

2008 APR 28 P 12: 36

**STATE OF OHIO**

**STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of Fact-Finding Between:

Ohio Patrolmen's Benevolent Association	)	07-MED-10-1058
	)	
-And-	)	
	)	Fact-Finder:
Delaware County Sheriff	)	John T. Meredith

**REPORT AND RECOMMENDATIONS  
ISSUED APRIL 26, 2008**

**APPEARANCES**

**Present for the Union:**

Jospeh Hegedus, Counsel  
Kevin Gilkison, Deputy  
Jon Burke, Deputy  
Jack Armsey Daniels, Deputy

**Present for the Employer:**

Christina Corl, Counsel  
Walter L. Davis, III, Sheriff  
Christopher Smith, Staff Supervisor  
Patty Freeman, Administrative Assistant  
Judith A. Fransen, Executive Assistant

**INTRODUCTION**

The parties to this Fact-Finding proceeding are the Ohio Patrolmen's Benevolent Association and the Delaware County Sheriff. The bargaining unit consists of all full-time Deputy Sheriffs, currently approximately 66 employees. The subject Agreement will be a successor to the January 1, 2005 – December 31, 2007 Agreement between the parties.

The parties gave timely written notice to initiate negotiations in the Fall of 2007, but commencement of negotiations was delayed in part due to appointment of a new Sheriff. A timely fact-finding request was filed with the State Employment Relations Board, and by letter dated December 6, 2007, SERB appointed the undersigned, John T. Meredith, to serve as Fact-Finder. To facilitate negotiations, the parties entered into a Rule 4117-9-05 agreement indefinitely extending the deadline for issuance of the Fact-Finding Report. They then conducted negotiations and agreed to language for approximately half of the Articles in the Agreement. (This includes many agreements to retain language of the 2005-2007 Agreement without change.) However, all or part of sixteen Articles remained open. Therefore, a fact-finding hearing was scheduled for 10:00 a.m. April 1, 2008 at the Delaware County Offices. Prior to the hearing, the parties timely submitted their Position Statements to the Fact-Finder.

The hearing proceeded as scheduled on April 1, 2008, and was conducted in accordance with Ohio Collective Bargaining Law and applicable SERB Rules and Regulations. The Fact-Finder mediated until approximately 3:30 p.m. Settlements reached in mediation are more specifically described in the Mediation Section of this Report. Thereafter, the parties presented their evidence on the remaining unresolved issues. These issues, and the Fact-Finder's recommendations for resolution of each, are fully discussed in the Unresolved Issues Section of this Report.

In making his recommendations, the Fact-Finder gave consideration to the following criteria prescribed by Ohio Collective Bargaining Law and listed in SERB Rule 4117-09-05:

- (1) Past collective bargaining 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 interest 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 determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

### **MEDIATION**

The Fact-Finder mediated from 10:00 a.m. until approximately 3:30 p.m. During the mediation session, the parties reached or confirmed agreement on the following issues, which were among the sixteen “articles in dispute” identified in their pre-hearing Position Statements:

**Article 2 – Recognition:** Retain language of 2005 Agreement.

**Sections 6(A)(1),(2)&(3) Corrective Action:** Retain language of 2005 Agreement.

**Section 7(J) – Discipline Meeting:** Require Union to give Sheriff copy of meeting tape within 7 days.

**Section 8(B) – Vacancies:** Increase posting period from three (3) to five (5) days.

**Section 15(B) – Special Duty Rate:** Increase Special Duty Rate \$1.00/hour in each year of the Agreement. For 2008, increase will apply only to contracts for special duty work which are signed after this Agreement is approved by the parties, and the 2008 County Fair will be paid at \$30/hour.

**Section 15(C) - Trading Shifts/Assignments:** Modify to permit trading days off, provided the trade occurs within the same pay period and is approved in writing by the Sheriff.

**Section 15(D) – Copies of Agreement:** Retain language of 2005 Agreement.

**Section 15(E) - Residency:** Retain language of 2005 Agreement.

**Article 21 – Call-In:** Retain language of 2005 Agreement.

**Article 22 – Training:** Retain language of 2005 Agreement.

**Section 23 (A) (10) – Comp Time Credit for not Using Sick Leave:** Retain language of 2005 Agreement.

**Article 25 – Education:** Increase annual lump-sum payment for Bachelors Degree to \$550. Provide \$750 annual lump-sum payment for Masters Degree. Retain annual \$250 lump-sum payment for Associate Degree or “half a Bachelors Degree.”

**Article 32 – Duration:** Three-year agreement, January 1, 2008 – December 31, 2010.

The agreements for Sections 7(J), 8(B), 15(B), 15(C), Article 25, and Article 32 entail modifying language of the 2005 Agreement. New language for these provisions is attached hereto as Appendix A.

