised Code and Section 4117.14(G)(7)(a) through (f) of the Ohio Administrative Code.

III. ISSUES TO BE DECIDED IN FACT FINDING

Issue Nos. 1 and 4 are so interwoven, and constitute a part of the contested economic package offered this unit, that they will be the subject of a single analysis with separate recommendations.

ISSUE NOS. 1 AND 4

ISSUE NO. 1 ARTICLE 23- LONGEVITY

A PARTIAL PENSION PICK-UP PROPOSAL

Union Position: This is a Union proposal and seeks to have the Sheriff pay 25% of the each corrections officer's contribution to PERS. That percentage equates to a 2.5% pick-up and would match the pick-up offered to the three supervisors in September 2007 and the deputies, both of which are represented by the Teamsters.

Employer Position: The Sheriff opposed paying any part of the employee's share due to the inability of the County to do so.

ISSUE NO. 4 ARTICLE 38- WAGES

Union Proposal: The Union proposed a wage increase of 5% in each year of the new 3-year contract.

Employer Position: The Sheriff countered with a freeze for 2008, 1 ½% increase effective January 1, 2009 and 2% increases in January, 2010 and

challenged the Union to prove that the county could afford more than the offered amount.

Analyses: The Union has demanded wage increases of 5%, 5% and 5% (Issue No. 4) and a partial pension pickup of 2.5%. (Issue No. 1). As recently as March during negotiations, the Sheriff offered increases of 3%, 2 ½% and 2%. This offer was withdrawn and replaced with the 0%, 1 ½% and 2% offer contained in the position statement. The Sheriff did not make a counteroffer to the Union's partial pension pick-up.

In the 2005, the parties went to conciliation on many of the same issues that are present in this matter. The conciliator analyzed the fiscal condition of the County and adopted the Sheriff's proposal as noted in the preceding section. The Conciliator concluded that the County Auditor (the same individual who appeared as a witness on behalf of the Sheriff in this matter) "painted a dour picture of the finances of the County over the past three years. [and that] expenses have out stripped revenues for several reasons. appropriations that were passed led to a \$200,000 deficit and departments were asked to give back budgeted funds. There were no pay raises for County employees Equipment appropriations ... were reduced to the bare minimum. Depository investment income will probably be reduced because of the now lower interest rates. health insurance premiums are increasing and the county home requires a substantial subsidy and needs a new roof". (Conciliation Award- Case No. 04-MED-09-0904 in Union Ex. 8). In June 2008, the

Auditor again painted the same bleak financial picture of Van Wert's financial condition. (Emp. Ex. 3-9).

The Commissioners have since closed the county home with the resultant savings, but incurred several unanticipated expenses, I. e. Children's Services and CSEA. The same "dour" financial picture found to exist in 2005 is yet present. The financial condition of Van Wert County is indisputable. It is poor and has given no indication of improving- if based upon the present income producing structure of sales tax collections, real estate levies, state funds and fines, yet the Commissioners do not appear to have made the corrections necessary to right this foundering financial situation.

In 2005, this unit consisted of 11 full-time and 10 part-time corrections officers. (See Conciliator's Award). Allowing for the defection of the 3 supervisors, there should have been 9 full-time and 10 part-time officers, if this unit remained intact. Instead, this unit now consists of 6 full time and 8 part-time C.O.s, doing the same work as was done by 3 more full time and 2 more part-time officers. This was, in part possible, because the state permitted the Sheriff to staff the jail with 3 C.O.s on the third shift, instead of the usual 4 as long as there were fewer than 50 inmates.

The conciliator, also, noted that the Sheriff postponed equipment purchases. The Sheriff testified that the purchase of new equipment, principally patrol cars, had been postponed, leaving the impression that this cut was of recent origin and it was not until the review of the conciliator's award emphasized that this has been an ongoing method to cut expenses in this office. It is suspected that the Sheriff's office provides a substantial part of the ordinary road patrols for Van Wert County. The conciliator reported that the road patrol deputies had been ordered to cut back mileage on patrols and the Sheriff testified that such a policy was currently in existence, again leaving the

impression that this policy had been recently implemented and not that it had been going on for at least 3 years ago. In any event, the current policy saves on the cost of vehicle replacement, but on the cost of gasoline.

