

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT-FINDING)	CASE NO.: 09-MED-09-0883
)	
BETWEEN)	FACT-FINDERS REPORT
)	
OHIO PATROLMEN'S BENEVOLENT)	DATE OF HEARING:
ASSOCIATION (OPBA) FOR)	FEBRUARY 2, 2010
CORRECTIONS OFFICERS)	
)	DATE OF REPORT:
AND)	FEBRUARY 22, 2010
)	
THE CORRECTIONS COMMISSION OF)	
SOUTHEASTERN OHIO)	

APPEARANCES

FOR THE UNION (OPBA):

Mark J. Volcheck, Attorney
Gary Moore, Union Representative

FOR THE CORRECTIONS COMMISSION:

Garry E. Hunter, Attorney
Jeremy Tolson, Warden
Judy Loughlin, Fiscal Director
Kenneth Wilson, Hocking County Auditor

Before: Richard D. Sambuco, Fact-Finder

R.D.S. Consulting Service
207 Greentree Drive
St. Clairsville, OH 43950

STATE EMPLOYMENT
RELATIONS BOARD
2010 FEB 26 P 1:16

PRELIMINARY STATEMENT

On February 2, 2010, a Fact-Finding hearing was held in Nelsonville, Ohio by and between the Corrections Commission of Southeastern Ohio, doing business as the Southeastern Ohio Regional Jail, both of whom will be referred to as the "Corrections Commission", "Employer" or "SEORJ", and/or simply "Jail", and the Ohio Patrolmen's Benevolent Association (OPBA), hereinafter referred to as the "Association" and/or "Union".

Richard D. Sambuco was mutually selected by the parties through the administrative services of the Ohio State Employment Relations Board (SERB) to serve as Impartial Fact-Finder.

Garry E. Hunter, Legal Counsel, presented the Employer's position. Also present for the Employer were Jeremy Tolson, Warden of the SEORJ; Ken Wilson, Hocking County Auditor; and Judy Loughlin, Fiscal Director for the SEORJ.

Mark Volcheck, Attorney, presented the case for the OPBA. Also present was Gary Moore, OPBA Union Representative at the SEORJ.

The hearing was held in the SEORJ at 16677 Riverside Drive, Nelsonville, Ohio 45764-9528.

EVIDENTIARY BACKGROUND

Negotiations for a wage re-opener began in October 2009. The parties' had two meetings and were unable to resolve the issue of wages for 2010.

The Corrections Commission is the governing body that provides strategic direction to the SEORJ (Jail). This Commission is a joining together of five (5) counties to form the Southeastern Ohio Regional Jail (SEORJ) and is located in a geographic area designated by SERB as "Region 6, Southeast Ohio". (See SERB Clearinghouse Regions (Not Boards of Education)).

The five "member" counties are: Athens, Hocking, Morgan, Perry and Vinton County. Each of these five counties provides a county commissioner, sheriff and a common pleas judge who serve on the Governing Board of the Corrections Commission.

The SEORJ (Jail) is funded primarily by the five (5) member counties previously mentioned, in addition to revenue received from "bed rental" to non-member counties.

The funding mechanism to operate the Jail is based on an allocation of beds to each member county multiplied by a per diem rate multiplied by 365 days in the year. The per diem rate per bed is \$51.00.

To further illustrate the funding mechanism, I submit the following:

<u>COUNTY</u>	<u>BED ALLOCATION</u>	<u>PER-DIEM</u>	<u>* 365 = REVENUE</u>
Athens	76 (70 male, 6 female)	\$51.00	\$1,414,740.00
Perry	45 (40 male, 5 female)	\$51.00	\$837,675.00
Hocking	34 (29 male, 5 female)	\$51.00	\$632,910.00
Morgan	15 (12 male, 3 female)	\$51.00	\$279,225.00
Vinton	15 (12 male, 3 female)	\$51.00	\$279,225.00

Anticipated annual revenue from member counties: \$3,443,775.00 The per diem rate is the same whether a male or female occupies a bed.

The anticipated annual revenue from each member county is an expectation of

revenue whether or not a particular county has full-bed occupation for the entire year.

For example: if Athens County utilizes only seventy (70) beds on an annual basis, they are still expected to support the jail on the basis of their 76 bed allocation.

Maximum bed capacity at the jail totals 218 beds. The record will show that at present, the jail has 200-202 occupied beds.

The difference between the maximum bed capacity (218 beds) and bed allocation to member counties (185 beds) leaves 33 beds referred to as "overflow beds".

Considering the maximum bed capacity of 218 beds at the jail, and using the conservative occupancy of 202 beds being occupied, this leaves us with 16 empty beds at the time of this Fact-Finding hearing.

While 33 beds are referred to as "overflow beds", it would appear that only 16 beds are available for rental on a daily basis to non-member counties.