### **BACKGROUND AND COUNTY PROFILE**

Delaware County is located just north of Columbus, OH. For the past decade, it has prospered. It ranks as Ohio’s fastest growing county and as one of the 13 fastest growing counties in the United States. In May 2008, it was featured in a Forbes Magazine article entitled “Best Places to Get Ahead.” Median family income is estimated at \$79,173, up from \$67,278 in 1999 and well above the state and national averages, which are in the low \$40,000 range. Population has increased from 66,929 in 1990 to 109,989 in 2000 and 156,697 in 2006. Revenue from sales and property taxes and fees also has steadily increased.

The current national economic slowdown has had some impact, and revenue projected in the 2008 Budget, adopted by County Commissioners in January 2008, is

slightly less than 2007 receipts due to lower projected receipts from interest income, personal property taxes and conveyance fees. The decline, however, is only an estimated \$500,000 on a budget which exceeds \$53 million. Moreover, early this year, County Auditor Todd Hanks sent a letter to residents assuring them that the impact of the national economic slowdown on Delaware County is relatively mild. While home sales have “retreated from historic highs” early in 2006, the “mild inventory” of homes has “not had a negative effect on home prices overall” and the local economy remains strong, as evidenced by a 6.97% increase in January 2008 retail sales over January 2007 sales.

As would be expected under these general economic conditions, Delaware County has begun each of the past several years with a comfortable unrestricted General Fund balance, and the current year is not an exception.

The flip side of growth’s benefits, of course, is the need for improved and expanded government services. That is, some of the increased revenue generated by growth must be committed to improvements and expansion needed to serve the growing population. Thus, for example, the Commissioners have undertaken capital improvements, and may face needs for additional capital improvements and increases in personnel. These needs compete with employee wage and benefit costs at budget time.

The Sheriff must deal with these considerations on a departmental level. Since taking office, the Sheriff has spent funds on additional training for Deputies – a program which he believes the Deputies support. He also has upgraded equipment. Some examples include replacement of aging computers, upgrade of the jail recording system, purchase of radar detectors, and purchase of 16 back-up weapons. Other upgrades and service improvements are on hold for lack of current funding. More specifically, funds

have not been made for various additional equipment purchases and to hire additional Deputies, increase staffing of the Detective Bureau, and provide resource officers in County schools.

At the hearing, the Sheriff indicated his objective is to spend the money made available to him by the Commissioners to attain an appropriate balance of good pay, good equipment and facilities, and good training. The Union does not disagree with this general objective, but asserts that, in a prosperous County like Delaware County, the Commissioners and the Sheriff can and must make sufficient funds available to provide a competitive compensation package for the Deputies.

### **UNRESOLVED ISSUES**

#### **1. Article 6, Section A(4) - Corrective Action**

Employer Position: The 2005 Agreement states that “a suspended Deputy may use comp time, holiday time, vacation or personal days in lieu of suspension time being taken without pay.” At the end of this sentence, the Sheriff proposes to add the phrase “at the discretion of the Sheriff.” Thus, Deputies could substitute paid time for suspension time only if the Sheriff gave his consent. The Sheriff justifies this proposed change on grounds that substituting paid time for suspension time may be inappropriate under some circumstances. By way of example, he cites discipline for leave abuse and situations when permitting an employee to substitute paid leave would create public relations issues for the Department.

Union Position: The Union proposes to retain language of the 2005 Agreement without change. The Union believes that forfeiting paid leave time is a punishment comparable to serving a suspension, and that the employee should have this paid option

available to avoid financial hardship. The current language has been in the Agreement since 1999 and has not, in the Union's view, caused any problems for the Sheriff. Giving the Sheriff complete discretion to deny a request to substitute paid leave is unacceptable to the Union.

**RECOMMENDATION: Modify current Section 6(A)(4) to prohibit substitution of paid leave when a suspension is imposed for attendance violations (including poor attendance) and/or abuse of leaves. Otherwise retain current language. Language implementing this recommendation is set forth in Appendix B to this Report.**

Rationale: The Fact-Finder understands the Union's reluctance to give the Sheriff complete discretion to deny requests to substitute paid time for unpaid suspension time. The paid time option is a negotiated benefit of value to the employees. It has been in effect, apparently without causing serious problems, since 1999. However, it is inappropriate to reward an employee being disciplined for wrongfully taking paid time off by letting the employee take more paid time off during the "suspension" period. Yet, this is the unintended effect of suspending an employee for poor attendance and then permitting the employee to charge the suspension time as paid comp time, holiday time, vacation or personal days. Therefore, Section 6(A)(4) should be modified to prohibit substitution of paid leave when a suspension is imposed for attendance violations (including poor attendance) and/or abuse of leave.

## **2. Article 8, Section A – Probation**

Employer Position: Article 8, Section A currently provides for a 120-day probation period when a position is filled by transfer or assignment of a current Deputy.

The Sheriff asserts that 120 days may not be enough time to determine if an employee will satisfactorily perform a new job. He proposes to extend the probation period to one year.