The Sheriff has cut the expenses of his department to meet budgetary restraints imposed by the Commissioners. He is running a lean operation. There was no evidence that the service cuts have, in any manner, endangered public safety, but the brunt of these cuts have been felt by the corrections officers in the form of lack of significant wage increases, lack of benefits matching those provided others in this department and staff reductions.

The 2005 wage freeze was followed by two 3% increases in 2006 and 2007. While 3% wage increases appears to be within the framework adopted by many counties when dealing with public safety units, the freeze in 2005 on top of a low wage structure and the rise in the cost of living index far outstripped the wages of this unit resulting in a loss of buying power. This year the cost of living is expected to increase beyond 4%, and a wage freeze, if one were recommended, would cause this unit substantial harm and further lower their standard of living. The balance of the Sheriff's offer is, likewise, outstripped by increases in the cost of living expenses. The members of this unit will be faced with actually being less able to purchase necessities for themselves and their families.

An examination of wages paid corrections officers in the 22 Ohio counties with a population of 50,000 or less, reveals that Van Wert stands third from the bottom, surpassed only by Holmes and Jackson counties, while the Van Wert deputies rank ninth, some 49.7% higher their counterpart corrections officers. (Union Exhibits 19 and 20). At least Holmes and Jackson counties are consistently ranked at the bottom of the pay scale in both deputy and corrections officers wages. (21st and 22nd). Other counties, many in the same geographical area as Van Wert, have given their

deputies and corrections officers modest wage increases. (Union Ex. 22).

Turnover was particularly glaring and not dwelled upon by the Sheriff. In the past year, 2 (according to the Sheriff) and 3 (according to the Union) full-time Corrections Officers left their employment (and not replaced). In addition, the expenses incurred in training these officers was wasted. Many smaller counties (populations of less than 50,000), even Jackson County, provided for wage increases of up to 5% for their corrections officers. (Union Ex. 23).

In Issue No. 1 the Union requested a partial pension pick-up of 2.5% or 25% of what the employee contributes to the state PERS. (The employee contributes 10% and the employer contributes 14%). Pension pick-ups, partial or entire, among safety forces is becoming more common, but it is a part of the overall wage structure and directly impacts the economics of the office. It is not, however, a part of the Longevity benefit for which no changes were sought in the fact finding matter.

The total contribution rate is mandated by the State as is the contribution of the individual employee. The employer, however, can pay part or all of the employee's share.

The protestations of the Sheriff regarding the inability of his department to grant wage increases or a match the partial pension pick-up given to others in his employ has a hollow ring. The testimony of the Auditor as well as the Sheriff certainly painted a continuing bleak financial picture and may well have been accepted by this Fact Finder, except for two items.

First, this unit, receives an hourly rate that is the third lowest among similarly situated counties (some 22 in the Union's survey), and absorbed a wage freeze 3 years ago. The Sheriff wants this unit to accept a freeze for 2008 after first offering a 3% increase during negotiations. It is only in 2010 that the position statement offer and the negotiation offer are equalized. While it may

be true that other non-bargaining unit County employees did not receive a wage increase in 2008, the new supervisors unit was given increases of 9%, 3% and 3%, a 2.5% pension pick-up and a “me too” clause while this unit is among the worst paid corrections officers in the State of Ohio. There pay scale starts at \$11.32 per hour and tops off at \$12.38 per hour. (Union Ex. 14) , whereas the deputies start at \$13.33 and top off at \$18.53 per hour (Union Ex. 15), some 49.7% higher. While the duties and training of a deputy may be more demanding, guarding and safekeeping prisoners, from themselves and on behalf of the public, the position of a corrections officer is, nevertheless a position that requires both training and care in its discharge.

Pension pick-ups are not common, but, on the other hand, are no longer rare, particularly among safety forces. Pension Pick-ups are a part of the economic costs to the employer, but are not taxable to the employee and the employer need not pay the myriad of employment taxes that it would otherwise pay had the pick-up been paid in the form of a wage increase. The Sheriff picks up 2.5% for both the corrections supervisors and the deputies. But has refused this units request for equal treatment claiming an inability to pay for the increase in costs- this for a unit that had its manpower cut, but not its duties.