This 16 bed availability is arrived by taking the 218 bed maximum capacity minus the 202 beds currently being occupied.

The "overflow" beds are made available to counties (so-called non-member counties) outside the five (5) member counties that comprise the Corrections Commission of Southeast Ohio.

Those non-member counties who utilize any portion of the available "overflow beds" at the jail must pay a \$70.00 per day rental fee for each prisoner. These non-

member counties pay the \$70.00 daily rental fee only for those days they actually house a prisoner.

It is possible that a member county may not be utilizing all of its total bed allocation during the year. That member county is still charged \$51.00 per diem even though one or more of their bed allocations is not being occupied.

If a non-member county utilizes a bed space not being occupied by a member county, the non-member county pays \$70.00 per day. The difference (\$70.00 minus \$51.00) of \$19.00 is credited back to the particular county whose bed space is being utilized by the non-member county.

Fairfield County, a non-member county adjacent to Perry and Hocking Counties, provided the primary source of revenue for those non-member counties contiguous to the five member counties of the Southeast Ohio Corrections Commission.

The record will show that Fairfield County last year provided \$321,000 in revenue to the SEORJ (Jail).

PRIMARY ADMINISTRATION OF SEORJ (JAIL)

The SEORJ is a twenty-four (24) hour, seven (7) day per week operation utilizing the services of one (1) warden, three (3) sergeants, three (3) officers-in-charge and thirty-three (33) corrections officers. There is other support staff such as office, maintenance, kitchen and janitorial personnel.

However, while there are four (4) separate bargaining units at this jail, the

parties indicated that only three (3) bargaining units are relevant to the issue at impasse.

From the parties' perspective, the three (3) separate bargaining units relevant to this current dispute are as follows:

OFFICER-IN-CHARGE (OIC): One unit of three (3) people.

SERGEANTS: One unit of three (3) people.

CORRECTIONS OFFICERS (CO): One unit of thirty-three (33) people.

All three bargaining units are represented by the Ohio Patrolmen's Benevolent Association (OPBA). All three (3) bargaining units have separate Collective Bargaining Agreements (CBA's) that begin January 1, 2008 and end December 31, 2010.

MEDIATION

In its pre-hearing statement, the Employer offered a one percent (1.0%) increase in wages and the deletion of one employee name (Charles Dowler) from Schedule B of the wage schedule due to Mr. Dowler having terminated his employment at the jail.

In its pre-hearing statement, the Union is suggesting a six and one-half percent (6.5%) increase in wages for the corrections officers and the deletion of one Charles Dowler from Schedule B on the wage schedule, for the same reason as indicated above.

Following a one-half hour separate discussion with each party with regard to the ramifications of the Fact-Finder's report and the ramifications of a conciliator's decision and the fact that the parties will be entering into negotiations for a completely new collective bargaining agreement, including wages and benefits before the current year

ends, both parties agreed to delete the name of former employee Charles Dowler from Schedule B of the wage schedule. The Employer modified his proposal from a one percent (1.0%) increase in wages to a two percent (2.0%) increase in wages. The Union declined the Employer's modified proposal.

Both parties stipulated, however, that whatever the Fact-Finder recommends, the wage recommendation would be retroactive to January 1, 2010.

FACT-FINDING CRITERIA

The Ohio Public Employee Collective Bargaining Act sets forth criteria the Fact-Finder shall consider in making recommendations. These criteria are listed in O.A.C. Rule 4117-9-05 (K) (1) (6) and expressed as follows:

- "4117-9-05(K) (1) Past collectively bargained agreements, if any, between the parties;
- 4117-9-05(K)(2) Comparison of the unresolved issues relative to the employees in the bargaining units with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- 4117-9-05(K) (3) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- 4117-9-05(K) (4) The lawful authority of the public employer;
- 4117-9-05(K) (5) Any stipulations of the parties;
- 4117-9-05(K)(6) Such other factors, not confined to those listed above, which are normally or traditionally taken into

consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.”

FINDINGS OF FACT

In the current Collective Bargaining Agreement (Joint Exhibit No. 1), the parties agreed that wage rates would be determined through a wage re-opener governed by the same statutory negotiation and impasse resolution procedures as provided in Ohio Revised Code, Chapter 4117. The agreement to negotiate only on wages for year three is expressed in Article 29, Section 29.1 (A) of the parties current CBA.

Additionally, as previously noted, the parties stipulated that the Fact-Finder had the authority to make any salary increase retroactive to January 1, 2010.

ISSUE: ARTICLE 24 - WAGES

Union Position: The Union seeks a wage increase of six and one-half percent (6.5%) for year 2010.

Corrections Commission Position: The Commission proposes a two percent (2.0%) wage increase for year 2010.

Discussion: The OPBA proposal represents a 6.5% across the board general wage increase, effective January 1, 2010. The Union supports its argument on the basis of a wage differential among the three (3) relevant bargaining units of the SEORJ (Jail).