Union Position: The Union wants to retain the current 120-day probation period. It states that 120 days has proved sufficient to date, and that logically 120 days should be enough time to decide whether a current employee will successfully transition to a new position.

**RECOMMENDATION:** Add a sentence to current Section 8(A) to permit extension of the 120-day probation period to 180 days if the Union, the Deputy and the Sheriff all agree that it is appropriate in a particular case. Otherwise, retain current language. Language implementing this recommendation is set forth in Appendix B to this Report.

Rationale: Since current employees are not unknown quantities, 120 days normally should be enough time to determine if a current employee bidder will succeed in a new assignment. Permitting an option to extend the probation period by 60 days to 180 days allows for those situations when the parties agree that additional time is appropriate.

### **3. Article 8, Section C(4) – Posting Assignments**

Union Position: Article 8, Section C, currently provides for annual posting and bidding of shift schedules based on seniority. The Union proposes to modify this by adding annual posting of assignments (except assignment to the Detective positions). It would accomplish this by amending current Section (C)(4). From discussions at the hearing, it appears that this proposal is directed to assignments to the Support Division,

which includes the Warrant, Court and Security functions. Support Division jobs are generally “9 to 5, Monday through Friday” positions, and thus are considered desirable by senior employees. Putting assignment to Support Division jobs in Section C would make them subject to annual seniority bidding procedures. Currently, vacancies in the Support Division are posted under Section A, and filled based on qualifications and seniority under Section B. They are not reposted annually.

Employer Position: The Sheriff opposes changing Section 8(C). He agrees that seniority often will determine Support Division assignments, as many bargaining unit members have comparable qualifications for those positions, and he asserts that current language of Sections 8(A) & (B) already offers Deputies protection when future Support Division vacancies arise. He sees no basis for annual posting and rebidding of Support Division assignments.

**RECOMMENDATION: Retain current language without change.**

Rationale: The Fact-Finder agrees that Sections 8(A) & (B) are likely to insure that due consideration is given to seniority when future Support Division vacancies are filled. Making these positions subject to annual bidding would in effect reopen assignment decisions made by the prior Sheriff, which might benefit some individuals but not others. Support Division assignments have not been subject to annual seniority bidding in the past and evidence did not show a benefit that would offset disruption in continuity of work which might result from annual bidding of assignments.

**4. Article 16 – OIC Pay**

Employer Position: Article 16 currently sets a premium rate for time spent by a Deputy acting as “Officer in Charge” of a shift. The Sheriff proposes to abolish OIC pay

because he intends to increase Sergeants staffing levels and he believes that this will eliminate the OIC function.

Union Position: The Union proposes retaining current Article 16 without change. The Agreement should continue to provide a rate for OIC service in event Deputies continue to perform this function.

**RECOMMENDATION: Retain current language without change.**

Rationale: Article 16 does not require the Sheriff to use an OIC when Sergeants are on duty and available to run the shift. It just provides a pay rate when an OIC is used. Even if Sergeant staffing levels increase, it is likely that there still will be times when a Deputy must serve as OIC. Therefore, the OIC rate and language should be retained in the Agreement.

**5. Article 17 – Uniform Allowances**

Union Position: In Section 17(C), the Union proposes to increase the annual clothing allowance for Detectives from \$750 to \$1500, and keep the current requirement for the Sheriff to provide dry cleaning services for clothes used by Detectives in the course of duty. Further, it proposes new language which would establish a \$500 annual allowance for “approved uniform and/or equipment items” related to an “employee’s services in a specialized unit.” In support of its position to increase the allowance, the Union points to inflation and further states that the IRS now takes the position that uniform allowance payments are taxable, which has had the effect of decreasing the net benefit. Regarding special units, the Union states that members of special units currently have to buy uniform and equipment items with their own money, and it believes that the cost should be borne by the Sheriff.

Employer Position: The Sheriff opposes an increase in the Detectives' annual allowance. He maintains that the Union overstates the cost of acquiring necessary clothing. This judgment is based on his personal experience as a plain clothes detective for the Ohio State Highway Patrol. Moreover, the Sheriff also believes that reimbursement for dry cleaning expenses is unnecessary, and he proposes to delete the requirement that Deputies be reimbursed for dry cleaning expenses. The Sheriff would rather provide special unit personnel with equipment that he deems necessary than reimburse them for purchases of their choice.

**RECOMMENDATION: Increase annual Detectives' clothing allowance from \$750 to \$900. Retain dry cleaning reimbursement requirement. Add sentence to state that necessary special unit uniform and equipment items, as determined by the Sheriff, shall be provided at no cost to the employee so assigned. Language to implement this recommendation is set forth in Appendix B to this Report.**

Rationale: Depending on personal circumstances, Deputies' marginal tax rate would be either 15% or 25%. Assuming an average marginal rate of 20%, increasing the Detectives' allowance to \$900 should be sufficient to provide approximately \$750 after tax net to cover clothing needs. While \$750 may not be sufficient for a complete initial wardrobe, it should comfortably cover annual clothing needs, especially since reimbursement for necessary dry cleaning expenses will remain available under the Agreement. It is reasonable for the Sheriff to want to maintain control over equipment provided to special units, and then an annual equipment allowance for special unit personnel will not be necessary if he provides the special unit equipment which he deems necessary.