Wage increases and pension pick-ups cannot be divorced. Both are a part of the over-all burden of the costs of running this office.

The circumstances of this dispute has placed this Fact Finder into a situation forcing a choice between being fair to this unit while recognizing the ability of a County whose finances are and have been in poor condition. The Sheriff gave back budgeted monies at the request of the commissioners, and postponed necessary equipment purchases and shortened patrols. The number of corrections officers has been cut, but the Sheriff and the County continue to operate the jail at or near capacity.

There was no evidence whether the entire capacity of the jail is filled with Van Wert prisoners or whether the County rents out excess space to the prisoners of other counties or the federal government. Rental of excess jail space is income generating. More importantly, there was no evidence that the Commissioners attempted to increase general fund revenues to help pay for the operation of the county jail when the plight of funding this office has been known for three plus years.

First, the construction, operation and maintenance of a county jail is not mandated by law. Some surrounding counties do not have county jail facilities. The construction of the Van Wert jail is of relative recent origin. The Commissioners made the choice of entering the incarceration business, and they must also meet the challenge of having the finances necessary to operate the facility. Based upon the wage and benefits structure of the corrections officers, the postponement of necessary equipment purchases, the cut in road patrols, the cutting of the C.O. numbers, funds necessary to equip and maintain this public safety unit has fallen short.

Second, the Sheriff set the benchmark for corrections officers wages and benefits when he negotiated a generous wage and benefits package with the 3 supervisory corrections officers who broke from this Union to rejoin the Teamsters. This contract was not the result of either fact finding or conciliation. The contract was bargained in the midst of the financial plight well known to both the Commissioners and the Sheriff (the contract was bargained between January and July of 2007 and signed in September 2007). The Sheriff defended the disparity of treatment on the grounds that at the time the supervisor's contract was bargained he did not know the full extent of the precarious financial condition of the County and that this was just a small 3-man unit, the costs of which would not greatly impact the overall budget of his office. But reference to the Conciliator's 2005 award

disproves this assertion. Adoption of the Sheriff's offer would continue the disparity of treatment between the ranks of corrections officers and the other employees of the Sheriff. Nevertheless, the Fact Finder is not oblivious to the plight of the County, the circumstances of which will again deny to this unit the wage and benefit increases they deserve and which have been given to their peers. The Fact Finder finds it necessary to recommend a fair economic package to this unit, and while not equal to the package given to the 3 supervisors will, nevertheless, grant this unit a fair and reasonable wage and benefits package.

RECOMMENDATION

ISSUE NO. 1: PARTIAL PENSION PICK-UP: The Fact Finder recommends that this unit receive a pension pick-up of 2.5%, thereby equaling that of the 3 supervisors and other employees, but spread over the remaining 2 years of this agreement as follows: 1.25% commencing January 1, 2009 and another 1.25% commencing January 1, 2010. The Fact Finder further recommends that the language of this pick-up be placed in the new collective bargaining agreement as Article 38.2 in the stead of the current re-opener language, now outdated. The Fact Finder is of the opinion that placement of the partial pension pick-up need not parrot the supervisors' contract.

ISSUE NO. 4: WAGES: The Fact Finder recommends that this unit receive wage increases of 5% commencing January 1, 2008, 4% commencing January 1, 2009 and 3% commencing January 1, 2010 and that the language of the Union's proposal be adopted with the exceptions as noted above.

The Fact Finder recommends no changes in the current contract language regarding the time necessary to earn additional pay for performing supervisory work on the grounds that no evidence

was argued or entered by either party on this sub-issue.

ISSUE NO. 2(a)

ARTICLE 24.1 and 24.2- HOLIDAYS

Union Position: The Union is seeking the addition of the employee's birthday as the eleventh holiday under the new agreement for both full and part-time corrections officers. The Union's suggested language appears to require the employee to take off the birthday rather than to accumulate the day as may be done with the current list of holidays.