The current wage rate increase among the three (3) bargaining units at the SEORJ reflects the following percentages:

<u>Bargaining Unit</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Sergeants (OPBA)	10%	2%	2%
OIC's (OPBA)	10%	2%	2%
Corrections Officers (OPBA)	3.5%	4%	Wage Re-opener

The Union argues that the total percentage increase over the three-year contract period for Sergeants and Officers-In-Charge amount to 14%. According to the Union, the 6.5% percentage wage increase in the third year of the Corrections Officers CBA amounts to a total of 14% over the three year period and would maintain parity with the Sergeants and Officers-In-Charge.

The Union, in its Exhibit No. 2 provides a comparative analysis of the Corrections Officers wage rates at the SEORJ (Jail)- vis-a-vis the 2009 SERB Clearinghouse Benchmark Report dated October 9, 2009 for the Southern Ohio Region with their results as follows:

<u>SEORJ (Jail)</u>		<u>Corrections Officers</u>		<u>SERB 2009 Benchmark</u>	
Entry Wage		Top Wage		Entry Wage	Top Wage
\$11.99		\$13.11		\$13.11	\$16.56
(\$24,939.20)		(\$27,268.80)		(\$27,265.97)	(\$34,453.60)

The \$27,265.97 and the \$34,453.60 reflected in the SERB Benchmark Report represent an average of the annual salaries of thirteen (13) counties listed in the SERB Benchmark Report. The entry wage and the top wage are found by dividing 2,080 hours into the average of the annual salaries.¹

The \$24,939.20 and the \$27,268.80 are found by multiplying 2,080 hours

¹ Fact-Finders Note: As previously noted, all three bargaining units' Collective Bargaining Agreements begin January 1, 2008 and end on December 31, 2010.

times the entry hourly wage and the top hourly wage respectively. This accounts for the difference of \$2.83 between the top annual wage for the SEORJ (Jail) and the entry level annual wage for the SERB Benchmark Report.

That revelation notwithstanding, whether one compares the hourly wage rate or the annual wages of the SEORJ (Jail) with the hourly wage rate or the average annual wage of the SERB Benchmark report, one can readily see that the hourly wage rate or the annual wage of the SEORJ (Jail) is less than the hourly wage rate or the average annual wage revealed in the Benchmark Report.

To reiterate, the SERB Benchmark Report dated October 9, 2009 contains thirteen (13) employers (counties). The annual wage, both entry level and top level is an average annual wage of the thirteen counties.

One can readily ascertain from observing the rates previously illustrated, that the entry level and top level wage rates for Corrections Officers at the SEORJ (Jail) is lagging behind the Corrections Officers wage rates revealed on SERB's Benchmark Report?

A closer examination of the Benchmark Report reveals that seven (7) counties listed are from Region 2; those counties surrounding and including the Cincinnati area. Also, three (3) counties are from Region 4, which includes Columbus, and only three (3) counties are from Region 6 (Southeast Ohio), which is the same Region 6 that contains the five (5) counties that make up the Corrections Commission of Southeast Ohio.

When we further examine the SERB Benchmark Report (Union Exhibit No. 2) in terms of population served and the size of the bargaining unit, we find the following:

Employer

Corrections OFCR/Jailer

<u>County</u>	<u>Population</u>	<u>Size of Bargaining Unit</u>	<u>Entry Level</u>	<u>Top Level</u>
<u>Region 2 (Cincinnati)</u>				
Adams	27,330	21	\$21,382.40	\$28,121.60
Brown	34,966	30	\$27,976.00	\$31,782.40
Butler	332,807	112	\$31,765.90	\$46,408.40
Clearmont	117,977	75	\$31,096.00	\$39,852.80
Clinton	40,543	20	\$26,780.00	\$34,528.00
Hamilton	845,303	287	\$28,529.00	\$41,846.00
Warren	158,383	82	\$34,486.40	\$45,198.40
<u>Region 4 (Columbus)</u>				
Pike	27,695	14	\$25,604.80	\$29,307.20
Ross	73,345	56	\$24,564.80	\$35,256.00
Scioto	79,195	69	\$26,832.00	\$31,740.80
<u>Region 6 (Southeast Ohio)</u>				
Athens	62,223	16	\$28,172.56	\$31,064.80
Gallia	31,069	24	\$25,459.00	\$29,848.00
Jackson	32,641	13	\$21,798.40	\$22,942.40
SEORJ	(Five Counties)	33	\$24,939.20	\$27,268.80

Upon reviewing the above information taken from the SERB Benchmark Report (with the exception of the SEORJ statistic), it would appear that the size of the bargaining unit is reflective of the population served in most cases. There are exceptions to that conclusion. Athens County being one that stands out.