**6. Article 20 – Overtime**

Employer Position: Section 20(B) of the current Agreement states that Deputies “shall be compensated time and one-half for hours actually worked which exceed forty (40) hours in a work week” and that “all paid leave shall count as hours worked.” The Sheriff proposes to delete the phrase that requires counting “paid leave” as hours worked. He argues that this exceeds the requirements of the Fair Labor Standards Act, which bases overtime only on hours actually worked. Obviously, this generous benefit increases the County’s costs.

Union Position: The Union proposes to retain current language. It considers the current overtime benefit an integral part of the negotiated compensation package which was bargained more than 15 years ago. Changing the computation method to reduce the overtime benefit is the equivalent of a wage cut, and this is not justified in Delaware County’s financial situation.

**RECOMMENDATION: Retain current language without change.**

Rationale: It appears that the overtime pay system has been in effect in Delaware County for many years, and has become an integral part of the Deputies’ total negotiated compensation package. This must be given some weight, as consideration of past agreements and the bargaining relationship of the parties is among the statutory fact-finding criteria. The Sheriff did not show a financial or operational need to reduce the long-standing overtime benefit at this time, at least absent a bargained quid pro quo.

**7. Article 23, Section A (4) – Paid Leaves (Immediate Family Definition)**

Union Position: Section 8(A)(4) of the 2005 Agreement defines immediate family for purposes of both sick leave and funeral leave to include “grandparents,

grandparents-in-law, brothers, sisters, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, parents, father-in-law, mother-in-law, spouse, children, grandchildren, and legal guardian or other persons who stand in the place of a parent to the Deputy.” The Union proposes to expand this definition to include aunts and uncles, primarily to facilitate attendance by Deputies at the funeral of an aunt or uncle.

Employer Position: The Sheriff opposes the Union proposal to include aunts and uncles and would further restrict the definition of immediate family by deleting “grandparents-in-law” and “legal guardian or other persons who stand in the place of a parent to the Deputy.” The Sheriff expresses concern about use of sick leave “due to illness in the immediate family.” See Section 8(A)(2)

**RECOMMENDATION: Retain current language without change.**

Rationale: Neither party introduced evidence of a specific problem that actually arose under prior contracts as a result of the current definition of immediate family. Aunts and uncles are not usually considered part of the immediate family. There may be occasions when a Deputy will need to attend the funeral of an aunt or uncle, just as a Deputy may want to attend the funeral of a friend, but these needs can be met by taking other paid or unpaid time off, e.g., personal or comp time. The sheriff’s concern about abuse of sick leave “due to illness in the immediate family” are not without some foundation, as both contract and Ohio statutory language governing use of sick leave for the immediate family is rather general. However, the term “due to illness in the immediate family” should be interpreted to permit absence only if the Deputy needs to be and actually will be present with the sick relative and providing necessary care for the term of the absence. Such situations probably are not common with the grandparent-in-

laws. They are more likely to arise with a guardian or other person in loco parentis, but in those cases the guardian or other person actually does have as much claim on the Deputy's time and attention as would a natural parent. Probability of abuse of the current definition, therefore, appears to be low.

**8. Article 23, Section A(7)&(8) – Paid Leaves (Payment on Death or Separation)**

Union Position: Article 23, Sections A(7)&(8) provide for payment of 25% of accumulated sick leave upon separation of employment after ten years service with the department, and for payment upon death of one-third accumulated sick leave hours to spouse, children, parents or Deputy's estate. The Union proposes to increase both of these benefits to provide payment of 50% accumulated sick leave upon separation after five years of service, and 55% of accumulated sick leave to spouse, parents, children or estate upon death.

Employer Position: The Employer proposes retaining current language, and points to the potential cost of increasing the separation benefit. It believes that money is better spent compensating Deputies who continue to be employed than increasing the separation benefit for those who leave.

**RECOMMENDATION: Retain current language without change.**

Rationale: The preference to allocate funds to current employees rather than a separation benefit for departing employees is rational. Comparability data was not submitted to show that the current benefit is out of line with other jurisdictions.

**9. Article 23, Section D – Injury Leave**

Employer Position: The Sheriff proposes to eliminate the current "injury leave provision," which provides full pay for 90 days (extendable at the Sheriff's option to 180

days) for an employee with a disabling on-the-job injury, subject to offset of workers compensation. The effect of “injury leave” is to provide income immediately without loss of sick leave while the employee awaits a workers compensation determination, and then to make up the difference between workers compensation and full pay once the workers compensation award is received. The Sheriff’s proposed language would make the Deputy fully dependent on the workers compensation system, and thus eliminate the additional benefits now provided by injury leave. Both current contract provision and the proposed new language would encourage finding opportunities to perform alternative light-duty work when practical instead of taking time off. The Sheriff considers the present injury leave provision an unduly generous benefit.