Employer's Position: The Employer opposed adding an eleventh holiday for this unit.

Analysis: The current contract recognizes 10 holidays per year that are to be paid at the employee's regular rate of pay. The Sheriff's dispatchers and cooks receive 11 holidays during the year. Even the supervisor- corrections officers receive 11 holidays Many counties, including some surrounding counties, pay for 11 holidays.

The Fact Finder has difficulty in comprehending the disparity of treatment between the corrections officers and the other employees of the Sheriff. If the rationale is to draw a distinction between the corrections officers on the one hand and the cooks, dispatchers and deputies on the other hand because of the compensatory time off section found in Article 24.3, it appears to have little major importance. The current system may cause the Sheriff to juggle hours and shifts, but no hard evidence of extra costs was proven. More likely, however, is the unwillingness to extend the same benefit to the deputies, cooks and dispatchers. The addition of the eleventh holiday given to other employees and the right to accumulate holidays are really not interconnected, in view of the fact that this benefit was a bargained concession won in a previous contract.

In recognition of the County's fiscal woes, the eleventh holiday should not be added until the

third year of the contract.

Recommendation: The Fact Finder recommends the addition of the employees birthday be added to the current list of holidays contained in Section 24.1 commencing January 1, 2010 and that Section 24.2 be amended accordingly. The Fact Finder recommends that the birthday be a required to be taken as a day off and not accumulated with the remaining 10 holidays as compensatory time off. The language regarding the employee's birthday should be made clearer from that proposed in the Union Position Statement. All other language in those same two sections is to remain the same as is in the current contract.

ISSUE NO. 2(b)

ARTICLE 24.3- HOLIDAYS

Employer Proposal: The Employer is seeking to eliminate the corrections officers right to bank their holiday time and schedule it on a staggered basis.

Union Position: The Union opposes any changes to this section of the contract on the grounds that this was a contract right bargained over by the parties.

Analysis: *The Employer appeared quite adamant in erasing this clause from the contract and cited the other contracts between the Sheriff and the Teamsters. The practical effect of this clause is to permit the corrections officers to extend the vacation time provided in the contract by the number of holidays, banked, but not previously taken. This is not the first attempt by the Employer to rid itself of this clause. In the 1994 fact finding, confirmed in the 1995 conciliation, the Employer's proposal was neither recommended nor awarded (Union Ex. 7 & 8). This Fact Finder would add that compensatory time off was a bargained benefit inserted into either the first or second contracts between the parties, the additional costs of which were not proven*

nor proven to be burdensome. Having gained this concession that admittedly is not duplicated among the other department employees, something of value is generally required from the party seeking the change. It appears that the Sheriff is willing to add the eleventh holiday, if this unit gives up this benefit, but the eleventh holiday was given to other employees not represented by this Union. This Union gets little if the exchange were to be recommended.

Moreover, compensatory time off appears to be the norm rather than the exception and is permitted in at least 31 other counties. (Union Ex. 2).

Recommendation: The Fact Finder recommends against the changes sought by the Employer and suggests that current contract language be retained in the new contract between the parties.

ISSUE NO. 3

ARTICLE 36- HEALTH INSURANCE

Union Proposal: This is a two-part (almost a three part if one considers the referral to the proposed dispute resolution procedures treated in Issue No. 5) proposal in which the Union is seeking to guarantee against changes in benefit levels, co-pays and/or carriers. The second part of the proposal is not only a cap on the monthly premium costs, but a reduction.

Employer Position: The Employer was against any changes in the language of the health insurance clause.

Analysis: Since 2000 Van Wert along with public employers both state and nationwide, has experienced a dramatic increase in health costs, including health insurance expenses. Health Insurance is a misnomer since it is not a true "insurance". It is really an actuarial fund for reimbursement or payment of medical and drug

expenses. For about 8 years prior to 2000, it appeared that medical costs were leveling off and that employers could adopt long range strategic planning in meeting health insurance costs of the employees. The past eight years have proven that goal to be an elusive, if not an impossible.