But Athens County is also a member of the SEORJ, which might explain why such

a relatively large population (62,223) has a bargaining unit size of sixteen (16) personnel.

But a closer examination of the SERB Benchmark Report reveals a symbol for the “type” of bargaining unit.

Those symbols or abbreviations if you will are “SM”, “SG” and “MU” which stand for the following:

- SM: Safety-Mixed (Combination of Safety Units)
- SG: Security Guards (Corrections Officers and Security Guards)
- MU: Mixed Unit (Combination Unit Types, exclusive of Safety or Fire Units)

Relying only on the information provided at the Fact-Finding hearing, that the description of the bargaining unit at the SEORJ consists of “all full-time corrections officers, consisting of approximately thirty-three (33) people. Excluded are all part-time, seasonal, probationary or temporary.” My conclusion is that the symbol “SG” would more closely describe the Corrections Officers relevant to the issue at bar. This conclusion reduces the number of comparables from thirteen (13) to four (4) on the SERB Benchmark Report as follows:

Employer
Corrections Officers OFCR/Jailer (Taken From SERB Benchmark Report, October 2009)

County	Population	BU	Size	Entry Level	Top Level
Butler	332,807	SG	112	\$31,765.96	\$46,408.40
Clermont	177,977	SG	75	\$31,096.00	\$39,852.80
Clinton	40,543	SG	20	\$26,790.40	\$34,528.00
Hamilton	845,303	SG	287	\$28,529.00	\$41,846.00
SEORJ	(Five Counties)		33	\$24,939.20	\$27,268.80

The SEORJ statistics are not included in the SERB benchmark report.

As previously indicated, Fairfield County is the largest non-member county utilizing the SEORJ facilities.

It should be noted at this point that of the thirty-three corrections officers in the bargaining unit at the SEORJ (Jail), three (3) employees have been “grandfathered” in at a higher rate. Those employees and their present hourly wage are as follows:

<u>Employee</u>	<u>Classification</u>	<u>Hourly Wage</u>
Chuck Brugh	Correction Officer	\$14.45
Gary Moore	Correction Officer	\$14.45
Charles Dowler	Correction Officer	\$14.45

As previously noted, and as the parties have stipulated, the position of Charles Dowler (who recently terminated his employment) will be eliminated.

For the two remaining grandfathered employees (Chuck Brugh and Gary Moore), the Union is recommending that the 6.5% wage increase they are proposing should also apply to their present hourly wage of \$14.45.

Union Exhibit No. 3 illustrates a comparative analysis of three multi-county correctional facilities as follows:

“Regional Jail Facilities Wages, Corrections Officers

<u>Jurisdiction</u>	<u>Top Pay Annualized</u>	<u>Effective Date of Pay</u>
Multi-County Correctional Center (Marion, OH)	\$31,345.60	1/1/2008*
Tri-County Regional Jail (Mechanicsburg, OH)	\$33,654.40	7/1/2008*
Corrections Commission of	\$35,464.00	1/1/2009

Northwest Ohio (Stryker, OH)

SEORJ (Nelsonville, OH) \$27,268.80** 1/1/2009

AVERAGE **\$33,488.00**
(not including SEORJ)

SEORJ % of AVERAGE **81%**

* Effective pay beginning 2009 not available

** Top pay does not include two "grandfathered"² employees "

The Union points out in its " ** "notation that the annualized rate of \$27,268.80 at the SEORJ does not include two (2) grandfathered employees whose top hourly rate is \$14.45 per hour.

When you factor in the top rate of those two (2) grandfathered employees (\$14.45) with the top rate of the non-grandfathered corrections officers, we get an average hourly rate of \$13.78. This \$13.78 per hour times 2,080 hours equates to an annualized wage of \$28,662.40, which is still less than the top rate of any one of the three (3) multi-county correctional facilities illustrated in Union Exhibit No. 3.

While the issue between the parties is a wage reopener for corrections officers in the third year of their CBA, at the crux of this dispute is a differential in wages between the corrections officers and their superior officers, namely; sergeants and officers-in-charge.

² Arbitrator's Note: The term "grandfathered employee" is a term used to designate employees who were transferred into the SEORJ from other jails between March 1, 1998 and October 1, 1998, who at the time were receiving a higher wage rate than corrections officers who were already employed at the SEORJ. Keep in mind that the SEORJ began operations in April 1998.

Recall as I previously indicated, the sergeants received a 10%, 2% and 2% wage increase over their current three (3) year (2008, 2009 and 2010) CBA. These same percentage increases accrued to the officers-in-charge over the same CBA period. The corrections officers received 3.5% in 2008, 4% in 2009 and a wage re-opener in 2010 over their current three (3) year (2008, 2009 and 2010) CBA.