Union Position: Comparability data supports retaining the current provision. SERB benefits reports, submitted as an exhibit, show that more than 60% of collective bargaining agreements covering County Sheriff Deputies include an injury leave provision. Many of the agreements without injury leave provisions are in less populated rural counties, which are not comparable to Delaware County. Moreover, the Injury Leave provision has been in the Delaware Deputies Agreement since at least 1993. It is a bargained for benefit and is thus an integral part of the total compensation package.

**RECOMMENDATION: Retain current language without change.**

Rationale: Comparability data clearly supports retaining the current Injury Leave provision. No evidence was presented to show that it has caused specific problems for the Sheriff’s Department during the fifteen or more years that it has been in the Agreement. As noted in the discussion of overtime above, bargaining history and past agreements are a consideration. The party seeking to take away a long-standing

economic benefit, without offering any economic or non-economic quid pro quo, needs to show a clear economic and/or operational need for the proposed change. Also, a significant change in benefits or operational procedures usually benefits from some significant discussion between the parties at the negotiation table to identify potential problems and refine issues. This did not occur in this case. For all of these reasons, the Fact-Finder concludes that current Injury Leave language should be retained.

**10. Article 24 – Vacations**

Union Position: The Union proposes to improve the vacation benefit by lowering the years of service requirements for attaining each level. Specifically, it would provide 3 weeks vacation with 6 years service (rather than the current 8 years), 4 weeks vacation with 13 years service (instead of 15 years) and 5 weeks with 18 years service (instead of 20 years). In support, it submitted comparability data for several area cities (Columbus, Delaware, Dublin, Powell, Westerville and Genoa Twp.). In each of these cities, police officers become entitled to more vacation at lower seniority levels than the vacation schedule in Delaware County currently permits. The Union also opposes any change in the current procedure for requesting and approving vacations, as its members are satisfied with the way that the current system works.

Employer Position: The Sheriff opposes any increase in vacation benefits, as additional time off inevitably increases costs. The Sheriff also proposes to change the current procedure for scheduling vacations. Currently, employees may request vacation time at least 3 days but no more than 90 days in advance. The Sheriff proposes establishing two application periods each year, one in January and one in July. During each period, employees would request vacation for the next six months, and requests

would be granted on the basis of seniority at the end of each request period. Employees also could submit requests outside of the prescribed application periods, but the Sheriff would not be obligated to grant such requests.

**RECOMMENDATION: Retain current language governing scheduling of vacation benefits. Reduce eligibility requirement for 3 weeks vacation from 8 years to 6 years. Maintain current eligibility requirements for 4 and 5 week vacation entitlements. Language to implement this Recommendation is set forth in Appendix B to this Report.**

Rationale: Some adjustment in vacation eligibility requirements is justified by comparability data. This is particularly important at the lower end, where Deputies are restricted to two years vacation until they have completed 8 years with the department. (Two years, in the eyes of most employees and spouses with young families, is not much.) On the other hand, the Sheriff correctly notes that vacation time is a cost item. To balance the legitimate concerns of both sides, the Fact-Finder recommends reducing the eligibility requirement for 3 weeks vacation to 6 years as proposed by the Union, but keeping other current eligibility requirements in place. Regarding scheduling, it is unclear to the Fact-Finder how the proposed revision in the scheduling system would increase the Sheriff's ability to effectively manage use of vacation time. A provision was added to Section C of Article 24 during the 2002 negotiations which states that vacation "leave may be restricted, denied, or cancelled based on operational necessities" such as heavy workloads, special events or emergencies. This appears to give the Sheriff the basis for exercising reasonable control over vacation use. Finally, vacation scheduling procedure is the kind of "nuts and bolts" item that is best adjusted, if at all, after thorough

discussion among the affected persons at the negotiations table flushes out any transition issues and concerns about specific implementation. Therefore, the Fact Finder recommends no change in vacation scheduling procedures.

**11. Article 26 – Holidays**

Article 26 of the 2005 Agreement for a total of twelve 8-hour holidays. Specific holidays are not designated. Rather, an 8-hour holiday is accrued for each completed month on the active payroll. In addition, employees are entitled to an additional “personal day” each calendar year, bring the total holidays and personal days to 13.

Employer Position: The Sheriff proposes to completely change this system. He would establish a traditional system of ten designated holidays (New Years Day, Martin Luther King Day, President’s Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving Day, Christmas Day) plus any other day declared by the Governor or President to be a holiday. The proposal does not provide for personal days.

Union Position: The Union would move in the opposite direction. It would retain the current system of twelve undesignated holidays, accrued at the rate of one per month, and add a second personal day, bringing the total number of holiday and personal days off to 14. In support of its position, the Union notes that some other County employees get a total of 14 holidays/personal days. It also provides examples of other counties and cities that provide 2 or more personal days in their collective bargaining agreements.