Van Wert chose to go the route of the self funded in a consortium with 3 other counties, likely anticipating lower costs than the estimates it received from insurance companies. The instant "policy" covers all county employees, not only the Sheriff's employees. Testimony established that Van Wert experienced significant hits in its experience factor due to extraordinarily high medical expenses of some participants. A higher experience factor increases the costs for the entire county. Van Wert does not expect those usages to continue and is hopeful to bring its experience rating in line with the other counties of the consortium, but costs are expected to increase, probably 10% or more for the new contract year.

The Union's proposal would force the County to carve out a special niche for the corrections officers, and in effect, create a sub unit of participants which the Sheriff is unwilling to do. While the county commissioners were not polled on this matter, they can be expected to oppose any special treatment for the members of this unit. It is doubtful that such special treatment would survive conciliation.

Specifically, the Union proposed to (1) limit the changes that could be made to the coverages during the life of the contract; (2) refer any changes to an alternative dispute resolution procedure proposed as Issue No. 5 herein; and, (3) reverse and limit the amount of premium costs charged back to this unit.

In regard to the first change, this Fact Finder has, in the past, has looked favorably upon limiting the employer's ability to change carriers or lower coverage. This unit, in particular, due to

its rather low wage structure is in need of protection, but is only one group participating in a county-wide program. In the 22 county survey used by the Union, many were open-ended both as to costs and benefits, in much the same manner as Van Wert's employees.(Union Ex. 10). The Sheriff claims he cannot purchase a separate policy for this unit and that medical coverage must come from the Commissioners. (See Sec. 305.171 ORC). The Union did not introduce any evidence of the willingness of the Commissioners to secure separate coverage for this unit, and there should be no doubt of the position that this board would take on this issue. It is true that the continued increase in the use of the plan will adversely affect the costs of medical coverage for all and increase costs in premiums or higher deductibles will erode the benefits of the wage increases recommended herein there is little that can be done to establish a ceiling in this matter and the Union did not introduce any evidence to establish that a policy covering this unit can be purchased at a lower cost than the present.

Since the Commissioners provide coverage for all county employees, including the members of this unit, trust must be placed in the board to act in the best interests of all county employees and to secure the best possible benefits at the lowest possible costs. Limiting the Commissioners ability to switch carriers, reduce or increase coverages and raise premium costs would impose a financial onus on the County that it can ill afford now and in the foreseeable future.

In regard to referring any health insurance dispute not resolved between the parties the newly created mid-term alternative resolution panel is somewhat of an anomaly. First no such program now exists, and would have to be created under this new contract. Second, if the parties were to adopt a contract with language suggested by the Union in the first section of this Article, the parties would be fostering the creation of disputes where none now exist simply because the Commissioners can make changes at their discretion and the Union has no right to dispute them.

The request that unresolved disputes involving changes to medical coverage and costs be referred to the midterm dispute resolution procedures proposed by the Union, will be treated in the next issue.

The third request under this Issue is the desire of the Union to cap the employee's share of the monthly premium expenses at \$60 for single coverage, \$80 for single plus one coverage and \$110 for family coverage is unrealistic in view of the fact that the current premium costs paid by all participants is \$70, \$110 and \$140 with the prospects of at least a 10% increase in the coming year. These costs are deemed to be reasonable in light of the over-all costs of medical insurance. The monthly costs of providing medical coverage, though not substantiated, appeared high, possibly due to the use of the benefits by some covered employees.

As stated above, this Fact Finder has often been inclined to place limits on the employee's share of monthly premium costs, but has not done so in multi unit, multi-employer policies, in counties facing financial difficulties. The unit is being furnished the same coverages at the same costs as are all other county employees and they should expect to be treated in the same manner as are other county employees.

Obviously, reducing coverage and/or increasing premiums and co-pays is of extreme importance to both this unit as well as to all others covered under the county's policy. The Commissioners must have the ability to make necessary changes and still fulfill the Sheriff's obligation to provide medical coverage for this unit per the terms of Section 36.1. The Fact Finder suggests that the Union and Sheriff, really the County Commissioners, explore the possibility of creating a Labor-Management Health Insurance Council that would deal exclusively with health insurance issues and changes as well as a 30-day cooling-off period before unilateral changes to

health insurance are implemented. Obviously, the proposed Council must include representatives of other unions and non-union employees. The formation of such a council should come from the Commissioners and not from a Fact Finder concerned only with a collective bargaining contract covering a unit of 14 corrections officers.