Union Exhibit No. 4 illustrates a wage differential (spread) between corrections officers and their superior officers in the same multi-county regional jails in Ohio including the SEORJ as follows:

“Ohio Regional Jail Differentials for Corrections Officers

Multi-County Correctional Center Sergeant Differential	6.6%
Tri-County Regional Jail Sergeant Differential	12.9%
Corrections Commission of Northwest Ohio Corrections Supervisors Differential	11.0%
SEORJ*	
OIC Differential	21.0%
Sgt. Differential	28.0%
AVERAGE Next Line Supervisor Differential (excluding SEORJ)	10.2%

*Differential computation does not include two “grandfathered” corrections Officers”

EMPLOYER POSITION

The Employer argues that the differential was established between the parties

during negotiations prior to the current CBA (Joint Exhibit No. 1). The reason for establishing a differential between the corrections officers and their supervisors was to recognize the additional authority and responsibility of officers-in-charge and sergeants.

The Employer further adds that if the corrections officers receive more than two percent (2%) in year 2010, it will compress the differential (spread) between the corrections officers and their supervisors.

The Employer also points out that due to the current economic recession, the member counties of the SEORJ are under severe budget constraints to meet their individual allocation annual cost.

Of the five (5) member counties, Morgan County is in the most dire straits economically due to being a predominately rural, mostly farming, county.

At the present time, Morgan County is, and has been, behind in its annual payment. Only recently, Morgan County has worked out an arrangement with the SEORJ Board of Governors to maintain its monthly payment in addition to \$2,000 per month to make up its defaulted amount.

Also, the per diem rate per bed for member counties was increased from \$49.00 per diem to the current per diem rate of \$51.00 per bed. This was done in 2007 and the SEORJ argues that, given current economic times, it would be difficult to request another per diem increase.

The Employer points out that Morgan County is teetering on the verge of fiscal

emergency. They are \$200,000 delinquent in payments to the SEORJ.

Perry County has made a request of the SEORJ to reduce its bed allotment by five (5) beds. Athens and Hocking Counties appear not to be in as dire straits as Morgan County. They are not in arrears with regard to payments. There was no mention of Vinton County's economic position with regard to payments to the SEORJ.

The Auditor for Hocking County, Mr. Ken Wilson, prepared and submitted financial documents pertaining to Hocking County. Mr. Wilson explained that, with respect to Hocking County, there are four (4) line item revenue accounts that impact on the funding available toward Hocking County's share of support for the SEORJ. These line item revenue accounts are Local Government Funds (LGF), Interest Income, Real Estate Tax (RET) and Permissive Sales Tax (PST) (Employer Exhibit #1).

A linear graph (Employer Exhibit No. 5) in support of the financial data reveals that interest income reached its peak in year 2007 (\$699,932) and has been declining ever since. Interest income for the year ending 12/31/09 was \$406,003. PST also reached its peak in year 2007 (\$2,286,757) and for the year ending 12/31/09 had declined to \$2,161,091.00. RET reached its peak in year 2008 (\$1,650,000), leveled off and then took a slight decline in 2009 to \$1,625,000. Revenue from LGF has been fairly stable at \$528,743 but declined to \$500,170 in 2008 and \$452,488 in 2009.

The bottom line is those revenue accounts that impact the SEORJ from Hocking County's perspective have been declining over the last three years (2007, 2008 and

2009) from 72.2% down to 70.8%. It is interesting to note that these four revenue accounts, actual year-to-date (which includes 2010) reflect an increase in revenue of 1.2% to a total of 72.0% (See Employer Exhibit No. 5).

With regard to Regional Jail Expense vis-à-vis General Fund Expense as it pertains to Hocking County, we have the following: (Employer Exhibit No. 3)

	<u>“Regional Jail Expense</u>	<u>General Fund Expense</u>	<u>Percent Comparison</u>
2010	\$646,500	\$6,437,273	10.04%
2009	\$615,978	\$6,734,110	9.15%
2008	\$550,575	\$6,754,438	8.15%
2007	\$527,573	\$6,734,172	7.83%
2006	\$518,285	\$6,352,775	8.16%”

As we can see from the above, the Regional Jail Expense (SEORJ) is taking on an increasing percentage of the Hocking County General Fund Expense. This can perhaps be explained by the increasing cost of outside medical expenses.

The SEORJ has on its staff certain medical personnel available for minor medical treatment. When a prisoner requires medical treatment beyond that which can be handled by on-site medical personnel, the prisoner is taken for treatment outside the SEORJ to, for example the local hospital, eye specialist or dentist.

Any medical expenses incurred for treating a prisoner off-site is billed back to the SEORJ and then reimbursed by the particular county that is responsible for the prisoner.

For example, a Hocking County prisoner being housed in the SEORJ needing specialized treatment at the local hospital. Any expenses incurred for that specialized

treatment are billed back to the SEORJ. The SEORJ pays the bill and then seeks reimbursement from Hocking County. Depending on the frequency and type of medical service provided, by the outside source, could cause the Regional Jail Expense for a particular county to increase.