**RECOMMENDATION: No change in current language.**

Rationale: The Sheriff’s proposal would reduce total holiday time from 13 to 10 days, a substantial cutback in a current benefit. No evidence was presented which would

justify such a major cutback. The Fact-Finder also reviewed comparability data in assessing both the Sheriff's proposal and the Union's proposal. The data is somewhat ambiguous. Most other counties and area cities appear to offer between 12 and 14 total holiday and personal days, but the mix between holidays and personal days is not at all consistent. Since the total days currently available to Delaware County Deputies is in the middle of the range established by comparability data, there is not need to make a change at this time. Finally, like vacation scheduling and the proposed revision of injury leave, a major revision of the current holiday system would benefit from full discussion among the affected persons at the negotiations table to identify potential problems and assess impact of proposed changes. This has not occurred. The Fact-Finder therefore recommends no change in current language.

## **12. Article 27, Section 3 – Life Insurance**

Union Position: Increase employer paid term life insurance from \$15,000 to \$35,000. The Union notes that the current amount of life insurance is significantly below life insurance provided by most public employers to safety department employees, and that the proposed \$35,000 amount would be consistent with amounts paid in many other localities.

Employer Position: The Sheriff maintains that the \$15,000 is an integral part of the County's total health/life insurance package and that it is not feasible for him to deviate from the general County program.

**RECOMMENDATION: No change in current life insurance amount.**

Rationale: Although the current term policy is surprisingly low, the Fact-Finder is aware that it can be difficult for an independent office holder like the Sheriff to deviate

from a uniform County insurance plan. Therefore, no change in life insurance is recommended.

### **13. Article 28 – Wages**

Union Position: The Union proposes to increase wages 4%, effective January 1 in each year of a three-year contract. The Union contends that Delaware County's financial ability to provide competitive compensation is beyond dispute. It notes that the Consumer Price Index (CPI) for All Urban Consumers (CPI-U) increased 4.0% for the 12-months ending February 2008, and that several area communities (Powell, Delaware City, Dublin and Genoa Township) have granted their police officers 4% increases for 2008. It points out that 4.0% appears to be consistent with the County's own preliminary planning. A September 2007 budget preparation memorandum from Commissioners to Department heads included the following statement: "If the budget requests are kept to a minimum, we will look to provide a 4.0% increase for salaries in 2008. Pay increases are subject to availability of funds, so if there are other requests, the money may have to come from pay increases."

The Union also submitted comparative compensation data for the ten highest paying counties in Ohio. It asserts that this is an appropriate group for comparison because these counties are demographically and economically similar to Delaware. Like Delaware, most of them have experienced recent growth. The top five median family income areas are on the list (with Delaware County being number 1). Seven of the ten (Delaware, Clermont, Geauga, Green, Lake, Medina, and Warren) contain relatively affluent suburban areas near major cities. The other three (Franklin, Hamilton and Montgomery) contain both major cities and some of their suburbs. Within this group,

Delaware's 2007 base wage compensation (\$53,290/year, top step) ranks ninth and is 96.59% of the average. When longevity and other compensation components are added in, Delaware's compensation (\$54,390/year) moves up to eight, (96.09% of the average).

All of this information, the Union maintains, supports its request for annual 4% increases during the term of the 2008-2010 Agreement.

Employer Position: The Sheriff has offered annual wage increases of 2.0% during the term of a three-year contract. He acknowledges that the Commissioners alluded to 4.0% for wages in a budget planning memorandum, but asserts that this 4.0% also includes the cost of automatic step and longevity increases. Moreover, the Commissioners have not adequately funded some necessary expenditures for increasing capital improvements and additional personnel needed to meet the needs of Delaware's growing population. Although the Sheriff has been able to save some money by implementing economies (e.g., reduction of telephone and car wash expenses), these other needs also compete with wages for the funds which the Commissioners have made available to him. He does not intend to build the department at the expense of the Deputies, but he does hope to provide improved service, good training, and good equipment as well as good wages.

The Sheriff submitted comparative data about three other counties – Medina, Licking and Fairfield. Medina County, located south of Cleveland, is also included on the Union's list. (It is, in fact, the one county on that list with a lower base wage than Delaware County.) Licking and Fairfield are neighboring counties – Licking is east of Delaware, and Fairfield is south of Licking and southeast of Columbus. Both Licking and Fairfield Counties pay significantly less than Delaware County.

**RECOMMENDATION: The Fact-Finder recommends wage increases of 3.5% effective January 1, 2008, 3.25% effective January 1, 2009, and 3.5% effective January 1, 2010. Language to implement this Recommendation is set forth in Appendix B to this Report.**

Rationale: Although not immune from the current national economic slowdown, Delaware County is still a prosperous area with steady revenues, a good economic future, and a comfortable unrestricted balance. Therefore, it can afford to pay a competitive wage consistent with comparability data.