Recommendations: The Fact Finder recommends against any changes in the current language of the Health Insurance article. Current language should be adopted into the new collective bargaining agreement.

ISSUE NO. 5

ARTICLE NO. 50- MID-TERM BARGAINING

Union Proposal: The Union is urging the adoption of a new article designated as mid-term bargaining to cover those disputes that are the subject of mandatory bargaining, but are not specifically mentioned in the collective bargaining agreement.

Employer Position: The Sheriff objected to the adoption of this article

Analysis: The Union proposed the adoption of this article on the grounds that it would address a problem area with dispatch in what would otherwise be a long-delayed process of filing and possibly litigating an unfair labor practice charge before the Board and risking having the matter returned by the Board for further action. No other bargaining units in the Sheriff's office have adopted this procedure and the Union could advance as a need those instances in which the Sheriff (Commissioners) would make unilateral changes to health insurance coverages or costs.

The basis behind the adoption of such a procedure would be due to (1) exigent circumstances that were unforeseen at the time of negotiations or (2) legislative action taken after the adoption of

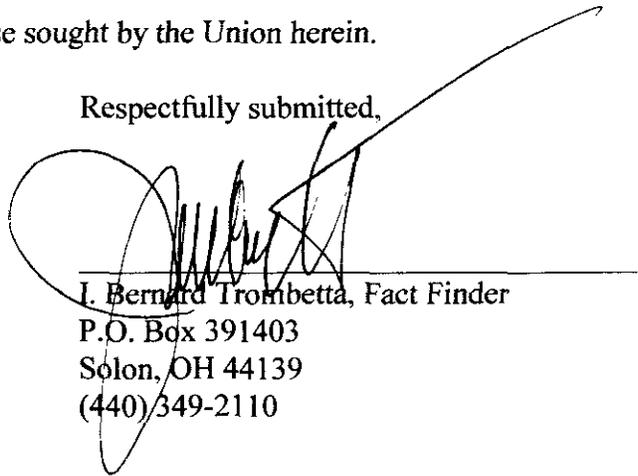
the agreement.

Most labor contracts contain “zipper” clauses which would limit the Union’s right to pursue matters not addressed in the contract. This contract, also, contains a grievance procedure that permits the Union to seek redress on matters referred to in the agreement. (Article 8). If the dispute is covered within the terms of the agreement, it is unlikely that the addition of a mid-term bargaining article would resolve the matter any quicker than the grievance procedure.

The Fact Finder has recommended against the changes sought by the Union to the health insurance article which would likely be the greatest source of such disputes. The Union could give no other concrete examples requiring the adoption of a mid-term bargaining clause. The Fact Finder opines that such changes would probably fall within the “zipper” and management rights clauses.

Recommendation: The Fact Finder recommends against the adoption of the mid-term bargaining clause sought by the Union herein.

Respectfully submitted,

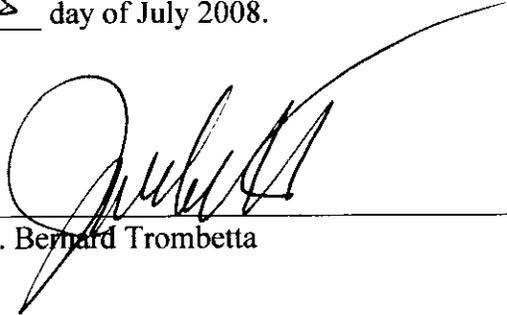


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SERVICE

A copy of the foregoing Fact Finder’s Report was served upon Mark E. Drum, Union

Representative, Fraternal Order of Police/ Ohio Labor Council, Inc., 222 East Town Street,
Columbus, OH 43215-4611 and upon Marc Fishel, Esq., Employer Representative, 400 South Fifth
Street, #200, Columbus, OH 43215-5430 on this 15 day of July 2008.



I. Bernard Trombetta