A lengthy discussion ensued with regard to the length of time it took for the SEORJ to be reimbursed by a county for services rendered by an outside facility. I fail to see the relevance of this line of argument with regard to the issue at bar.

Any bureaucratic reimbursement problem resulting in a time lag for the SEORJ to get reimbursed from any particular county is an administrative problem that should not be attributed to the issue as it applies to corrections officers.

The Fiscal Director of the SEORJ testified with regard to the SEORJ proposed budget for 2010 (Employer Exhibit B).

This document reveals a Total Salaries and Wages proposed budget of \$2,087,000 for 2010. This figure was subsequently reduced by \$65,299.00 and now reflects a corrected budget of \$2,021,701.00.

An examination of the historical actual budget vis-à-vis the actual expense reveals the following:

<u>Year</u>	<u>Actual Budget</u>	<u>Actual Expense</u>	<u>Difference</u>
2007	\$1,776,119.99	\$1,760,426.52	+\$15,693.47
Average actual expense per month = \$146,702.21			
2008	\$1,824,000.00	\$1,805,315.96	+\$18,684.04
Average actual expense per month = \$150,443.00			

2009 \$1,867,212.00 \$1,610,970.37 +\$256,241.63
(10 months)
Average actual expense per 10 months = \$161,087.03

From the above actual calculations as opposed to estimated figures, one can observe that the average monthly expenses are increasing from 2007 through 2008. One can also see that there is a rather large difference between the actual budget and actual expense in years 2007 and 2008. This total difference of \$34,377.51 (\$18,684.04 + \$15,693.47) would account for slightly over half of the \$65,299.00 adjustment (reduction) in the 2010 budget (i.e., $\$65,299.00/2 = \$32,649.50$).

Also, if the average actual expense for 10 months of 2009 is \$161,087.03, then the \$256,241.63 excess of the actual budget over the actual expense will not be enough to cover the expenses for the remaining two months of 2009. If the average actual expense for 10 months of 2009 is \$161,087.03, then it should take approximately twice that much (\$322,174) to cover the remaining two months of 2009. This should explain the rather large (\$325,000) encumbered and estimated expense for the last two months of 2009 and the \$219,788 increase in the proposed 2010 budget (\$2,087,000) over the actual 2009 budget of \$1,867,212.

The Fiscal Director for the SEORJ testified that the "Jail" receives approximately \$10,000 from the Jail's checking account, approximately \$95,000 annual reimbursement from prisoner telephone cards (prisoners making phone calls to the outside) and approximately \$5,400 annually in which the Social Security Administration refers to as a

“bounty” (i.e., the reporting of persons who are receiving Social Security while incarcerated).

The Employer also argues that the SEORJ (Jail) is thirteen (13) years old and needs to be setting aside a portion of its income for capital improvement.

FINDING OF FACTS AND RECOMMENDATIONS

A look at past collectively bargained agreements reveals the following results in cents per hour and percentage wage increases.

<u>SERGEANTS</u>				<u>CORRECTIONS OFFICERS</u>		
<u>Year</u>	<u>Top Rate</u>	<u>Cents</u>	<u>%</u>	<u>Top Rate</u>	<u>Cents</u>	<u>%</u>
1/1/05	\$13.92			\$11.40		
1/1/06	\$14.41	\$0.49	3.5%	\$11.77	\$0.28	2.4
1/1/07	\$14.91	\$0.50	3.5%	\$12.18	\$0.43	3.5
3/1/08	\$16.40	\$1.49	10.0%	\$12.61	\$0.50	4.0
1/1/09	\$16.73	\$0.33	2.0%	\$13.11	\$0.50	4.0
1/1/10	\$17.06	\$0.33	2.0%	Reopener		
<u>OFFICER-IN-CHARGE</u>				<u>GRANDFATHERED CORR. OFFICERS</u>		
<u>Year</u>	<u>Top Rate</u>	<u>Cents</u>	<u>%</u>	<u>Top Rate</u>	<u>Cents</u>	<u>%</u>
1/1/05	\$13.28			\$12.56		
1/1/06	\$13.72	\$0.44	3.5%	\$12.97	\$0.41	3.3
1/1/07	\$14.17	\$1.42	3.5%	\$13.42	\$0.45	3.5

<u>OFFICER-IN-CHARGE*</u>				<u>GRANDFATHERED CORR. OFFICERS</u>		
<u>Year</u>	<u>Top Rate</u>	<u>Cents</u>	<u>%</u>	<u>Top Rate</u>	<u>Cents</u>	<u>%</u>
3/1/08	\$15.59	\$0.31	10.0%	\$13.89	\$0.47	3.5
1/1/09	\$15.90	\$0.31	2.0%	\$14.45	\$0.56	4.0
1/1/10	\$16.22	\$0.31	2.0%	Re-opener?		