The list of “ten highest paid counties” submitted by the Union was accepted as an appropriate basis for comparison by Fact-Finder Charles Adamson when he made recommendations for the 2005-2007 Delaware Agreement. Moreover, given its demographic and growth patterns, it is fair to compare Delaware to other relatively affluent counties which include suburban areas near major urban centers. However, comparison to the average wage in this group is little misleading, as the average is skewed to the high side by one outlier – Franklin County (which includes Columbus), with a 2007 base wage of \$61,672. Four of these counties have agreed to wage increases for 2008. The agreed increases are 3.0% for Greene and Hamilton County, 3.25% for Geauga County, and 3.5% for Montgomery County.

The Fact-Finder also takes notice of The State Employment Relations Board’s Annual Wage Settlement Report, which has been released and is posted on SERB’s website. According to the SERB Report, the average 2007 negotiated wage increase for public employees in Ohio was 2.98%. The average increase for all county employees

also was 2.98%. For all police employees it was 3.22%, and for Columbus Region employees it was 2.93%.

Finally, Licking and Fairfield Counties, cited by the Sheriff, are proximate to Delaware County, but otherwise not fully comparable. They are less suburban, less affluent, and have experienced less growth. Accordingly, less weight has been given to the lower wages which they pay their Deputies.

After considering all of the above data, the Fact-Finder is recommending increases of 3.5%, 3.25% and 3.5% with the intention of insuring that Delaware Deputies maintain (and, perhaps, somewhat improve) their compensation rankings relative to Deputies in comparable counties, without unduly restricting the Sheriff's ability to continue to make progress in meeting other department needs during the next three years.

## **SUMMARY OF RECOMMENDATIONS**

### **1. Article 6, Section A(4) – Corrective Action**

**RECOMMENDATION:** Modify current Section 6(A)(4) to prohibit substitution of paid leave when a suspension is imposed for attendance violations (including poor attendance) and/or abuse of leaves. Otherwise retain current language. Language implementing this recommendation is set forth in Appendix B to this Report.

### **2. Article 8, Section A - Probation**

**RECOMMENDATION:** Add a sentence to current Section 8(A) to permit extension of the 120-day probation period to 180 days if the Union, the Deputy and the Sheriff all agree that it is appropriate in a particular case. Otherwise, retain current language. Language implementing this recommendation is set forth in Appendix B to this Report.

### **3. Article 8, Section C(4) – Posting Assignments**

**RECOMMENDATION:** Retain current language without change.

### **4. Article 16 – OIC Pay**

**RECOMMENDATION:** Retain current language without change.

**5. Article 17 – Uniform Allowance**

RECOMMENDATION: Increase annual Detectives' clothing allowance from \$750 to \$900. Retain dry cleaning reimbursement requirement. Add sentence to state that necessary special unit uniform and equipment items, as determined by the Sheriff, shall be provided at no cost to the employee so assigned. Language to implement this recommendation is set forth in Appendix B to this Report.

**6. Article 20 - Overtime**

RECOMMENDATION : Retain current language without change.

**7. Article 23, Section A(4) – Paid Leaves ( Immediate Family Definition)**

RECOMMENDATION: Retain current language without change.

**8. Article 23, Section (A)(7)&(8) – Paid Leaves (Pay on Death or Separation)**

RECOMMENDATION: Retain current language without change.

**9. Article 23, Section D – Injury Leave**

RECOMMENDATION: Retain current language without change.

**10. Article 24 - Vacations**

RECOMMENDATION: Retain current language governing scheduling of vacation benefits. Reduce eligibility requirement for 3 weeks vacation from 8 years to 6 years. Maintain current eligibility requirements for 4 and 5 week vacation entitlements. Language implementing this recommendation is set forth in Appendix B to this Report.

**11. Article 26 - Holidays**

RECOMMENDATION: Retain current language without change.

**12. Article 27, Section 3 – Life Insurance**

RECOMMENDATION: Retain current language without change.

**13. Article 28 - Wages**

RECOMMENDATION: The Fact-Finder recommends wage increases of 3.5% effective January 1, 2008, 3.25% effective January 1, 2009, and 3.5% effective January 1, 2010. Language implementing this recommendation is set forth in Appendix B to this Report.

**SUBMISSION**

This Fact-Finding Report is submitted by:



John T. Meredith, Fact-Finder

Shaker Heights, Ohio  
April 26, 2008

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing Fact-Finding Report was sent to the State Employment Relations Board by Regular U.S. Mail and was served upon the parties listed below by overnight mail this 26th day of April, 2008:

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John T. Meredith, Fact-Finder

## **APPENDIX A**

### **Language Modifications to Implement Agreements Reached in Mediation**

**Section 7(J).** Revise to state:

A Deputy who is questioned in the disciplinary process may tape record any such meeting, provided that everyone present is informed that the meeting is being recorded. Within seven (7) days, the Deputy will provide a copy of the tape to the Sheriff. Individuals other than the subject of a disciplinary meeting or the Sheriff or the Sheriff's designee may not tape record a meeting without the consent of the Sheriff or his designee.