*NOTE: March 1, 2008: This rate went from a single rate to a four step rate. All calculations are based on the top rate of forty (40) hours per week. The current agreement (Joint Exhibit No. 1) is a three (3) year collective bargaining agreement that is effective January 1, 2008 through December 31, 2010.

One of the compelling arguments put forward by the Employer was the necessity of maintaining a differential (wage spread) between the Officers-In-Charge, (O.I.C.) the Sergeants and the Corrections Officers. The Employer insists that awarding the Corrections Officers any more than the two percent (2%) will compress the differential (pay spread) between the Corrections Officers and their Supervisors.

The Employer further argues that the reason for establishing a differential between the Corrections Officers and their Supervisors was to recognize the additional authority and responsibility of the Officers-In-Charge and Sergeants.

I would also add that in many organizations, supervisors are expected to be on call around-the-clock, seven (7) days a week, which is another reason for a differential (wage spread) between supervisors and subordinates.

In the first instance, as we review the wage rates for the past six years, **we find that there was already a wage differential** between the supervisors (O.I.C. and Sergeants) and the Corrections Officers.

Prior to the ten percent (10%) wage increase, (January 1, 2007) which is the justification for authority and responsibility, we find the following wage differentials:

<u>Sergeants</u>	<u>Officers-In-Charge</u>	<u>Corrections Officers</u>	<u>Grandfathered</u>
\$14.91/hr	\$14.17/hr	\$12.18/hr	\$13.42/hr

These different classifications of wages display a definite differential (pay spread), among the classifications).

On top of this wage differential, the Sergeants and Officers-In-Charge receive overtime pay based on working in excess of eighty (80) hours in a fourteen (14) day work period. (Article 17, Section 17.1, Overtime, in each of the CBA's of the Sergeants and Officers-In-Charge.)

Granted this same overtime language, Article 17, Section 17.1 appears in the Corrections Officers CBA where the corrections officers receive overtime pay based on working eighty (80) hours in a fourteen day work period; but in many organizations, particularly the private sector, there are a number of hours (for example 25 hours depending on the industry) referred to as a "deductible" where the supervisor must work 25 hours at his regular rate before the overtime rate (usually time and one-half) becomes applicable.

The foregoing notwithstanding, let's not lose sight of the fact that there was a wage differential between the supervisory group and the Corrections Officers.

There was, prior to the ten percent (10%) increase, (January 1, 2007) a wage differential of \$1.49 per hour (\$14.91 - \$13.42) between the Sergeants and the grandfathered Corrections Officers who were transferred in from a higher paying facility.

When you examine the Corrections Officers' wage rate of \$12.61 per hour and the Sergeants' wage rate of \$16.40 per hour after the ten (10%) increase (Effective

March 1, 2008) granted to the Sergeants, the wage differential becomes even larger.

At that time (1/1/07) \$12.18 per hour times 40 hours works out to be \$487.20 per a regular 40-hour week for the Corrections Officer. For the Sergeant at that time, (1/1/07) \$14.91 per hour times 40 hours works out to be \$596.40 for a regular 40-hour week. That's a difference of \$109.20 per week between the Sergeants and the Corrections Officer's weekly wage. That works out to be a twenty-two percent (22%), approximately, wage differential between the Sergeants and the non-grandfathered Corrections Officers **before the ten percent (10%) increase.** (\$14.91 per hour minus \$12.18 per hour = \$2.73 per hour wage differential. $\$2.73 \text{ per hour} / \$12.18 \text{ per hour} = 22\%$ wage differential.)

That is before the ten percent (10%) wage increase granted to Sergeants to establish a wage differential between the Sergeants and the Corrections Officers.

To reiterate my analysis one more time: the top rate for Sergeants on January 1, 2007 was \$14.91. The top rate for Corrections Officers on January 1, 2007 was \$12.18. What is the difference in wages and percentage terms between the Sergeant and Correction Officer? $\$14.91 \text{ minus } \$12.18 = \$2.73 \text{ wage differential. } \$2.73 / \$12.18 = 22\%$ wage differential, **before the 10% increase to sergeants.**

On March 1, 2008, the top rate for sergeants was \$16.40. On March 1, 2008, the top rate for a correction officer was \$12.61. What is the difference in wages and percentage terms between Sergeant and the Correction Officer after the ten percent

(10%) increase on March 1, 2008? $\$16.40$ minus $\$12.61 = \3.79 wage differential.

$\$3.79/\$12.61 = 30.1\%$ wage differential after the ten percent (10%) increase to

Sergeants.

This same analysis could be applied to the Officer-In-Charge vis-à-vis the Corrections Officer, but would be redundant. It's to be expected that the differential (wage spread) would be smaller since the wage for the Officer-In-Charge is less than the Sergeant.