**Section 8(B)(1).** Revise to state:

Posting – The Sheriff shall post the vacancy notice of permanent positions (i.e., a position expected to be filled for more than 6 months), naming the available job, duty hours, days off, and a detailed job description. The posting shall be for five (5) working days (“work day” being defined as Monday through Friday). Interested candidates must apply within the five-day posting period by submitting a letter of interest with qualifications to the Division Supervisor. If a position that is confidential in nature needs to be filled, the Sheriff's Office agrees to notify counsel for the OPBA of said position if the position is expected to be filled for a period greater than 6 months.

**Section 15(B).** Add the following paragraph at the end of Section 15(B):

The “Special Duty Hourly Rate” shall be increased by \$1.00 annually during each year of this Agreement, subject to the following implementation procedures: (1) The 1.00 increase for 2008, which will raise the rate from \$30 to \$31 per hour, shall apply only to special duty contracts signed after approval of this Agreement by both parties. The rate for work performed at the 2008 County Fair will remain \$30 per hour. (2) The \$1.00 hourly increase for 2009, which will raise the rate from \$31 to \$32 per hour, shall apply to contracts signed after approval of this Agreement for work to be performed in 2009. (3) The \$1.00 increase for 2010, which will raise the rate from \$32 to \$33 per hour, shall apply to contracts signed after approval of this Agreement for work to be performed in 2010.

**Section 15(C).** Revise to state:

An employee may trade regularly scheduled work hours with another employee, and he may trade days off with another employee, provided that the days off traded must occur within the same pay period. All proposed trades must be approved in writing by the Sheriff or his designee.

**Article 25.** Revise Article 25 as indicated:

1. No change – retain language of paragraph 1 in 2005 Agreement.
2. A Deputy shall be annually paid a lump sum salary payment of \$550.00 after completing a Bachelor's Degree.
3. A Deputy shall be annually paid a lump sum salary payment of \$750.00 after completing a Master's Degree.
- 4 – 7 Renumber current paragraphs 3 – 6 as new paragraphs 4 – 7.

**Article 32.** Revise Article 32 to state:

The Agreement shall be effective from January 1, 2008 through December 31, 2010.

**APPENDIX B**  
**Recommended Language Changes**

**Article 6 (A)(4) – Revise to state:**

4. A suspension is a written statement to a Deputy outlining his unacceptable or unsatisfactory behavior or job performance and ordering him to suspend his work performance for a specified number of work days without pay. A suspended deputy may use comp time, holiday time, vacation or personal days in lieu of suspension time being taken without pay except in cases when the suspension is imposed for attendance violations (including poor attendance) and/or abuse of leaves. Suspension shall be removed from the Deputy's file after two (2) years.

**Article 8, Section A – Add the following sentence at the end of current Section A:**

The 120 day probation period may be extended for 60 additional days (to 180 days total) if the Union, the Deputy and the Sheriff all agree in writing that such an extension is appropriate in the particular case.

**Article 17 – Uniform Allowance**

1. Revise Article 17, Section C, to state:

Each detective shall receive \$900.00 per year for the purchase and maintenance of plain clothes and maintaining and purchasing any new or replacement equipment or uniforms for his/her service as a deputy. This payment shall be made in one lump sum in January of each year, and represents the detective's total uniform allowance for the year. The Sheriff also agrees to provide dry cleaning services for dress clothes.

2. Add new Section E to state:

E. At no cost to the employee, the Sheriff will supply specialized uniform and equipment items which he determines are necessary to Deputies who are assigned to the specialized units in the Sheriff's Office.

**Article 24 – Vacations** Revise Section A to state:

A. A full-time Deputy (after completion of one full year of service) shall have earned eighty (80) hours of vacation leave with full pay. Thereafter, a full-time Deputy shall earn and accrue vacation leave pro-rata over 26 bi-weekly pays at the following annual rates:

1 but less than 6, years service	2 weeks
6 but less than 15 years service	3 weeks
15 but less than 20 years service	4 weeks
20 and over years of service	5 weeks

**Article 28 – Wages**

Retain all current language (including Section A, (Steps), Section B, (Longevity); Section C (Field Training/orientation officers).

Replace the Wage Chart for 2005, 2006 and 2007 with the following wage chart for 2008, 2009 and 2010:

The following wage schedule shall become effective January 1, 2008:

	A	B	C	D
<i>Per hour</i>	\$19.48	\$20.93	\$23.07	\$26.52

The following wage schedule shall become effective January 1, 2009:

	A	B	C	D
<i>Per hour</i>	\$20.11	\$21.61	\$23.82	\$27.38

The following wage schedule shall become effective January 1, 2010:

	A	B	C	D
<i>Per hour</i>	\$20.82	\$22.37	\$24.65	\$28.34

Corporals will be paid 5% above the rate of the top deputy.