As we can see, the 30.1% wage differential between the Sergeant and the Corrections Officer is slightly above the 28.0% calculated by the Union in its Union Exhibit No. 4, but the 30.1% wage differential that I calculated is well above the AVERAGE next line supervisor differential (excluding SEORJ) of 10.2% calculated by the Union in its Exhibit No. 4.

In reviewing the current collective bargaining agreements of the Corrections Officers, Sergeants and Officers-In-Charge and the preceding CBA wage schedules of each classification, we find from 1/1/06 through 1/1/10 (five different wage schedule changes); the Sergeants received a $\$3.14$ increase in wages or 21% and the Officer-In-Charge received a $\$2.79$ wage increase or 19.3%.

During this same period, 1/1/06 through 1/1/09, (four different wage schedule changes) the Corrections Officers received a $\$1.71$ increase in wages or 13.9% and the grandfathered Corrections Officers received $\$1.89$ increase in wages or 14.3%.

I have considered the Union's argument with regard to the SERB Benchmark Report dated October 9, 2009 and I have accorded it very little weight in this instance due to the "SG" symbol that so closely matches the Correction Officer description at the SEORJ. The "SG" symbol on the SERB Benchmark Report is tied to very high population centers across Southern Ohio. I do not consider the Benchmark Report an appropriate comparable because of these high population centers as opposed to a comparable coming out of Southeast Ohio (Region 6) which I consider would more closely match the rural counties encompassing the SEORJ and Region 6.

I have considered the Employer's argument with regard to per diem rates for bed allocation, medical expenses incurred by counties for services outside the SEORJ and the proposed 2010 budget for the SEORJ and the Employer's rationale for providing such a wide differential in wage rates between various classifications.

In fact, it was these wage differentials and wage rates and percentage increases that led me to my conclusions.

Absent any arithmetical errors on my part, the facts of this investigation can lead to only one conclusion and that is that the Corrections Officers, including the two (2) grandfathered Corrections Officers, should receive a 6.5% increase in wages effective January 1, 2010.

This 6.5% increase will make the top rate (Step 4) for Corrections Officers become \$13.96 and will maintain the wage rate differential between Sergeants and

Corrections Officers at 22%, which is where the differential was prior to the parties granting a 10% increase to the Sergeants and Officers-In-Charge on March 1, 2008.

Example: Top rate for Sergeant on 1/1/10 = \$17.06

Top rate for Corrections Officer on 1/1/10 = \$13.96

\$17.06 minus \$13.96 = \$3.10 wage differential

\$3.10 divided by \$13.96 = 22% differential

This recommended wage schedule will delete the name of former employee Charles Dowler, who has since terminated. The parties have stipulated that Mr. Dowler's name should be deleted. Mr. Dowler's wage rate prior to termination was \$14.45 per hour. On an annual basis, that works out to be a savings to the SEORJ of \$30,056 in just straight-time wages (\$14.45 times 2,080 hours).

The new wage schedule Article 24 should appear in the parties' collective bargaining agreement as follows:

ARTICLE 24
WAGE SCHEDULE

Section 24.3 Effective January 1, 2010, the following wage and pay shall be effective for employees in Schedule A:

Schedule A

<u>Classification</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Corrections Officer	\$12.77	\$13.16	\$13.55	\$13.96

Notwithstanding the above, Corrections Officers who were hired from Athens County, Hocking County, Perry County, or Morgan County between March 1, 1998 and October 1, 1998 are within Schedule B and

shall be paid an hourly rate as indicated below. All employees not listed in B are in Schedule A.

Schedule B

<u>Employee</u>	<u>Classification</u>	<u>Hourly Wage</u>
Chuck Brugh	Corrections Officer	\$15.39
Gary Moore	Corrections Officer	\$15.39

Recommendation made in Belmont County, Ohio, on February 23, 2010.



Richard D. Sambuco
Fact-Finder

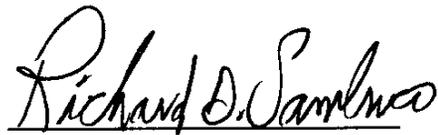
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served by e-mail and regular US Mail on this 23rd day of February, 2010 upon the following:

Gary E. Hunter, Esq.
26 S. Congress Street
Athens, OH 45701-2805
E-Mail: Ghunter@hunterlawoffices.us

Mark J. Volcheck (0063253)
The Ohio Patrolmen's Benevolent Assoc.
92 Northwoods Boulevard, Suite B-2
Columbus, OH 43235
Telephone: (614)888-7901
Facsimile: (614)888-7906
E-mail: markvolcheck@sbcglobal.net

Bureau of Mediation
State Employment Relations Board
65 E. State Street, Suite 1200
Columbus, OH 43215-4213



Richard D. Sambuco
Fact-Finder